

MEMORANDUM OF UNDERSTANDING

BETWEEN

**CITY OF GUSTINE
&
GUSTINE POLICE
OFFICERS'
ASSOCIATION**

Effective:

July 1, 2006 through June 30, 2009

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**ARTICLE I
RECOGNITION**

The City of Gustine (hereinafter the "City") recognizes Operating Engineer's Local Union #3 (hereinafter "GPOA") as the exclusive bargaining agent for City of Gustine Police Officers' Association, in all matters concerning wages, hours and working conditions. This Memorandum of Understanding (MOU) is all encompassing and supersedes all previous Memoranda of Understanding entered into between the City and the Association (GPOA).

It is agreed that this Memorandum of Understanding (MOU) was negotiated pursuant to Chapter 10 (Section 3500 et. Seq.) of Division 4, Title 1 of the Government Code and pursuant to Resolution No. 2001-1807 Employer – Employee Relations Resolution of the City of Gustine.

The GPOA recognizes the City Manager and/or designee as the exclusive representative of the City for purposes of executing this MOU.

The City and the GPOA agree to make a good faith effort to ensure that all rules, policies and procedures are uniformly and consistently applied through City service.

**ARTICLE II
ADMINISTRATION**

SECTION 1 – PAYROLL DEDUCTION

- 1.1 The City agrees to provide a payroll deduction plan with members of the GPOA with respect to union dues, credit union membership, Police Officer Research Association of California (PORAC) dues, Legal Defense Fund (LDF) dues and insurance premiums for GPOA sponsored plans.
- 1.2 The City shall also, at the employee's request, automatically deposit an employee's net salary with a bank, credit union, or other financial institution selected by the employee, provided said institution has the ability to accept such deposits. Deposit shall be made to the institution on scheduled City paydays.

**ARTICLE III
COMPENSATION**

SECTION 1 – SALARY

- 1.1 The City agrees to adjust the salary ranges assigned to the GPOA by 8% effective July 1, 2006, an additional 8% effective July 1, 2007, and an additional 8% July 1, 2008.

SECTION 2 – SALARY ADVANCEMENT

- 2.1 Salary advancement shall mean a pay rate increase given to an employee, contingent upon an overall rating of "Meets Job Requirements" or better on an annual performance evaluation, within the pay range established for the employee's classification. An employee's step increase shall be effective on the employee's merit date. If a department has not submitted a signed performance evaluation by the employee's merit date, a step increase shall automatically be processed by the Personnel Officer.

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- 2.2 The City shall retain the flexibility to hire employees with exceptional skills, experience or qualifications at a pay rate above the Step A.
- 2.3 The City's full time pay range consists of five (5) merit steps, A through E. The first step (A) shall require at least six (6) months performance at the designated step before eligibility for a merit increase. The last four (4) steps (B through E) shall require at least twelve months performance at the designated step before eligibility for a merit increase to the next step through the final step (E).

SECTION 3 – ACTING DUTY PAY

- 3.1 The City Manager may appoint an employee to acting duty status to perform the duties of a higher classification that is a vacant or newly created classification.
- 3.2 An employee may serve in acting duty status only until such time as the City Manager makes a regular appointment to the classification or until such time as the incumbent employee returns to work.
- 3.3 An acting duty appointment may be effective for a period of thirty (30) days. The City Manager may extend an acting duty appointment at his/her discretion.
- 3.4 An employee appointed to acting duty status shall be paid a pay rate not less than the minimum pay rate in the pay range for the acting duty classification, and such acting duty pay rate shall be at least five percent (5%) more than the employee's prevailing pay rate immediately prior to acquiring acting duty status.
- 3.5 An employee shall not be paid more than the maximum pay rate in the pay range for the acting duty classification.
- 3.6 While serving in acting duty status, the employee shall continue to be eligible to receive any pay adjustments or advancements granted to the employee's permanent classification.
- 3.7 An employee appointed to acting duty status shall receive acting duty pay immediately upon assuming the acting duty position, provided the duration of the assignment at least a scheduled work shift.
- 3.8 An employee has the right to refuse any acting duty assignment in writing, with justification, as determined by the Personnel Officer.
- 3.9 An employee appointed to acting duty status can discontinue the acting duty assignment by notifying the immediate supervisor in writing one (1) week in advance of the employee's intention to return to regular status.
- 3.10 An employee may be removed from acting duty status after serving in the acting assignment for one (1) workweek, at any time, at the discretion of the City Manager.

SECTION 4 – WORKDAY / 4-11 PLAN LANGUAGE

- 4.1 The City and the GPOA have agreed that the Police Department shall operate on a 4-11 work schedule. Members assigned to this 4-11 workday plan shall normally work four consecutive eleven (11) hour days, followed by four consecutive days off. Personnel assigned to the 4-11 shift schedule shall repay fifty-five (55) hours at straight time for the fiscal year beginning July 1 and ending June 30 of the following year. Such time shall be deemed as straight time if employee is notified a minimum of forty-eight hours in advance of the assigned repayment. Overtime in excess of the 55 hour repayment or OT encumbered on an emergency basis (less than 48 hour advance notice) shall be payable

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at the standard overtime rate as per Section 5 of the MOU. Repayment hours shall not be utilized for court overtime.

- 4.2 The Chief of Police or designee shall reserve the right to change the standard work period in the event staffing falls below eight sworn police officers (excluding the Chief of Police and/or School Resource Officer, a member of the bargaining unit is assigned to administrative duties, or a special assignment is required in order to facilitate the operations of the department.

SECTION 5 – OVERTIME COMPENSATION

Employees are eligible to receive overtime in either paid or compensatory form, but no employee shall work overtime unless authorized in advance to do so by the Chief of Police or designee.

The City shall provide employees with overtime compensation subject to the following conditions:

- 5.1 Employees shall receive overtime paid at one and one-half (1 ½) times their prevailing pay rate, or compensatory leave time, credited at one and one half (1 ½) hours for the overtime work performed as follows:
 - i. Work performed in excess of eight (8) hours in a workday in a five (5) day work week; work performed in excess of ten (10) hours in a four (4) day work week or work in excess of eleven (11) hours in a 4-11 work week except as noted in Section 4.1;
 - ii. Work performed in excess of forty (40) hours in a 5 day/eight hour workweek or a 4 day/10 hour work week; or 44 hours in a 4 day/11 hour work week.
 - iii. Work performed on the first, second or third scheduled days of rest except as noted in Section 4.1 of the MOU .

SECTION 6 – CALLOUTS

- 6.1 Employees called back to work after having completed a normal work shift, or those called out during scheduled days off, shall receive a minimum of two (2) hours of overtime compensation.
- 6.2 Overtime compensation shall commence at the time an employee reaches the location(s) where he/she has been directed to report.
- 6.3 Calls to begin a regularly scheduled shift more than one hour prior to the start time of the scheduled shift shall be deemed call outs.
- 6.4 Calls to return to work that are received more than one hour after the regularly scheduled end of a shift shall be deemed a call out.

SECTION 7 – LONGEVITY PAY

- 7.1 The City agrees to pay employees longevity pay based on the following rates:
 - a. 2.5% for 11-14 years service
 - b. 5% for 15-19 years service
 - c. 7.5% for 20 years service or more

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SECTION 8 – ALLOWANCE FOR UNIFORMS/EQUIPMENT

Regular full-time police personnel required to maintain uniforms and equipment in the performance of their duties shall receive an annual allowance of nine hundred dollars (\$900.00), to be paid no later than September 1st of each fiscal year. Such allowances may be used to acquire and maintain the specific departmental uniform in a neat and proper manner, including any and all officer equipment, uniform supplies or weapons.

SECTION 9 – COURT PAY

The City shall compensate employees as follows:

- 9.1 For actual court appearance in the City of Gustine during non-duty hours, two (2) hours minimum of overtime compensation, at time and one-half (1 ½) rate shall be paid.
- 9.2 For actual court appearance outside the incorporated limits of the City of Gustine, during non-duty hours, four (4) hours minimum of overtime pay, at time and one-half rate shall be paid.
- 9.3 Overtime compensation in either compensatory time or paid time shall be at the election of the employee.
- 9.4 Court appearance within one (1) hour prior to or after the employee's regularly scheduled workday shall be paid at the time and one-half rate. The hourly court minimum does not apply.
- 9.5 Employees, placed on standby by the court, are provided pagers so they may be "uncontrolled", but able to respond to the court within a period of time established by the court. Employees on standby shall receive a minimum of two (2) hours overtime compensation at the time and one-half rate.
- 9.6 Should an employee on standby, pursuant to Section 12, be called to court, then Section 12 shall apply, and overtime shall be paid in accordance with that Section.

SECTION 10 – POST CERTIFICATE COMPENSATION

- 10.1 Police Officers, who have obtained a POST Intermediate Certificate or an A.A. or A.S. degree, shall receive a pay incentive of two and one-half percent (2 ½%) added to the Officer's base pay.
- 10.2 Police Officers, who have obtained a POST Advance Certificate or an B.A. or B.S. degree, shall receive a pay incentive of two and one-half percent (2 ½%) to the rate in Section 10.1, for a maximum of five percent (5 %) potential increase to an Officer's base pay.

SECTION 11 – ASSIGNMENT PAY FOR FIELD TRAINING OFFICER

- 11.1 The assignment of Field Training Officer (FTO) is hereby established. Field Training Officers are assigned at the discretion of the Chief of Police or designee.
- 11.2 An officer assigned as a Field Training Officer shall receive assignment pay of seventy-five dollars (\$75.00) per month while working as an FTO. The assignment pay shall cease when the officer is not assigned FTO duties.
- 11.3 The Chief of Police or designee may assign a patrol officer, utilizing a selection method exclusively at the Chief's discretion. The assignment of FTO may be removed from a

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member at the discretion of the Chief of Police or designee and, unless specifically stated as such, removal of the assignment is not punitive in nature.

SECTION 12 – ASSIGNMENT PAY FOR CORPORAL

- 12.1 The assignment of Corporal is hereby established. Patrol officers may be assigned to this position at the discretion of the Chief of Police. A patrol officer, while assigned to the Corporal position, shall receive an additional 5% in compensation. Corporals may be assigned as Watch Commanders/Supervisors in the absence of a Sergeant Watch Commander/Supervisor. To designate the assignment to Corporal the assigned officer shall wear, as part of his/her uniform, two chevron stripes.
- 12.2 Where possible, assigned corporal/s should not have the same days off/shifts as Sergeant Watch Commanders/Supervisors to facilitate supervision of as wide a range of hours as possible.
- 12.3 The assignment of Corporal shall not be a promotional rating. The assignment of Corporal may be removed from a member at the discretion of the Chief of Police, and unless specifically stated as such, removal of the assignment is not punitive in nature.
- 12.4 Officers assigned to this position shall have a minimum of three (3) years experience as a full-time California Law Enforcement Officer of which a minimum of one (1) year shall be with the Gustine Police Department.
- 12.5 The Chief of Police may utilize a selection method, at his/her discretion, to fill this assignment.

SECTION 13 – ASSIGNMENT PAY FOR SCHOOL RESOURCE OFFICER (SRO)

- 13.1 The assignment of School Resource Officer (SRO) is hereby established. Patrol officers may be assigned to this position at the discretion of the Chief of Police. A patrol officer, while assigned to the SRO position, shall receive an additional 2.5% in compensation.
- 13.2 The assignment of SRO shall not be a promotional rating. The assignment of SRO may be removed from a member at the discretion of the Chief of Police, and unless specifically stated as such, removal of the assignment is not punitive in nature.
- 13.3 Officers assigned to this position shall have a minimum of three (3) years experience as a full-time California Law Enforcement Officer of which a minimum of one (1) year shall be with the Gustine Police Department.
- 13.4 The Chief of Police may utilize a selection method, at his/her discretion, to fill this assignment.

SECTION 14 – STAND-BY PAY

- 14.1 Supervisory employees required to be on 'stand-by' status during their regularly scheduled time off shall be paid at the rate of one hour of straight time pay.
- 14.2 While on stand-by, each member agrees to be readily accessible via telephone, radio, or pager, and to answer all calls promptly.

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- 14.3 The City is not required to assign any member to stand-by status.

ARTICLE IV EMPLOYEE PERFORMANCE

SECTION 1 – PERFORMANCE EVALUATION

- 1.1 A written performance evaluation shall be completed within thirty (30) days prior to the employee's anniversary date.
- 1.2 The performance evaluation shall be in a form approved by the City Manager and shall be forwarded to the Personnel Officer, signed by the employee, the employee's supervisor, Police Chief and City Manager.
- 1.3 Each employee's performance evaluation shall be discussed with the employee.

SECTION 2 – PROBATIONARY STATUS

- 2.1 Initial Appointments – Initial appointment to a position shall be subject to a probationary period of twelve (12) months. The probationary period may be extended by the Chief of Police, upon approval of the City Manager, for a period not to exceed six (6) months, should the Chief of Police find that conditions warrant such an extension.
- 2.2 During the probationary period, the employee may be terminated at any time, without cause and without the right of appeal. Written notice of release shall be furnished by the Chief of Police.
- 2.3 Promotional Appointments – A promotional appointment shall be tentative and subject to a probationary period of six (6) months. The probationary period may be extended for a period of three (3) months, should the Chief of Police find that conditions warrant such an extension.
- 2.4 During the promotional probationary period, or any extension thereof, the employee may be reduced to previous rank in the promotional-appointed position by the Chief of Police without cause, notice of hearing or appeal. The Chief of Police or the employee's immediate supervisor prior to the expiration of the probationary period, or any extension thereof, shall serve notice of such action upon the employee.

ARTICLE V BENEFITS

SECTION 1 – HEALTH INSURANCE

- 1.1 The City shall provide employees with health insurance for each full-time employee and eligible dependents.
- 1.2 Effective July 1, 2006, the City shall pay 90% of the health premium charged the City by its elected plan carrier. The employee shall pay 10% of the premium. On January 1, 2007, City agrees to convert to the H.S.A. Medical Insurance Model provided that seventy-five (75) percent of City employees agree to the H.S.A. Model. All employees not utilizing the H.S.A. model can remain with the current O.E. 3 Medical plan. If seventy

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five (75) percent of City employees do not agree to utilize the H.S.A. model, the City shall continue to pay 90% of the health premium as established by O.E.3.

- 1.3 Spouse, including domestic partner as defined by law, and dependent coverage shall continue to be available as provided through the City's plan. An employee's spouse, including domestic partner as defined by law, dependent children under age twenty-three (23) who have never been married, as well as children over age twenty-three (23) who have never been married and are incapable of supporting themselves due to physical or mental disabilities existing prior to obtaining age twenty-three (23), are eligible dependents under this Section.

SECTION 2 – EMPLOYEES' ASSISTANCE PROGRAM (EAP)

The City shall offer Employees' Assistance Program in categories to include marriage, family/relationship problems, alcohol / drug abuse, legal matters, financial and credit problems, child care consultation and elder care. Services shall be provided as defined in the EAP pamphlet on file with the City's Personnel Officer.

SECTION 3 – PUBLIC EMPLOYEE'S RETIREMENT SYSTEM (P.E.R.S.)

- 3.1 The City shall enroll employees in the 3% at 55 Plan including, but not limited to the following specific optional public agency contract provisions:
 - i. A lump sum death benefit of \$500;
 - ii. Final compensation calculated as an average of the last consecutive, 36 months of salary;
 - iii. Retirement COLA maximum of 2%.
- 3.2 The City shall pay the employee's share of the retirement plan to PERS.

SECTION 4 – DEFERRED COMPENSATION PROGRAMS

The City shall offer deferred compensation programs to employees in the GPOA as a voluntary employee election.

ARTICLE VI LEAVES

SECTION 1 – ANNUAL LEAVE

The City shall provide employees with annual leave subject to the following conditions:

- 1.1 Annual leave shall be defined as the periods of approved absence with pay from regularly scheduled work.
- 1.2 Unless the employee's use of annual leave interferes with departmental operations, the Chief of Police shall permit employees to use annual leave at the employee's discretion.
- 1.3 Employees shall be credited with annual leave at the following rates:
 - a. *Vacation*

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Vacation shall be accrued based upon years of service and according to the following schedule:

Years of Service	Vacation
0-4	10 days
5-10	15 days
11-15	17 days
16-20	19 days
21-25	21 days
25 +	25 days

Maximum vacation accrual shall be 360 hours (9 weeks.) Vacation accrued in excess of the 360 hours must be used within 180 days of such accrual or be forfeited. Exceptions to this rule may be approved, in writing, by the Chief of Police. If, at the end of this period, an employee is still unable to use vacation accruals due to departmental staffing needs, the City shall pay all hours in excess of 360 at the employee's base pay rate.

If the employee does not request vacation during the six-month period following the accumulation of 360 hours, and is unable to justify the failure to request vacation, the employee shall not continue to accrue hours and shall not be paid for the accumulated hours in excess of 360. This decision shall be made by the Chief of Police upon approval by the City Manager.

b. Sick Leave

All full time employees shall receive ten (10) sick leave days per year, accrued at 3.3 hours per payroll period. Upon an employee's anniversary date, unused sick leave shall be credited as follows:

- i. A maximum of fifty (50) hours may be converted to vacation leave, provided that a minimum of fifty hours is maintained as sick leave at all times.
- ii. Maximum sick leave accrual shall be 180 days (1,800 hours.)

c. Floating Holidays

- i. All employees shall receive three (3) floating holidays (30 hours) on July 1 of each year.
- ii. These hours shall not accrue and must be taken within the fiscal year or forfeited.

- 1.4 Employees shall not accrue vacation or sick leave during any leaves of absence exceeding 86.67 working hours in any calendar month.
- 1.5 Employees may use annual leave only after successfully completing probation.
- 1.6 Employees shall not use less than one (1) hour of annual leave at any one time.
- 1.7 Upon termination, the employee shall be compensated for any unused vacation leave. The value of this unused vacation leave shall be calculated at the employee's existing pay rate on the date of the employee's separation from City service.

SECTION 2 – SICK LEAVE BANK CONTRIBUTION

An employee may elect to donate a portion of his/her accrued sick leave to a departmental sick leave bank, under the following conditions:

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- 2.1 The employee must have a minimum of 300 hours accrued sick leave.
- 2.2 The employee may donate a maximum of ten percent (10%) of accrued hours in excess of the 300 hours.
- 2.3 The employee shall sign a waiver to indicate his/her donation.
- 2.4 The employee shall have the approval of both the Chief of Police and City Manager.

SECTION 3 – ELIGIBILITY FOR SICK LEAVE BANK

- 3.1 Employees may apply for departmental sick leave bank allocations if the employee has experienced a “catastrophic” illness, injury or event that requires the employee to be absent from work for an extended period of time.
- 3.2 Employee shall submit a request in writing to the Chief of Police for approval, detailing the need for the request, whose approval shall not be unreasonably withheld.
- 3.3 Employee must have exhausted or will exhaust, during the term of extended sick leave, all accrued balances in sick leave, vacation, floating holiday and compensatory time.
- 3.4 Employee shall have been absent from work for ten (10) or more work days as a result of the qualifying injury or illness.

SECTION 4 – SICK LEAVE TERMS AND CONDITIONS

The City shall provide employees with sick leave subject to the following conditions:

- 4.1 Employees may not use sick leave at their discretion, but **only** in cases of actual personal sickness, quarantine, and sickness in the immediate family where the employee must provide care to the immediate family member.
- 4.2 Employees may also use sick leave for personal medical, dental and optical appointments.
- 4.3 When an employee uses sick leave, the Personnel Officer may require the employee to present, upon return to work, a personal certification (not a doctor’s slip) stating the reason for the sick leave. In administering this Section, the City will at all times, respect to the maximum extent possible, the privacy of the employee. When an employee uses sick leave in excess of three (3) consecutive work days, the employee shall present upon return to work a medical certification signed by a physician or licensed medical practitioner verifying the employee’s illness.
- 4.4 When an employee wishes to use accrued sick leave, the employee shall notify his/her supervisor before, or within one (1) hour after the time set for beginning the work period, of the intended absence due to sickness, unless the employee is incapacitated and physically unable to provide the required notification. An employees on sick leave shall regularly inform his/her supervisor of their physical condition.

SECTION 5 – COMPENSATORY LEAVE TERMS AND CONDITIONS

- 5.1 Reasonable requests for use of compensatory leave shall not be denied. Employees shall not use less than one (1) hour of compensatory leave at any one time. Employees may use compensatory leave along with any other authorized paid leave with approval of

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the Chief of Police. The City shall not require an employee to use compensatory time within the same pay period in which it was earned.

- 5.2 An employee shall not accrue more than eighty (80) hours of compensatory leave. An employee may carry to the next calendar year to a maximum of eighty (80) hours of compensatory leave. Exceptions to this policy may be approved by the City Manager, upon recommendation by the Chief of Police.
- 5.3 When an employee separates from the City service for any reason, the employee shall be compensated for any accrued compensatory leave at the employee's rate of pay at the date of separation.

SECTION 6 – HOLIDAY LEAVE

- 6.1 The City shall provide employees with the following holidays with pay:

January 1 (New Year's Day)
The third Monday in January (Dr. Martin Luther King, Jr.)
The third Monday in February (President's Day)
The last Monday in May (Memorial Day)
July 4 (Independence Day)
The first Monday in September (Labor Day)
November 11 (Veteran's Day)
Thanksgiving Day
Day after Thanksgiving
December 25 (Christmas)

Every day proclaimed by the President, Governor or Mayor of this City as a public holiday.

- 6.2 On or about December 1st of each calendar year, the City shall compensate employees at the employee's straight time rate for all approved holidays.

SECTION 7 – BEREAVEMENT LEAVE

- 7.1 Employees shall be entitled to a maximum of five (5) days bereavement leave per incident.
- 7.2 Eligibility for bereavement leave shall apply to the death of immediate family members, as defined herein.

SECTION 8 – WORKER COMPENSATION LEAVE

- 8.1 The City shall provide employees with work related disability leave in accordance with State law.
- 8.2 Terms and conditions of worker's compensation leave, including eligibility, shall be in accordance with the City's elected plan carrier for Public Safety employees.

SECTION 9 – MILITARY LEAVE

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- 9.1 The City shall grant military leave to employees as provided in the California Military and Veterans Code Sections 389 through 395.4.
- 9.2 Employees on ordered military leave shall be paid their regular pay rate, offset by the amount of military pay received, for a maximum of one year (12 months) from the date of full time military service.
- 9.3 Employees may, at the individual's election, utilize accumulated vacation and compensatory time after one year (12 months), if full-time military service is required.

**SECTION 10 – LEAVE OF ABSENCE WITHOUT PAY/ FAMILY MEDICAL LEAVE ACT/
CALIFORNIA FAMILY RIGHTS ACT**

- 10.1 The City has the authority to grant or deny an employee's request for leave of absence from work without pay, except that the City shall not unreasonably deny a request for unpaid leave due to the medical disability of the employee or a member of his/her immediate family.
- 10.2 An employee on an unpaid leave for 61 days or more shall not accrue seniority for that portion of the leave over 60 days. After the expiration of the unpaid leave, the employee shall be assigned to his / her former classification.
- 10.3 Probationary employees are not eligible for unpaid leaves of absence, except as required by law. The employee requesting the leave shall state in writing the reasons for the request. In all cases, the City Manager shall retain exclusive authority for approving such leave and its duration. The employee shall have no appeal rights with respect to this decision.
- 10.4 The City shall comply with the Family Medical Leave Act of 1993 in all respects.
- 10.5 The City shall comply with the California Family Rights Act of 1993 in all respects.

SECTION 11 – TRAINING LEAVE

- 11.1 The City may grant a maximum of forty (40) hours of paid leave per fiscal year for employees who attend law enforcement training at their own expense. This leave shall not be deducted from any other leave due the employee. All training requests shall be approved by the Chief of Police or designee.
- 11.2 Duty days and Required Days Office (RDO's) will be adjusted to accommodate the training schedule.

SECTION 12 – TIME OFF FOR VOTING

- 12.1 The City shall provide employees with time off for voting subject to the following conditions:
 - i. When an employee claims not to have sufficient time outside of working hours to vote at a statewide election, the employee may, without loss of pay, with the approval of supervisor, use working hours which, when added to the voting hours available outside of working hours, shall enable the employee to vote.
 - ii. The supervisor may not authorize an employee to use more than two (2) hours from work with pay for voting.

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- iii. The authorized time for voting shall be at the beginning or end of work period, only, whichever allows the employee the most time for voting and the least time away from work.
- iv. If the employee knows or has reason to believe that time off for voting shall be necessary on election day, the employee must notify his/her supervisor of that fact at least two (2) days in advance.

ARTICLE VII LAYOFF

SECTION 1 – PREREQUISITE FOR LAYOFF

When, as a result of a reduction in workforce (RIF), it becomes necessary to initiate a layoff of employees included by this MOU, the following shall be the prerequisite to such a layoff:

- 1.1 All non-classified part-time, temporary, seasonal and/or recurrent and probationary employees working in the class have been released from the class.
- 1.2 Employees in the class have been given the opportunity to seek lateral transfer to existing vacant positions. Such transfer requests shall not be denied except for just cause. The employee shall be required to meet the minimum standards of the class.
- 1.3 Management shall meet and consult with the representative of the GPOA on alternative courses of action to avoid such layoff.
- 1.4 Notice of actual layoff shall be given no less than forty-five (45) calendar days before the date of implementation. Such notice shall include:
 - i. Classification where layoff is to occur;
 - ii. Seniority list by total continuous City seniority of employees in the affected class;
 - iii. List of current vacancies in all classes represented by the GPOA;
 - iv. Separate notice to any employee in the class who has two (2) or more below standard evaluations within the preceding three (3) years.

SECTION 2 – ORDER OF LAYOFF

- 2.1 Employees who have two (2) or more below standard annual evaluations within the preceding three (3) years shall be laid off first.
- 2.2 Next layoff shall occur on the basis of City-wide seniority, the least senior employee based on total continuous employment shall be laid off first and any subsequent layoff shall proceed to the next, least senior employee.
- 2.3 Where the total and continuous employment of two (2) employees are of the same length, the seniority shall be decided by drawing lots.

SECTION 3 – VOLUNTARY DEMOTION

- 3.1 An employee affected by a Reduction in Force (RIF) may choose voluntary demotion to avoid layoff.

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- 3.2 Such voluntary demotion may be to a lower or equal class of previous standing or to a lower or equal class in the same occupational grouping.
- 3.3 If the voluntary demotion causes a layoff in the lower or equal class, such layoff shall follow the provisions of this Article. However, in no event can an employee displace someone with more seniority except as permitted by Section 2.1 of this Article.

SECTION 4 – RECALL

- 4.1 Employees who laterally transfer, take a voluntary demotion or are affected by a Reduction in Force pursuant to the provisions of this Article, shall have their names placed on a recall list for the classification of original standing.
- 4.2 Such a list shall be inverse order of layoff, lateral transfer or demotion.
- 4.3 The recall list shall be kept by the Personnel Officer and shall be used when any vacancy for that class is to be filled.
- 4.4 The list shall be maintained until all names have been offered an opportunity for recall or at the end of three (3) years, whichever occurs first.
- 4.5 The appointing authority shall offer appointment to the first name on said list. If the individual accepts, he/she shall be appointed after sixty (60) days from the date of layoff.
- 4.6 The employee may be required to take a medical examination to ensure that the employee is capable of performing the duties of the class.
- 4.7 The individual shall be required to meet the minimum standards of the class

ARTICLE VIII NON-DISCRIMINATION

The City shall not discriminate in the treatment of an employee on the basis of race, color, religion, gender, political party or activity, national origin, sexual preference, age, marital status, medical condition (cancer related), pregnancy, or pregnancy related conditions, physical or mental disability, GPOA activity or GPOA membership.

ARTICLE IX HEALTH AND SAFETY

SECTION 1 – SAFETY RESPONSIBILITIES

- 1.1 The City and the GPOA shall make a good faith effort to provide and maintain a safe and healthful place of employment.
- 1.2 Employees shall perform their assigned duties safely using the practices, means, methods, operations, and processes prescribed by law, occupational safety or health standard, City safety order, or safety rules and regulations. Employees shall report any unsafe practices, equipment or hazardous conditions promptly to their immediate supervisor.

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- 1.3 The City shall not require nor permit any employee to enter in any employment or job site which is not reasonably safe and healthful.
- 1.4 The City shall not discipline any employee for refusing to perform tasks in the performance of which any law, occupational safety or health standard, or safety order would be violated, and if such violation would create a real hazard to the individual employee.

ARTICLE X GRIEVANCE PROCEDURE

SECTION 1 – GRIEVANCE DEFINED

A grievance is a complaint by an employee that there has been a violation of this MOU. The employee, or employees bringing such a claim, shall state in what manner the violation affects their wages, hours, working conditions, or job security as specified in this MOU.

SECTION 2 – INFORMAL DISCUSSION OF GRIEVANCE

- 2.1 When an employee has a complaint, the employee and/or the employee's designated representative shall first informally discuss the matter with the employee's immediate supervisor within ten (10) working days from the incident or decision generating the grievance.
- 2.2 If after discussion with the immediate supervisor, the complaint has not been satisfactorily resolved, the employee and/or employee's designated representative shall have the right to discuss the complaint with the supervisor's immediate superior.
- 2.3 If after such a discussion, the complaint has not been satisfactorily resolved, the employee shall have the right to file a formal, written grievance.

SECTION 3 – FORMAL GRIEVANCE PROCEDURE

A formal grievance process shall be used to resolve an employee's complaint not satisfactorily resolved through Section 2 of this Article.

- 3.1 An employee shall have the right to present a formal grievance, in writing, within five (5) working days after an unsuccessful resolution of the informal grievance with the immediate supervisor and the immediate supervisor's superior. All formal grievances shall state the violation of this MOU and the manner in which it affects the employee's wages, hours, working conditions or job security.
- 3.2 The formal grievance shall be presented to the employee's supervisor. The supervisor shall discuss the grievance with the employee and/or the employee's designated representative, within five (5) working days after receipt of the formal grievance. Within ten (10) working days of this discussion, the supervisor shall render a written decision regarding its merits. If the supervisor's decision does not satisfactorily resolve the complaint, the employee and/or employee's designated representative may present the formal grievance to the Chief of Police. The grievance shall be considered resolved and no further review of the subject matter of the grievance shall be permitted under this Article when the employee does not seek further review of the grievance within ten (10) working days after the receipt of the decision of the supervisor. Failure of the supervisor to render a written decision on the grievance within five (5) working days constitutes a decision denying the grievance.

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- 3.3 When the employee presents a formal grievance to the Chief of Police, the Chief of Police shall discuss the grievance with the employee and/or the employee's designated representative. Within ten (10) working days after receipt of the formal grievance, the Chief of Police shall render a written decision regarding its merits. If the decision of the Chief of Police does not resolve the complaint, the employee and/or the employee's designated representative may present the formal grievance to the City Manager. The grievance shall be considered resolved, and no further review of the subject matter of the grievance shall be permitted when the employee does not seek further review of the grievance within ten (10) working days after receipt of the decision of the Personnel Officer.
- 3.4 When the employee presents a formal grievance to the City Manager, the City Manager shall discuss the grievance with the employee and/or the employee's designated representative. Within ten (10) working days after receipt of the grievance, the City Manager shall render a written decision regarding its merits. The decision of the City Manager shall resolve the grievance and no further review of the subject matter of the grievance shall be permitted within the City's administrative procedures. Should the City Manager fail to render a written decision within ten (10) working days, the employee may consider the administrative procedures completed and sue for redress of grievances.
- 3.5 If the decision of the City Manager does not resolve the grievance to the employee's satisfaction, the employee, and/or the Union may sue for redress of grievances.

SECTION 4 – NON-DEPARTMENTAL GRIEVANCES

- 4.1 Grievances resulting from decisions or actions outside the departmental chain-of-command shall be initiated first at the department from which a complaint generates, and shall follow the procedures as detailed in Section 2 and 3 of this Article.
- 4.2 When the grievance involves an action or decision of the Personnel Officer, the grievance shall be informally discussed with the Personnel Officer. If the informal discussion does not satisfactorily resolve the grievance, the formal grievance procedure detailed in Section 3 will be initiated with the Personnel Officer and/or City Manager, as appropriate.

SECTION 5 – REPRISALS

The City shall not institute any reprisals against any employee or designated representative resulting from the use of the grievance procedure. The City Manager may designate a third party to serve as the final reviewer for employee grievances.

**ARTICLE XI
DISCIPLINE AND DISCHARGE**

Prior to the suspension, demotion, reduction in pay, discharge or other disciplinary action of an employee for disciplinary purposes, the procedures set forth in this Article shall be enforced.

SECTION 1 – JUST CAUSE

- 1.1 An employee, covered by this MOU, may be suspended without pay, demoted or discharged for just cause.
- 1.2 Suspension without pay may be achieved through a temporary decrease in a step without any loss of work by the employee.

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- 1.3 The step decrease shall not exceed the period of time necessary to achieve the loss of pay equivalent to a stated suspension; and it shall not effect the employee's anniversary date.

SECTION 2 – CAUSES FOR DISCIPLINARY ACTION

- 2.1 The following types of employee conduct may result in disciplinary action up to and including termination. These types are listed only as examples, and are not representative or inclusive of all issues that may lead to disciplinary action.
- a. Omission or willful misrepresentation of material fact or other fraud in securing employment.
 - b. Substandard performance of work duties and responsibilities.
 - c. Neglect of duties.
 - d. Insubordination or willful disobedience.
 - e. Improper use of drugs, including drunkenness on duty; use of illicit drugs while on duty; improper use of prescription medication which can affect performance and judgment while on duty; inability to properly perform work duties as a result of prior drug or alcohol abuse as defined in and under compliance with ADA regulations.
 - f. Unexcused absence from duty, including but not limited to participation in unlawful strikes or other job actions, such as sick-ins, blue flu, etc.
 - g. Conviction of a felony or misdemeanor involving moral turpitude where the conviction impairs the employee's ability to perform regular job duties. A plea or verdict of guilty, or a conviction following a plea of nolo contendere to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.
 - h. Discourteous treatment of the public or other employees.
 - i. Continued inability to work effectively and amicably with other employees of the department or those contacted in the course of business, which conduct adversely impacts the operations of the department.
 - j. Misuse or theft of City property.
 - k. Inconsistent, incompatible, or conflicting outside employment activity, or enterprise that the employee fails to relinquish after notice to cease.
 - l. Violation of an established departmental rule.
 - m. Other failure of good behavior either during or outside of duty hours that is of such a nature that it causes discredit to the employee's department or employment.
 - n. Excessive absenteeism or tardiness.

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- o. Violation of safety rules and regulations.

SECTION 3 – WRITTEN NOTICE

Written notice of the proposed disciplinary action shall be served on the employee either by personal service or by U.S. Mail, addressed to the employee at his / her last known address. Such notice shall include a statement of the reason(s) for the proposed action, the charge(s) being considered, and the proposed discipline. Service shall be deemed complete on the day the employee is served, or if service is by mail, two days after the notice is deposited in the U.S. Mail. Written notice of proposed disciplinary action is not necessary for oral and written warnings.

SECTION 4 – EMPLOYEE REVIEW

The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and, if practical, the employee shall be supplied with a copy of the documents at the time the written notice of the proposed disciplinary action is served on the employee.

SECTION 5 – APPEAL

- 5.1 The employee may appeal a disciplinary action to an administrative hearing before the City Manager by filing a written request with the City Manager within ten (10) working days after the decision of the Chief of Police has been served upon the employee as provided in Section 2. The appeal must be in writing and state specifically the reason(s) upon which the appeal is based and the restitution being sought. Failure to file an appeal within such time period constitutes a waiver of the right to appeal.
- 5.2 The City Manager shall conduct an administrative hearing on the appeal filed within thirty (30) days after receipt thereof. The hearing may be continued either for the convenience of the employee or the City manager, for a period not to exceed an additional thirty (30) days from the receipt of the appeal. Written notice of the time and place of the hearing, or any continuance thereof, will be given either personally or by certified U.S. Mail. Such hearings will be conducted in accordance with the provisions of Section 11513 of the Government Code of the State of California, except that the appellant and other persons may be examined as provided in Section 19580 of the Government Code of the State of California. The parties may submit all proper and competent evidence against or in support of the causes, but it shall be a rebuttal presumption that the statement of causes is true.

SECTION 6 – REPRESENTATION

Any City employee other than those appointed to a management, mid-management or confidential classification shall be permitted to represent another City employee at the hearing of the appeal. The appellant shall appear in person and may be represented by counsel or labor representative if desired. Such notice of representation must be submitted in writing by the appellant to the City Manager at least five (5) days prior to the scheduled appeal hearing.

SECTION 7 – NOTICE TO WITNESSES

The City Manager shall issue notices for the appearance of witnesses for the appellant upon the appellant's written request and at appellant's cost. The City Manager may require such costs to be prepaid. Failure to respond to appear as a witness by a City employee shall constitute an act of insubordination and may subject such employee to disciplinary action.

SECTION 8 – FAILURE OF EMPLOYEE TO APPEAR AT HEARING

Failure of the appellant to appear at the hearing shall be deemed a withdrawal of the appeal and the prior decision of the Chief of Police shall be final.

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SECTION 9 – RELEASE OF INFORMATION

No information shall be released relative to disciplinary action against employees without prior approval of the City Manager and in accordance with applicable State and Federal law.

SECTION 10 – DECISION

- 10.1 The City Manager shall render a written decision within fifteen (15) working days after conclusion of the hearing. The City Manager's decision shall be final and conclusive. A copy of such decision shall be given either in person or by certified U.S. Mail to the appellant.
- 10.2 If the disciplinary action taken against the employee is reversed or modified by the City Manager, the employee may be compensated, in whole or in part, for the time lost as determined exclusively by the City Manager.

SECTION 11 – PROVISIONS NOT APPLICABLE

- 11.1 The provisions of this Section do not apply to reductions in force, reductions in pay, or reassignments to other classifications that are each part of a general plan to reduce or adjust salaries or positions as the result of budgetary or work considerations which are not the result of disciplinary action.

SECTION 12 – EFFECTS OF CERTAIN DISCIPLINARY ACTIONS

The provisions of the Peace Officers Bill of Rights (California Government Code Sections 3300-3311) and other applicable State laws and court decisions shall determine the effects of any disciplinary action taken with respect to employees represented by the MOU.

ARTICLE XII CITY RIGHTS

SECTION 1 – EXCLUSIVE CITY RIGHTS AND AUTHORITY

The City retains the exclusive right to manage and direct the performance of City services and the work force performing such services. The following matters shall be within the exclusive authority of the City. The consideration of the merits, necessity, or organization of any service or activity conducted by the City shall include but not be limited to the City's right to:

- 1.1 Determine issues of public policy;
- 1.2 Determine and change the facilities, methods, means and personnel by which City operations are to be conducted;
- 1.3 Expand or diminish services;
- 1.4 Determine and change the number of locations, relocations, and types of operations and the processes and materials to be employed in providing all City services, including but not limited to the right to contract or outsource any work or operation;
- 1.5 Determine the size and composition of the work force, to assign work to employees in accordance with requirements as determined by the City, and to establish and change work assignments;

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- 1.6 Determine job classifications;
- 1.7 Appoint, transfer, promote, demote, and lay off employees for lack of work or financial resources;
- 1.8 Initiate disciplinary action;
- 1.9 Determine policies, procedures, and standards for selection, training and promotion of employees;
- 1.10 Establish employee standards, including but not limited to quality and quality standards;
- 1.11 Maintain the efficiency of governmental operations;
- 1.12 Exercise complete control and discretion over its organization, and the technology of performing its work and services;
- 1.13 Establish reasonable work and safety rules and regulations in order to maintain the efficiency and economy desirable in the performance of City services; and
- 1.14 Determine any and all necessary actions to carry out its mission in emergencies.
- 1.15 The exclusive decision making authority of the City and the management on matters involving the City rights and authority shall not be in any way, directly or indirectly, subject to the grievance procedure. The employee may grieve the impact of the exercise of exclusive City rights and authority that directly relate to matters within the scope of representation.

ARTICLE XIII ASSOCIATION RIGHTS

SECTION 1 – PERSONNEL FILES

Employees, or GPOA representatives with written permission from the employee, may inspect the employee's personnel files upon request to the Chief of Police. Such requests shall be made at reasonable intervals within regular working hours of the City. Copies of the personnel file contents shall be provided to the employee at no cost. Employees shall be notified if a member of the public requests information from the employee's file.

ARTICLE XIV MODIFICATION AND DURATION

SECTION 1 – SEVERABILITY

Notwithstanding any other provisions of this MOU, in the event that any Article, Section, or Subsection of this MOU shall be declared invalid by any court or by any State or Federal law or regulation, or should a decision by any court or any State or Federal law or regulation diminish the benefits provided by this MOU, or impose additional obligations on the City, the City and the Association shall meet and confer on the affected Article, Section or Subsection. In such event, all other Articles, Sections or Subsections of this MOU not affected shall continue in full force and effect.

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SECTION 2 – DURATION

- 2.1 This MOU shall be binding on the City and the GPOA when approved and adopted by the City Council.
- 2.2 Except as otherwise provided herein this MOU shall be in full force and effect from July 1, 2006 and shall remain in full force and effect to and including June 30, 2009.

**ARTICLE XV
GPOA RESPONSIBILITIES**

SECTION 1 – SERVICE TO THE COMMUNITY

- 1.1 Recognizing the crucial role of law enforcement in the preservation of the public health, safety, and welfare of a free society, the Gustine Police Officers Association agrees that it will take all reasonable steps to cause the employees represented by this Agreement individually and collectively, to perform all police duties.
- 1.2 The GPOA, therefore, agrees that there shall be no interruption of these services for any cause whatsoever by the employees it represents; nor shall there be any concerted failure by them to report for duty; nor shall they absent themselves from their work or abstain, in whole or in part, from the full, faithful, and proper performance of all the duties of their employment.
- 1.3 The GPOA, further agrees that it shall not encourage any strikes, sit-down, stay-ins, slow-downs, speed-up, stoppages of work, malingering or any acts that interfere in any manner or to any degree with the continuity of the police services.

**ARTICLE XVI
DEFINITION OF TERMS**

The following terms, whenever used in this MOU, shall have the meanings set forth in this Article.

SECTION 1 – ACTING DUTY

The temporary assignment of an employee to a higher paid classification to perform the major, essential duties of the classification.

SECTION 2 – CLASSIFICATION

A position or positions that describes the duties, responsibilities and qualifications for that classification.

SECTION 3 – WORKDAY

A calendar day of 24 hours.

SECTION 4 – DEPARTMENT HEAD

An individual assigned to any of the following classifications: City Manager, Chief of Police, Administrative Services Manager.

SECTION 5 – ELIGIBLE DEPENDENTS

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An eligible dependent shall be defined as spouse, domestic partner as defined by law, dependent children under age twenty-three (23) who have never been married, as well as children over age twenty-three (23) who have never been married and are incapable of supporting themselves due to physical or mental disabilities existing prior to obtaining age twenty-three (23), are currently eligible to be enrolled. Eligible dependents shall also include any individual for whom the employee is responsible as a caretaker as defined by State and Federal law.

SECTION 6 – EMPLOYEE

An individual compensated through the City payroll and appointed to one of the classifications listed in Appendix A.

SECTION 7 – FULL-TIME

The work period of an employee in the classified service in a classification approved by the City Council to work 40 hours in a designated work week.

SECTION 8 – IMMEDIATE FAMILY

Shall include an employee's spouse, domestic partner as defined by law, children, parents, brothers, sisters, grandparents, grandchildren, parents-in-law, brothers-in-law, sisters-in-law, sons-in-law, daughters-in-law, the employee's spouse's children or any relative, including a foster child, living in the immediate household.

SECTION 9 – LEAVE

An authorized absence from work.

SECTION 10 – MANAGEMENT

An employee assigned to any of the following classifications:
City Manager, Chief of Police or Administrative Services Manager.

SECTION 11 – POSITION

The duties and responsibilities assigned to an employee within a classification.

SECTION 12 – PREVAILING RATE

The basic pay rate within a pay range paid to an employee for the performance of the duties of a classification.

SECTION 13 – SENIORITY

A status acquired by an employee based on the employee's period of continuous service in job class for the City.

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APPENDIX A

Positions affected by this Memorandum of Understanding include:
Police Officer
Police Sergeant

BASE SALARY SCHEDULE EFFECTIVE JULY 1, 2006

	TITLE	A	B	C	D	E
1	Police Officer	\$35,360	\$37,127	\$38,984	\$40,933	\$42,980
2	Police Sergeant	\$44,716	\$46,953	\$49,301	\$51,766	\$54,354

BASE SALARY SCHEDULE EFFECTIVE JULY 1, 2007

	TITLE	A	B	C	D	E
1	Police Officer	\$38,189	\$40,099	\$42,103	\$44,208	\$46,419
2	Police Sergeant	\$48,293	\$50,708	\$53,243	\$55,906	\$58,701

BASE SALARY SCHEDULE EFFECTIVE JULY 1, 2008

	TITLE	A	B	C	D	E
1	Police Officer	\$41,244	\$43,306	\$45,472	\$47,745	\$50,132
2	Police Sergeant	\$52,156	\$54,764	\$57,502	\$60,378	\$63,396

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