

**SIDE LETTER OF AGREEMENT TO THE MEMORANDUM OF UNDERSTANDING**

**CITY OF TUSTIN  
and  
TUSTIN POLICE SUPPORT SERVICES ASSOCIATION**

**TERM: July 1, 2018 to June 30, 2021**

At the request of the Tustin Police Support Services Association (TPSSA), the City of Tustin ("City") implemented a new 3/12.5 work schedule on February 27, 2012. Employees on this new work schedule work one flexibly scheduled 10 hour day every 28 days instead of one fixed five hour day every 14 days, resulting in an additional 13 days off each year. The City agreed to implement this new schedule provided there was no additional cost to the City.

During labor negotiations in 2018, TPSSA notified the City that employees on a 3/12.5 schedule were not receiving any overtime if they used paid leave during the work week that included their 10 hour day. The City agreed this practice appeared to conflict with the overtime provisions of the TPSSA MOU (which provides overtime for hours worked in excess of 40 hours in a seven day work period and includes General Leave, Compensatory Time Off, and Holiday hours as "hours worked" for purposes of MOU overtime) and agreed to remedy the situation on a prospective basis.

The City subsequently located written training materials provided to TPSSA employees in 2012 which state, in part:

- "MOU overtime cannot be earned for regularly scheduled work hours on a day that is regularly scheduled (i.e. for the 12.5 hour or 10 hour work day). The use of leave on a regularly scheduled day will affect the overtime eligibility on a week when the regularly scheduled 10 hour day occurs."
- "If an employee uses leave (GL or CTO) on the regularly scheduled ten hour day, and he/she works or uses leave time for the 37.5 regularly scheduled hours of each work week in a pay period, then he/she will be paid 85 hours total at base pay. They will not be eligible for MOU OT, FLSA OT and no hours will be reported to CalPERS."

From these training materials, it is now evident that it was clearly communicated to employees in 2012 that overtime would not be paid when an employee used leave during the week in which the 10 hour day occurred. Nevertheless, since the City previously informed TPSSA that the situation would be resolved going forward, the City will honor its word. Therefore, effective May 14, 2018, the City will provide TPSSA employees with any overtime earned for hours worked in excess of 40 hours in a seven day work period, as defined in the MOU, including during the seven day work week in which the 10 hour day occurs. Until the payroll system is adjusted to make this payment automatically, the City will manually calculate any overtime earned and provide retroactive payments as necessary.

**FOR THE CITY OF TUSTIN**

**FOR THE TUSTIN POLICE SUPPORT SERVICES  
ASSOCIATION**

---

Derick Yasuda, Director of Human Resources

---

Connie Attard, President

---

Date

---

Date

---

Bo Gutierrez, UELA General Manager

---

Date