**TENTATIVE AGREEMENT BETWEEN THE STATE OF NEBRASKA AND**

**THE FRATERNAL ORDER OF POLICE, LODGE #88 (FOP 88)**

***On December 30, 2022 the parties reached a tentative agreement on the following items, subject to ratification by FOP 88 and approval of the Governor of the State of Nebraska of the final 2023-2025 Labor Contract between the State of Nebraska and FOP 88.***

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| Agreed Upon Proposals:  Meet and Discuss:  Withdrawn Proposals: | State:   * Article 7.8 – Call Back Clarification * Article 9.6 – Moving Expenses * Article 12.5, 12.8, 14.4, and 14.18 – Clean Up * Article 14.1 – Holidays * Article 14.17 – Bereavement Leave   FOP 88:   * Article 6.3 – Facility Tours * Article 10.8 – Pre-discipline Notice * Article 12.13 – Clean Up/Deletion * Appendix C.3 – Clean Up/Deletion * Appendix C.4 – DHHS Bidding * C.11.15.2 – MOT Protection * M.11 – Shift Bid Timeframe * M.NCCW – Female Only Bids   Article 4 – Grievance Process  Use of force (PPCT) at DHHS  All Remaining Proposals |

**TENTATIVE AGREEMENT LANGUAGE**

Date Alterations: *The parties agree to revise all dates in Sections not otherwise addressed to match the time period of the new agreement. Sections to be altered are as follows: 1.1 and 24.1.*

Meet and Discuss: *The parties agree to meet and discuss the proposed changes to Article 4 of the Labor Contract. The parties agree to meet and discuss the use of PPCT and other use of force related matters, specific for DHHS.*

6.3 **Union Staff Activity:** The Employer agrees that non-employee representatives of the Union (Union employees), provided they have been certified in writing to the Employer, and have first obtained permission from the Agency or its designated representatives (permission shall not be unreasonably denied), shall be allowed during working hours on the Employer's premises, with no harassment to:

a. Post Union notices on designated bulletin board space as prescribed elsewhere in this Article (Stewards and/or Union officers may do so only during non-work time.);

b. Meet with employees on non-work time, in non-work areas, including break time in non-work areas;

c. Attend meetings scheduled as provided in the grievance procedure of this Contract;

d. Consult with the Agency;

e. Consult with local Union officers or stewards, after such employees receive permission from the first level of supervision outside the bargaining unit, concerning the enforcement of any provisions of this Contract and be provided a private meeting room, if requested, if available, and shall not be unreasonably denied. Such activities shall not interrupt the work of the Agency.

f. Upon request of the Union, Union representatives shall be permitted to tour inside any facility that has employees in the bargaining unit and to talk with the employees for reasonable periods of time to discuss the working conditions at the facility. Requests shall not be unreasonably denied and must be made by the Union at least three (3) calendar days in advance. Tours shall be permitted for up to four (4) hours.

7.8 **Call-Back Time/Call-In:** Employees eligible for overtime who are called back for duty or called in on the employee's day off will be guaranteed a minimum of two hours at the appropriate rate of pay. This provision shall not be construed so as to provide for additional compensation if the employee is recalled back for duty within the original two hour period, except that employees who are called back to work in excess of two hours will be paid for actual time worked. To qualify for call-in compensation, the time worked cannot be contiguous to the end of an employee's scheduled work shift. For the purposes of this section, “called back for duty” and “called in” shall refer to when an employee is required to leave their residence or remote work location and travel to return to a state worksite. Employees who are on-call in accordance with Article 7.9 shall not receive the call-back time provided in this section if they are not required to travel to a state worksite.

9.6 **Moving Allowance:** With the prior approval of the Agency Head and/or his/her Designee concerning reimbursable costs, employees involuntarily transferred to a new job location fifty miles or more from the employee’s old residence than the old residence was from the old job location shall be reimbursed for receipted moving expenses~~, as provided in the IRS guidelines~~. For the purposes of this section, promotions and the exercise of any bumping option shall be considered as a voluntary transfer. Notwithstanding the above, at the discretion of the Agency Head and/or his/her Designee, employees may be reimbursed for moving expenses.

The Employer may implement moving allowances for new hires. Such allowances are intended for new hires only and shall apply only to teammates who are hired from out of the State of Nebraska or who live two-hundred or more miles from the facility in which they are to be assigned. Such allowances may exceed the actual cost of moving.

10.8 Notice of disciplinary charges being instituted and the imposition of disciplinary action shall only take place at the worksite or by letter, and bargaining unit employees' confidentiality shall be respected during investigation or disciplinary procedures. The employer will notify the employee a minimum of 72 hours before any pre-disciplinary meeting.

12.5 Employees in classifications in bargaining units covered by this Labor Contract shall be eligible for time and one-half overtime compensation except for those classifications identified as exempt. Those classifications identified as exempt shall not be eligible for time and one-half overtime.

Notwithstanding the above, the parties shall meet and negotiate concerning additions and/or deletions to overtime status. The meeting shall be at the call of either party.

Employees determined to be ineligible for overtime, if who are entitled to overtime under the Fair Labor Standards Act (FLSA), shall be compensated at time and one-half for overtime hours worked.

~~From December 6, 2021 until June 30, 2023, employees in classifications within bargaining units covered by this Labor Contract shall be eligible for overtime compensation at two times their regular hourly rate. All other provisions of Article 12.5 are applicable.~~

12.8 Employees eligible for overtime shall receive compensation at one and one-half times their hourly rate in the form of either pay or compensatory time off, at the employee’s discretion, for hours worked in excess of forty hours in any work week (or 8 and 80 for hospital employees and shift workers in the Veterans’ Homes and at BSDC), except that the Employer maintains the ability to choose to pay cash at any time after the employee has exercised that discretion for overtime compensation obligations.

a. The employee must indicate his/her choice of overtime compensation on the timesheet or on a required overtime approval form for the pay period during which the overtime was worked; the first overtime designation made during a pay period applies to the entire pay period;

b. The employee may not carry more than 240 hours of compensatory time (160 hours x 1.5), except that members of the Protective Service Bargaining Unit at the Department of Correctional Services may be allowed to carry more than 480 hours of compensatory time (320 hours x 1.5) -- amounts over this limit must be taken in pay.

~~From December 6, 2021 until June 30, 2023, employees eligible for overtime shall receive compensation at two times their hourly rate in the form of pay or compensatory time off, at the employee’s discretion, for hours worked in excess of forty hours in any work week (or 8 and 80 for hospital employees and shift workers in the Veterans’ Homes and at BSDC), except that the Employer maintains the ability to choose to pay cash at any time for overtime compensation obligations. All other provisions of Article 12.8 are applicable.~~

(Department of Health and Human Services employees covered by this Contract see Appendix C for Overtime provisions.)

(Department of Correctional Services employees covered by this Contract see Appendix M for Overtime provisions.)

12.13 ~~Employees not eligible for time and one-half overtime may, at the discretion of the Agency Head, receive up to straight time compensation in the form of pay or compensatory time off for extra hours worked. Those classifications now receiving straight time compensation in the form of pay or compensatory time shall continue to receive such during the term of this contract.~~

14.1 Holidays: The following holidays, are compensated holidays for employees in all bargaining units and are scheduled on the dates indicated below:

New Year's Day January 1

Martin Luther King, Jr. Day Third Monday in January

President's Day Third Monday in February

Arbor Day Last Friday in April

Memorial Day Last Monday in May

Juneteenth National Independence Day June 19

Independence Day July 4

Labor Day First Monday in September

Columbus Day Second Monday in October

Veteran's Day November 11

Thanksgiving Day Fourth Thursday in November

Day after Thanksgiving Friday following Thanksgiving

Christmas Day December 25

(Educational Telecommunications Commission employees covered by this Contract see Appendix N for Holiday provisions.)

(Nebraska Military Department firefighters covered by this Contract see Appendix Q for Holiday provisions.)

14.4 **Work on a Holiday:** In addition to normal holiday pay, hours worked by an overtime eligible employee on the employee's designated holiday shall be compensated at 1.5 times their normal hourly rate of pay. All hours worked on the employee's designated holiday in excess of an employee's normally scheduled work day shall be compensated at two times the employee's normal hourly rate. (see Section 12.9)

~~From December 6, 2021 until June 30, 2023, in addition to normal holiday pay, hours worked by an overtime eligible employee on the employee’s designated holiday shall be compensated at to times their normal hourly rate of pay. All hours worked on the employee’s designated holiday in excess of an employee’s normally scheduled work day shall be compensated at two and one-half (2.5) times the employee’s normal hourly rate. (see Section 12.9)~~

(Department of Health and Human Services employees covered by this Contract see Appendix C for Holiday provisions.)

14.17 **Bereavement Leave:** Up to five days of bereavement leave may be granted to employees upon request for death in the immediate family. For purposes of this section, immediate family shall mean spouse, father, mother, grandfather, grandmother, sister, brother, child, grandchild, spouse of any of these, or someone who bears a similar relationship to the spouse of the employee and any other individual for whom the employee is the legal guardian. Step-persons bearing these relationships are included. Bereavement leave shall also be applicable due to the loss of unborn persons to the employee. At the Agency Head and/or his/her Designee's discretion, the definition of immediate family may be expanded to include other individuals with a similar personal relationship to the employee as that of an immediate family member. Bereavement leave will not be unreasonably denied and will be consistently applied.

14.18 **Injury Leave:** All employees~~, except “E” Bargaining Unit employees,~~ who are disabled as a result of a job-related injury or disease, which is deemed compensable by Worker’s Compensation, may be granted injury leave not to exceed five of the employee’s normal working shifts for any particular injury. A working shift is counted even if an employee is absent for any portion of their assigned shift. Disabled shall mean unable to perform the essential functions usually encountered in one’s employment due either to an injury/disease or to treatment for an injury/disease.

a. Any job related injury or disease shall be reported to the proper agency authority as soon as possible and the agency shall have the responsibility to supply all the necessary information to the Office of Risk Management.

b. No employee shall receive a salary (workers’ compensation plus regular pay) in excess of his or her normal wage.

c. Health insurance with the appropriate employer contribution will be paid during an absence under workers' compensation after all accrued leave and compensatory time has been depleted.

**Worker’s Compensation:** Any job related injury or disease shall be reported to the proper agency authority as soon as possible, and the agency shall have the responsibility to supply all the necessary information to the Office of Risk Management. No employee shall receive a salary (workers’ compensation plus regular pay) in excess of his or her normal wage. The appropriate employer health insurance contribution will be paid during an absence under workers’ compensation after all accrued leave and compensatory time has been depleted.

C.3 ~~INTERNAL EMPLOYEE TRANSFER OPTION~~

C.3.1 ~~The following option is available to employees in addition to other recruiting techniques to expedite and facilitate the filling of vacancies, without diminishing an employee’s rights and protections afforded under the provisions of Article 9 of this labor contract. Twenty-four hour facilities will continue to use the provisions in C.4 in this Appendix for internal transfers.~~

C.3.2 ~~Any contract covered classification may be considered when utilizing this internal employee transfer option, as deemed appropriate by the Agency.~~

C.3.3 ~~Under this process, vacant positions will first be made available to qualified current DHHS employees for five (5) calendar days. Qualified employees must hold the same classification title as the vacant position and must be located within the same Division as the vacancy. Once available, interested employees may express their interest in the position via an application in the on-line applicant tracking system. System generated responses will keep applicants informed of their progress in the process.~~

C.3.4 ~~All internal qualified employees who express interest will be considered. The successful candidate will be selected based on factors such as seniority, knowledge, experience and ability. Where two or more qualified employees rate essentially the same in all categories, classification seniority date will be used to make the final decision.~~

C.3.5 ~~If no internal employee is deemed qualified, the vacant position will be posted through the open competitive process in accordance with Article 9.1 of this labor contract. Employees who were evaluated through this process and not selected may apply for the same position through the competitive process.~~

C.3.6 ~~EMPLOYEE ACCESS TO FEDERAL TAXPAYER INFORMATION. In accordance with the Internal Revenue Service (IRS) Publication 1075, prior to the Nebraska Department of Health and Human Services (Department) granting any employee access to federal taxpayer information (FTI), the Department must initiate a suitability background investigation. The investigation must be favorably adjudicated by the Department as a condition of hire or continued employment. A reinvestigation will be initiated within 10 years of the previous background investigation. The investigation must include:~~

~~a. Federal Bureau of Investigation fingerprint check~~

~~b. Local law enforcement agency check~~

~~c. Eligibility to work in the United States~~

C.4 ~~INTERNAL TRANSFER~~

~~To reduce the time positions are vacant, the following procedure will be implemented to expedite the internal transfer process for specified classes mutually agreed to by each DHHS facility and the union. New employees may not use this process while on original probation.~~

~~Vacant positions will be posted for no more than five (5) calendar days. Posting will be limited to only the 24 hour facility where the vacancy exists.~~

~~Employees who received any formal disciplinary action will be considered ineligible for this type of transfer opportunity. Period of ineligibility shall be six (6) months from the date the employee received the disciplinary action.~~

~~Once an employee successfully uses this internal transfer process, they may not use the internal transfer process again for the next 6 months. If more than one person volunteers to transfer through the process, the person selected will be the employee with the most continuous (no breaks in service) time in that classification as an employee of the agency.~~

~~In situations where the agency can demonstrate that certain qualifications and/or experience is necessary to perform the job (those specific qualifications/experience shall be listed on the posting), then the transfer opportunity shall be offered to applying employees in descending order based upon time in the class until an employee is found who meets these criteria or until all employees applying have been considered, whichever occurs first. If the position is filled through the process, unsuccessful applicants will be notified that the position was filled through this process. If no applicant qualifies through this process, the vacant position shall be advertised as provided in Section 9.1.~~

The Employer agrees to allow Protective Services employees to bid two times each fiscal year on the employee's assigned post, shift, and days off. Posts are defined by management.  When the employee is successful in bidding for a change, movement to the new assignment will take place within 21 days of the bid except in cases where there are specific business elements/factors that necessitate a delay. In no case will movement to the new assignment exceed 45 calendar days from the date of the bid. Bids will be awarded by classification seniority.

C.4.1 Open and approved Protective Services post/job assignments will be posted.  The posting will be limited to only the 24-hour facility where the vacancy exists.  The opening will be left posted for seven (7) calendar days, opening and closing will be those same seven (7) calendar days.  The posting will include the open post/job vacancy, shift, days off and classification.  Job postings will include a closing date and all applicants will submit a bid to the appropriate authority by the closing date as posted.

C.11.15.2 An employee shall not be mandated to work overtime after the employee’s last scheduled shift if they will be absent due to the use of approved vacation leave or compensatory time off for their full shift the following day, or where they are scheduled to use paid leave immediately following their days off. An employee, who volunteers for overtime on their scheduled day off, will not be held over for mandatory overtime on the following shift.

M.11.1 The Employer agrees to allow employees, in the Protective Services Bargaining Unit, and Department of Correctional Services employees working in areas where their job assignments are involved in a normal rotation cycle to, one time each fiscal year, either (1) Bid out of normal rotation, and accept new days off, or (2) Bid out of normal rotation, on the employee's assigned shift, and retain current days off. Employees will be afforded an additional bid, per fiscal year, to bid for days off only. When the employee is successful in bidding for a change, movement to the new assignment will take place within 21 calendar days of the bid except in cases where there are specific business elements/factors that necessitate a delay. In no case will movement to the new assignment exceed 45 calendar days from the date of the bid. ~~as soon as appropriate~~.

M.NCCW.1.2 Post/Job Assignment: The female employee assigned to the FCNR shall have the right to maintain their post/job assignment permanently or by their choice to be removed from their post/job assignment by notifying the Employer in writing 60 calendar days prior to the end of the post/job assignment.

a. If the female employee chooses not to remain in a FCNR the employee may bid into a post/job assignment within the last sixty (60) calendar days to the completion of their post/job assignment. The female employee will accept the post/job assignment and the days off assigned to the post/job assignment.

b. If no post/job assignment is open, the employer shall open the vacating FCNR for bid; if female bids on the vacant FCNR the employer shall move the female employee vacating the female FCNR to the now open post/job assignment. If no female bids on the FCNR the employer shall assign the least senior female to the open FCNR and move the female employee vacating the FCNR to the now open post/job assignment.

c. After completing the one year FCNR requirement, the employee may choose to maintain their current FCNR and not be subject to another one year requirement. The employee may bid to a rotating or non-rotating post/job assignment or a different FCNR at any time. But, if the employee bids into different FCNR, the one year requirement is applicable to the new FCNR.

d. A female employee assigned to a FCNR may bid into any other FCNR at any time or any female-only post. There shall be no limit on the number of bids to fill such posts.

IN WITNESS WHEREOF, the parties have agreed this \_\_\_ day of January, 2023

FOR THE UNION

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Gary Young, Chief Negotiator

FOP 88

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Mike Chipman, President

FOP 88

FOR THE STATE

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Sean Davis, Chief Negotiator

State of Nebraska

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Kevin Workman, State Personnel Director

State of Nebraska