

# **PALM SPRINGS FIREFIGHTERS ASSOCIATION (PSFA)**



## **MEMORANDUM OF UNDERSTANDING**

**July 1, 2018 – June 30, 2021**

**The Palm Springs Firefighters Association  
Memorandum of Understanding  
July 1, 2018 – June 30, 2021**

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**MEMORANDUM OF UNDERSTANDING BETWEEN  
THE CITY OF PALM SPRINGS  
MUNICIPAL EMPLOYEE RELATIONS REPRESENTATIVE AND  
THE PALM SPRINGS FIREFIGHTERS ASSOCIATION  
JULY 1, 2018 – JUNE 30, 2021**

**GENERAL PROVISIONS**

**ARTICLE 1, TERM**

The PALM SPRINGS FIREFIGHTERS ASSOCIATION and the Municipal Employee Relations Representative (hereinafter referred to as the "MERR") agree as follows:

- A. This Memorandum of Understanding (hereinafter referred to as "MOU") shall be for the period of July 1, 2018, through June 30, 2021, provided, however, that specific sections of this MOU shall have later effective dates as specified herein.

**ARTICLE 2, RECOGNITION**

This MOU is entered into with reference to the following facts:

- A. Pursuant to the provisions of the Meyers-Milias-Brown Act, Government Code Section 3500, et. seq., the City of Palm Springs (hereinafter referred to as the "City") continues to recognize the Palm Springs Firefighters Association (hereinafter referred to as the "Unit") as the exclusively recognized employee organization for employees in the following classifications: Fire Fighter, Fire Engineer, and Fire Captain in accordance with Resolutions 17793 as modified to add Fire Captain by Resolution 24276 (hereinafter the City's "Employer-Employee Relations Resolution").
- B. Effective on the first day of the pay period following City Council approval of this MOU, the parties agree that the following classifications shall be added to the Association: Firefighter/Paramedic, Fire Engineer/Paramedic, and Fire Captain/Paramedic. The City will update its Employer-Employee Relations Resolution to reflect these classifications.
- C. The Palm Springs Firefighters Association (PSFA) and the MERR have met and conferred in good faith on wages, hours, and other terms and conditions of employment for the employees represented by the Firefighters Unit and have reached agreements which are set forth in this MOU.

**ARTICLE 3, PRACTICES**

It is understood that existing ordinances, resolutions, and policies of the City cover matters pertaining to employer-employee relations including, but not limited to, wages, salaries, benefits, hours, and other terms and conditions of employment. Therefore, it is agreed that all such ordinances, resolutions, and policies, including but not limited to Sections 4, 5, 6, 7, and 13 only of the Employer-Employee Relations Resolution 17793

are hereby incorporated by this reference and made a part hereof as though set forth in full and except as provided herein shall remain in full force and effect during the term hereof. The City and its employees shall continue to have the rights and prerogatives as set forth in Section 4, 5, 6, 7, and 13 of Resolution 17793, and nothing in this MOU shall be deemed in any manner to abridge, restrict, or modify the same.

#### **ARTICLE 4, FEDERAL AND STATE LAWS**

It is understood and agreed that this MOU is subject to all present and future applicable Federal and State laws and regulations and the provisions hereof shall be effective and implemented only to the extent permitted by such laws and regulations. If any part of this MOU is in conflict or inconsistent with such applicable provisions of Federal or State laws or regulations, or otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable laws and regulations and the remainder of this MOU shall not be affected thereby and shall remain in full force and effect.

#### **ARTICLE 5, MAINTENANCE OF BENEFITS**

The status of all existing benefits and conditions of employment now enjoyed by Unit members represented by the PSFA shall not be deemed affected by this MOU, except as specifically modified by provisions hereof or by actions taken in implementation hereof.

#### **COMPENSATION/OTHER PAY**

#### **ARTICLE 6, BASE SALARIES**

Effective in the pay period following Council approval of this MOU, members of the Unit shall receive a two and fifty-eight one hundredths percent (2.58%) salary increase.

Effective the pay period which includes July 1, 2019, members of the Unit shall receive a three and ninety-one one hundredths percent (3.91%) salary increase.

Effective the pay period which includes July 1, 2020, members of the Unit shall receive a two percent (2.0%) salary increase.

For each classification represented by the Association, there is one range on the salary schedule.

#### **ARTICLE 7, OTHER COMPENSATION**

##### **7.1 Fire Prevention Captain Assignment Pay**

Employees at the rank of Fire Captain who are assigned as a Fire Prevention Captain shall receive assignment pay at the rate of 3.67 hours per pay period for 24 pay periods (88.08 hours per year) in the year. In the two months per year when there are three pay days, these employees shall not receive this pay on the third pay day of the month.

### 7.1.1 Assignment to Fire Prevention Captain

The parties agree that Fire Prevention Captain is an assignment in the classification of Fire Captain subject to the following:

- A. Employees in the assignment work 40 hours per calendar week and receive overtime compensation per this MOU for hours worked in excess of their regular scheduled hours in the calendar week.
- B. Employees in the assignment are still subject to the 24 day FLSA work period pursuant to the Section 7(k) partial overtime exemption provided for in Article 8.
- C. The Fire Prevention Captain may work overtime shifts in suppression (full or partial as needed) as long as the overtime does not interfere with the Fire Prevention Captain's regular assigned duties, special assigned overtime duties or shifts. Pay for work on such shifts is at the 56-hour rate for the classification at which the employee works.
- D. Employees at the rank of Fire Captain shall be selected for the assignment of Fire Prevention Captain following the provision of interest cards to the Deputy Chief over Fire Prevention. If no one is selected based on the provision of interest cards or if no employees submit interest cards for the assignment, the Fire Chief may assign an employee to the assignment. If that occurs the Fire Captain with the least seniority will be selected for the assignment.
- E. Employees who enter the assignment of Fire Prevention Captain (either by being selected following the provision of interest cards or by being assigned) will be required to stay in the assignment for a minimum of two (2) years from the date of entry into the assignment. If, after two (2) years, no other Fire Captain has expressed interest in the assignment, and if the incumbent in the assignment wants to stay in the assignment, the incumbent may stay in the assignment until another Fire Captain expresses interest in the assignment and is selected. However, if, after serving in the assignment for two years, the employee no longer wants to remain in the assignment, there will be a new selection process and another employee will be selected using the selection process described above paragraph D.
- F. Any Fire Captain in the assignment of Fire Prevention Captain is not precluded at any time from seeking a promotion while in the assignment. If the employee is promoted while in the assignment, the employee will leave the assignment upon promotion.

### 7.2 Bilingual Pay

The City agrees to compensate Unit members who are bilingual an additional five (5%) percent, but limited to six (6) persons/shift. The City shall establish testing procedures. The City shall determine the languages for which it will compensate employees for bilingual pay based on the needs of the City and the community.

Any employees hired after July 1, 2018 who become eligible for bilingual pay shall receive two hundred and fifty dollars (\$250) per month for Bilingual Pay.

The parties agree that to the extent permitted by law, Bilingual pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(4) Bilingual Premium.

### 7.3 Training Officer Pay

Unit members except for Fire Captains who have specialized training which qualify them to teach other members of the department during sanctioned or scheduled training events will be compensated 5% (1.2 hrs.) for each day they teach. Adjunct instructors may also be compensated 5% for teaching with the primary instructor.

On or off duty class preparation time does not qualify for incentive pay, and the Battalion Chief has the authority to determine who receives the training officer pay. Courses and instructors must be identified prior to the class and must be approved by the Battalion Chief.

Classes approved for Training Officer Pay are:

- Swift Water Rescue
- Trench Rescue
- Confined Space Rescue
- High and Low Angle Rescue
- Fire Control III
- Haz Mat Decon
- Haz Mat FRO

Additional classes may be authorized with the approval of the Fire Chief.

The parties agree that to the extent permitted by law, this pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(4) Training Premium.

### 7.4 Scott Air Pak Technician

One Firefighter or Fire Engineer from each shift (three maximum) shall be designated as an approved department Scott™ Self Contained Breathing Apparatus (SCBA) Technician and receive 5% incentive pay. The technicians are required to obtain their Scott™ SCBA repair training, initial certification, and recertification at the department's expense in order to receiving incentive pay.

Each certified technician must maintain Scott™ training and certification per Scott™ requirements and meet the requirement of the department's supervising Fire Captain in order to stay in the program.

Each technician shall be assigned to Fire Station 442 as a primary "home station" during their tenure as a technician. The Battalion Chief has the ability to temporarily transfer the technician to other stations as needed for staffing and training purposes.

After six (6) years as a technician receiving incentive pay, other Unit members on that shift may request to enter the program and become a certified Scott™ technician. If a new member is selected, the existing technician will no longer receive incentive pay once the new person has received their certification.

If the existing technician requests to remain in the program and another member wishes to become a technician, the position will be given to the new candidate provided they have been recommended by the Scott™ supervising Captain and the shift Battalion Chief. If no other member on the shift wants to become a technician, the existing technician may stay in the program for another six year term.

Existing Scott™ technician's must notify the SCBA Captain and the shift Battalion Chief six (6) months before their 2-year Scott™ certification expires if they wish to drop out of the program prior to completing the full six year term.

The department will make every effort to keep Scott™ technicians assigned to their respective shifts however that cannot be guaranteed. If two (2) or more technicians are assigned to the same shift, the department may require the transferring technician to forfeit their incentive pay upon the next recertification, so that another shift can have a technician assigned.

In order to enter the program, a member must submit a memo in writing to the shift Battalion Chief stating the reasons why they would be a good Scott™ technician. Applications will be reviewed by the SCBA supervising Captain, and the shift Battalion Chief. An oral interview may also be required. A final recommendation will be given to the Fire Chief who will make the decision.

## 7.5 Emergency Callback Pay

### 7.5.1

Unit members called back to work will receive a minimum of four (4) hours callback pay per incident. The employee must take this compensation as pay, not compensatory time off.

### 7.5.2

Personnel Rule 5.12.4, Emergency Callback Pay for the Fire Safety Employees provides:

"When Unit members are retained or called out and work as a result of emergencies, such time spent on emergencies shall be compensated at a rate of fifty percent (50%) above the employee's regular hourly rate of pay. Such emergency callback or retention time shall not be eligible for additional premium compensation as provided in Rule 5.10, Subsection 4. 'Emergencies' shall be defined as engaging or combating fires, floods, accidents, or involvement in other disaster operations, but shall not include coverage for minimum staffing or regularly scheduled or prescheduled, non-emergency work or duty time." The provision is incorporated into this MOU.

### 7.5.3

Unit members responding to an unscheduled callback shall be compensated for their travel time (measured from their home) up to a maximum of one (1) hour for emergency callback and one half (1/2) hour for non-emergency call back. For such emergencies, employees will be paid their travel time from their fire station to the emergency and back to their fire station. Payment for travel time is in addition to the compensation they receive pursuant to this Section for all hours worked (from time of dispatch from their fire station to return to their fire station) as a result of the emergency.

### 7.6 Acting Pay

Unit members who are required to work in higher classification for a period in excess of two (2) hours in any workday shall receive acting pay as follows:

If the member works two (2) through twelve (12) hours, the member shall receive an additional six-tenths (.6) of an hour pay at the member's regular hourly rate of pay. The parties agree that to the extent permitted by law, acting pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(3) temporary upgrade pay.

If the member works more than twelve and up to twenty-four hours, the member shall receive 1.2 hours of pay at the member's regular hourly rate of pay.

The only Firefighters selected to work out of classification as Engineers and receive acting pay will continue to be those Firefighters who have successfully passed the examination for promotion to the position of Engineer. Said Firefighters are required to act as Engineers when called upon to do so.

If there is not a measurable balance of persons on the Engineer eligibility list on the various shifts, the Chief or a designee may require persons on the eligibility list to change shifts in order to obtain a measurable balance. In selecting individuals for such changes in shifts, the Department will first seek volunteers and, if an insufficient number of volunteers are available, shall then determine the persons whose shifts shall be changed based upon reverse order of seniority.

### 7.7 Education Incentive Pay

City agrees to compensate Firefighters and Fire Engineers, over base pay, an additional 5% for an Associate's Degree, or 7.5% for a Bachelor's Degree, or 10% for a Master's degree from a college or university accredited by either or both the Council for Higher Education Accreditation ("CHEA") and/or the U.S. Department of Education ("USDE"). Fire Captains receive 2.5% for a Bachelor's Degree, or 5% for a Master's Degree.

City agrees to compensate Firefighters and Fire Engineers over base pay, an additional 2.5% for a State Fire Officer's Certificate. This 2.5% pay will also be provided if a



Firefighter or Fire Engineer has completed the mandatory course work to obtain the California Office of State Fire Marshal (OSFM) Company Officer Task Book, currently Company Officer 2A, 2B, 2C, 2D, 2E, and Instructor 1 courses.

Effective the pay period which includes January 1, 2019, City agrees to compensate Fire Captains over base pay, an additional 2.5% for a State Chief Fire Officer's Certificate. The 2.5% pay will also be provided if a Fire Captain has completed the mandatory course work to obtain the California Office of State Fire Marshal (OSFM) Chief Fire Officer Task Book, currently Chief Fire Officer 3A, 3B, 3C, 3D and ICS-300.

The parties agree that to the extent permitted by law, the pays in this article are special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(2) Educational Pay.

### 7.8 Paramedic Pay

The City has developed a Paramedic Program to enhance the emergency delivery system and fire readiness in the City of Palm Springs. It is understood that the Program is a non-transport EMS enhancement to the existing fire/rescue system. Paramedic personnel will be cross-trained in firefighting and rescue techniques and will augment fire/rescue tasks when needed. Except for Fire Captains, those members assigned to the Paramedic Program will receive compensation of an additional 15% above their current pay rate.

Fire Captains shall be eligible to receive an additional 5.0% for obtaining and maintaining a Paramedic Certificate.

The parties agree that to the extent permitted by law, this pay is special compensation and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(2) Paramedic Pay.

Effective on the first day of the pay period following City Council approval of this MOU, Article 7.8 is eliminated.

## **ARTICLE 8, OVERTIME**

### 8.1 Work Period

The employees in the unit work a 24-day FLSA work period in accordance with Section 7(k) of the Fair Labor Standards Act (FLSA). Per the 24-day work period, overtime shall be compensated at time and one half for the work performed in excess of one hundred and eighty two (182) hours in the work period.

### 8.2 "48/96" WORK SCHEDULE

Fire suppression personnel work a "48/96" work schedule. The "48/96" work schedule shall consist of two 24-hour shifts (for a total of 48 consecutive hours) of scheduled work followed by four consecutive days (for a total of 96 consecutive hours) off-duty.

### 8.3 Hours Worked

For employees hired on or before December 31, 2012, all compensated time off shall be counted as time worked for purposes of computing overtime. For employees hired after January 1, 2013, sick leave does not count as hours worked for purposes of computing overtime. In calculating hours worked where sick leave has been used, the City will look at each 14-day pay period separately to determine if overtime is owed. However, other forms of compensated time off shall be counted as hours worked for purposes of computing overtime.

### 8.4 TeleStaff™

The Fire Department will continue to use TeleStaff™, an automated staff scheduling software system to administer overtime as specified in Article 4 of the Administrative Procedure, whenever more than twelve (12) overtime hours are available. The Unit shall be represented on the Fire Department "TeleStaff™ Software Committee" to assist in the design, implementation, and resolution of issues related to the program's use.

### 8.5 Declining an Overtime Assignment

Per Fire Department Administrative Procedure SOP# Admin 4, Unit members who are offered an overtime assignment may decline that overtime assignment without losing their position on the overtime assignment list.

### 8.6 Contract Overtime

Contract overtime (e.g., special detail work for another employer which is arranged by and contracted through the City) shall be paid rather than accrued as compensatory time off.

### 8.7 Compensatory Time Off

Unit members assigned to shift duty shall not accumulate compensatory time off (CTO) in excess of one hundred and ninety two (192) hours. Upon separation, all unpaid accrued and vested CTO will be paid at the employee's current salary rate.

Until December 31, 2018, employees may cash out accrued compensatory time off at the same time they cash out annual leave in July and December each year.

Effective for calendar year 2019 and every year thereafter: By December 15 (the first year being 2018) of each year, employees may make an irrevocable election to cash out up to 192 hours of CTO which they may earn in the following calendar year. In the following year, the employee can receive the cash for CTO they irrevocably elected to cash out in either two (2) separate increments of up to 96 hours or one (1) increment of 192 hours.

The employee would be paid one half of what they irrevocably elected to cash out hours on both the second pay day in July and the first pay day on December (assuming they

have earned it) or the employee can elect to be paid their full amount they elected to cash out on the first pay day in December. However, if the employee's CTO balance is less than the amount the employee elected to cash out (in the prior calendar year) the employee will receive cash for the amount off CTO the employee has earned at the time of the cash out.

If an employee makes an irrevocable election to cash out CTO in the following calendar year and uses CTO in that subsequent year, the CTO used will come from annual leave the employee had earned prior to January 1 of the year the employee has elected to cash out annual leave. This is to ensure that assuming an employee had a CTO balance prior to January 1, the CTO used will not result in a reduction in the amount of CTO the employee will be eligible to cash out.

Employees with compensatory time off banks of 192 hours must use compensatory time off to lower the time in their bank below 192 hours to be able to accrue additional compensatory time off.

Requests to use more than twelve (12) hours of compensatory time must be made 48 hours in advance and will be granted if the notice is given as long as granting the leave is not unduly disruptive to the Department. Unduly disruptive is defined by Department of Labor regulation 29 CFR section 553.25(d).

## **ARTICLE 9, PAYROLL CHANGES**

The Department will not process payroll changes that are less than a full 24 hour shift for members after the shift is complete at 8:00 a.m. on payroll Friday. Payroll changes will be made for individuals who have full 24 hour shifts to be debited or credited. All other payroll adjustments will be carried forward to the following pay period including emergency recall.

Employees who work overtime must determine by 8:00 p.m. on the shift whether they want to receive the overtime as pay or compensatory time off for the shift and must communicate their decision to the shift Battalion Chief on duty. Changes in such determination by the employee will not be accepted after 8:00 p.m. on the shift.

## **ARTICLE 10, UNIFORMS**

### **10.1 Uniform Allowance**

City agrees to pay a uniform allowance of \$125.00/month to each Unit member as a reimbursement for expenses incurred for acquisition and maintenance of uniforms.

The parties agree that to the extent permitted by law, uniform allowance shall be reported to CalPERS as such pursuant to Title 2, CCR 571(a)(5) and the City will report as special compensation, the value of the uniforms for a unit member employed on or before December 31, 2012. "New members" as defined under the Public Employees' Pension Reform Act of 2013 will not have the value of the uniforms reported as special compensation.

## 10.2 Class "A" Dress Uniforms

All Unit members are to purchase and possess an approved "Class A" dress uniform upon completion of their first year of probation as a full time member of the Palm Springs Fire Department.

30 days after the member has completed probation, they are to submit a receipt to their supervisor to be forwarded to the Fire Chief verifying that the uniform has been ordered and purchased.

Members wishing to have the City pay the initial cost of the uniform shall order the uniform from an approved supplier. The approved supplier will then invoice the City for the full cost of the uniform and the member will then pay back the City for the full cost of the uniform in twelve (12) equal installments deducted from their pay check.

Note: Only one City sponsored purchase can be made for the uniform. If the member wishes to purchase additional uniform accessories at a later time, or from another supplier, they must pay for those items without City assistance.

### **ARTICLE 11, MILEAGE REIMBURSEMENT**

Unit members shall receive mileage reimbursement in accordance with existing City policy, at the prevailing IRS rate.

## **BENEFITS**

### **ARTICLE 12, HEALTH, DENTAL, VISION AND OTHER INSURANCE**

This article sets forth various insurance benefits available to Unit members. The amounts provided by the City for health, dental and vision insurance for 2018 are set forth below. In the event that the premium charges for the health, dental or vision benefits exceed the total premium costs for the prior year by four percent (4%) or more, the amount of the excess shall be paid by the Unit member through a payroll deduction. Each calendar year, the City will pay up to a four percent (4%) increase above the prior year's premium rates. The above explanation of the health, vision and dental contributions are described with the following example involving the 2016-2019 rates:

- A. In 2016, the Blue Shield single party rate was \$927.80.
- D. In 2017, the rate increased by 4.75% to \$971.87.
- E. In 2017, the City paid the first 4% of the 4.75% increase = \$37.11 of the \$44.07 increase and the employee paid the remainder (the difference between 4% and 4.75% = .75% of the increase or \$6.96). Thus, in 2017, the premium rate was \$971.87 and the City paid \$850.27 + \$37.11 = \$887.38 and the employee paid \$84.49.
- F. In 2018, that same rate went up to \$1010.74. This was a 4% increase over the 2017 rate. The parties agree that it was the City's responsibility to pay the first 4% of the 2018 increase on top of the 2017 premium. Since the 2017 rate was \$971.87, and 4% of that amount \$38.87, the City's additional increase for 2018 is \$38.87 which is added to what it was paying in 2017. \$887.38 + \$38.87 = \$926.25. The employee pays no increase for 2018 as the premium amount did not exceed the 4% that the City contributes.
- G. For 2019, the City will pay the amount of any increase in the health insurance up to 4% over the 2018 premium of \$1,010.74. That increase (if any) will be added to the City's 2018 contribution of \$926.25.

Vision and Dental Insurance are calculated exactly the same way as described above for health insurance.

#### **12.1 Health, Dental and Vision Insurance**

Unit members shall remain in the City's medical plan for Police and Fire Employees, which is currently Blue Shield of California, and shall not be eligible for any other City insurance plan for the duration of this MOU.

The City agrees to contribute up to the amounts below for calendar year 2018 for Unit members toward health (including hospitalization and drug coverage), dental and vision insurance. Unit members will sign verification of dependent eligibility annually at open enrollment.

### City Contribution for 2018

Type of Coverage	Health	Dental	Vision
Single Party	\$926.25	\$35.67	\$13.42
Two-Party	\$1,777.93	\$50.54	\$13.42
Family	\$1,884.03	\$74.33	\$13.42

### City Contribution for 2019

Type of Coverage	Health	Dental	Vision
Single Party	\$966.68	\$35.67	\$13.42
Two-Party	\$1,855.53	\$50.54	\$13.42
Family	\$1,966.27	\$74.33	\$13.42

The City of Palm Springs provides Domestic Partner Coverage to the current health, dental and vision insurance. The enrollee must provide a copy of the Declaration of Domestic Partnership, Proof of Domestic Partner Relationship as issued by a governmental agency, Statement of Financial Liability for Domestic Partnership, Statement of Financial Liability for Domestic Partner Health Benefits and Affidavit of Eligibility for Economically Dependent Children to the City. The City will use the same enrollment policies for domestic partnerships as are currently used for traditional marriages or as provided by the requirements of the insurance carrier.

For medical coverage, if an employee elects to opt out of coverage offered by the City, they must provide proof of “minimum essential coverage” (as defined by the Affordable Care Act) through another source (other than coverage in the individual market, whether or not obtained through Covered California).

### 12.2 Term Life Insurance

The City agrees to provide Term Life Insurance coverage at no cost to employees in the Unit in the amount of fifty thousand dollars (\$50,000).

## **ARTICLE 13, HEALTH INSURANCE FOR RETIREES**

All employees hired *prior* to November 1, 2006 or who had already received a written offer of employment: City’s maximum contribution will be 75% of insurance premium for retirees’ coverage upon completion of 20 years of continuous City service, and 100% payment for retirees’ coverage upon completion of 25 years of continuous City service. Coverage for retiree health insurance occurs upon retiring from the City. The City will pay up to family coverage.

All employees eligible for retiree medical benefits who become eligible to receive Medicare must enroll in Medicare Part A and B to remain eligible to receive the above contributions.

Retired employees who have not completed 20 years of continuous City service shall be entitled to participate at their own cost in the Unit's medical, hospitalization and prescription drug coverage plan.

For all employees hired after November 1, 2006, there will be no City contribution for retiree health benefits. The City will, however, make a \$100.00 per month contribution to an employee Retiree Health Savings Plan (during employment) and the associated fixed dollar cost of administration.

## **ARTICLE 14, RETIREMENT**

### 14.1 Retirement Formula

Unit members (and not "new members" as defined by the Public Employees' Pension Reform Act of 2013 - PEPRA) hired prior to December 17, 2011 are covered by the 3% @ 50 formula provided for by the Public Employees' Retirement Law at Government Code section 21362.2. These employees' retirement will be calculated pursuant to the optional benefit (in the City's contract with CalPERS) of single highest twelve month period.

Unit members (and not "new members" as defined by the Public Employees' Pension Reform Act of 2013 - PEPRA) hired after December 17, 2011 are covered by the 3% @ 55 formula provided for by the Public Employees' Retirement Law at Government Code section 21363.1. These employees' retirement will be calculated pursuant to the optional benefit (in the City's contract with CalPERS) of single highest twelve month period.

Unit members who are defined as "new members" under the PEPRA, are covered by the 2.7% @ 57 formula provided for by the PEPRA at Government Code section 7522.25(d). These employees' retirement will be calculated per the three year average final compensation as provided for by the PEPRA per Government Code section 7522.32(a).

### 14.2 Employee Contributions to the Retirement System

#### A. Employees subject to the 3% @ 50 and 3% @ 55 formula:

Employees in the Unit shall pay their nine percent (9%) member contribution.

Effective at the beginning of the pay period including July 1, 2019, these employees shall pay three percent (3%) compensation earnable for cost sharing in accordance with Government Code section 20516(a).

#### B. Employees subject to the 2.7% @ 57 Formula – "New Members" as defined by PEPRA:

These employees shall pay the statutorily mandated employee contribution rate of one half of the total normal cost.

### 14.3 Adoption of IRS Code Section 414(h)(2) Resolution

The City has adopted the CalPERS resolution in accordance with and as permitted by IRS Code section 414(h)(2) to ensure that the employees' payment (i.e., "pick up" as that term is used in section 414(h)(2)) of their employee contribution and cost share is made on a pre-tax basis.

### 14.4 Optional Benefits

The City contracts with CalPERS for the following optional benefits:

- A. Pre-retirement death benefits to continue after remarriage of survivor – Government Code section 21551
- B. Death Benefit – Government Code section 21620
- C. Post Retirement Survivor Allowance – Government Code sections 21624/26/28 and 21635
- D. 1959 Survivor Benefit Level 4– Government Code section 21574
- E. Military Relocation Credit - Government Code section 21024
- F. Sick Leave Credit - Government Code section 20965
- G. Final Compensation Period One Year - Government Code section 20042 for classic members
- H. 2% Cost of Living Allowance - Government Code section 21329
- I. Prior Service - Government Code section 20055

## **ARTICLE 15, IRS 125 PLAN**

The City agrees to provide an IRS 125 health reimbursement Plan for Unit members. The Unit agrees that member employees who subscribe to the plan shall pay the Plan Administrator's fees. Any IRS 125 supplemental plan benefit not being offered by the Plan Administrator during the enrollment period for the new plan year will become the responsibility of the employee to pay via direct billing.

## **ARTICLE 16, EDUCATIONAL REIMBURSEMENT**

Unit members shall be entitled to receive up to \$2,000 per fiscal year for courses either approved through the Tuition Reimbursement Program or for other work-related courses approved in advance at the discretion of the Fire Chief and the Human Resources Director. However, the City shall budget for the Tuition Reimbursement Program and once the funds in the budget for the Program have been exhausted by employees accessing the funds, no additional funds for tuition reimbursement are required to be paid.



## **WORK HOURS/ LEAVE**

### **ARTICLE 17, LEAVE**

#### **17.1 Accrual and Vesting**

Unit members shall accrue annual leave annually on the anniversary of the individual's most recent hire date, with the first accrual being made after one (1) year of continuous service. There shall be no monthly prorating. After one (1) year of continuous service, said accrual shall be made monthly in accordance with the appropriate annual leave accrual schedule.

#### **17.2 Accrual Rates for 56-hour Workweek Shift Unit Members**

Firefighters and Fire Engineers assigned a fifty-six (56) hour shift workweek shall accrue annual leave at the following rates:

Completion of Continuous Years of Service	Shift Hours Accrued For Each Full Month
1 Through 5	12
6 Through 10	16
11 Through 15	20
16 and after	22

Fire Captains assigned a fifty-six (56) hour shift workweek shall accrue annual leave at the following rates:

Completion of Continuous Years of Service	Shift Hours Accrued For Each Full Month
0 Through 5	16.8
6 Through 10	19.6
11 and after	22.5

#### **17.3 Accrual Rates for 40-hour workweek Unit Members**

Firefighters and Fire Engineers assigned a forty (40) hour workweek shall accrue annual leave at the following rates:

Completion of Continuous Years of Service	Hours Accrued For Each Full Month Worked
1 Through 5	8.57
6 Through 10	11.43
11 Through 15	14.29
16 and after	15.71

Fire Captains assigned a forty (40) hour workweek shall accrue annual leave at the following rates:

Completion of Continuous Years of Service	Hours Accrued For Each Full Month Worked
0 Through 5	12
6 Through 10	14
11 and after	16

#### 17.4 Annual Leave Maximum

Unit members assigned a fifty-six (56) hour shift workweek shall not accrue annual leave hours beyond the maximum of four hundred fifty-six (456) hours. Unit members assigned to a forty (40) hour workweek shall not accrue annual leave hours beyond the maximum of three hundred twenty-five and seventy-one hundredths (325.71) hours.

#### 17.5 Annual Leave Cash-Out

Until December 31, 2018, Unit members shall have the option of converting accrued and vested annual leave into cash, without limitation. Cash-outs of annual leave shall be permitted twice a year on the last pay day of July, and the first pay day of December. Members must advise payroll of their desire to convert accrued and vested annual leave to cash three weeks prior to these pay days.

Effective for calendar year 2019 and every year thereafter: By December 15 (the first year being 2018) of each year, employees may make an irrevocable election to cash out up to the maximum number of hours of annual leave which they can accrue per year which will be earned in the following calendar year at the employee's base rate of pay. In the following year, the employee can receive the cash for the annual leave they irrevocably elected to cash out in either two (2) separate increments of up to half their annual accrual cap (i.e., for those who accrue 16 hours per month – 192 hours per year, 96 hours each) or one (1) increment of up the maximum they can accrue in a year.

The employee would be paid one half of what they irrevocably elect to cash out hours on both the second pay day in July and the first pay day on December or the employee can elect to be paid their full amount they elected to cash out on the first pay day in December. However, if the employee's annual leave balance is less than the amount the employee elected to cash out (in the prior calendar year) the employee will receive cash for the amount of leave the employee has accrued at the time of the cash out.

If an employee makes an irrevocable election to cash out annual leave in the following calendar year and uses annual leave in that subsequent year, the annual leave used will come from annual leave the employee had earned prior to January 1 of the year the employee has elected to cash out annual leave. This is to ensure that assuming an employee had an annual leave balance prior to January 1, the annual leave used will not result in a reduction in the amount of annual leave the employee will be eligible to cash out.

## 17.6 Annual Leave While on Occupational Injury Leave or Sick Leave

Unit members who are on an occupational injury leave or sick leave and reach the maximum annual leave accrual may request a temporary lifting of the maximum four hundred fifty-six (456) hours accrual by giving written notice to the Chief. In such cases, the member shall be permitted to continue to accrue annual leave over four hundred fifty-six (456) hours from the time such notice is given until the next regular annual leave cash out date. On said next regular annual leave cash out date, the member must cash out at least all annual leave in excess of four hundred fifty-six (456) hours or the employee will lose such excess hours. The member will not be entitled to accrue annual leave in excess of four hundred fifty-six (456) hours on and after the date of said next regular annual leave cash out date. Members on occupational injury leave or sick leave may cash out their annual leave pursuant to Article 17.5. This paragraph shall apply on a per injury basis.

## 17.7 Annual Leave Usage

A maximum of five operational personnel with a maximum of three per rank shall be permitted to use annual leave per shift.

## 17.8 Disposition of Accrued & Vested Leave Upon Termination

Upon termination, all accrued and vested annual leave will be paid at the member's current hourly rate. All accrued and vested annual leave of deceased members shall be paid to the estate of said deceased except as otherwise provided by law.

Unit members shall be paid for all accrued, vested and unused sick leave upon a public safety service or disability retirement.

## **ARTICLE 18, PAYMENT IN LIEU OF HOLIDAYS**

In lieu of all City recognized holidays, Unit members shall be paid 5.14 hours (for members working the suppression shift of an average of 56 hours per week) and 3.67 (for members working a 40 hour per week assignment) per pay period (the 24 pay periods when holiday in lieu pay is paid to members) at their straight time hourly rate.

The parties agree that to the extent permitted by law, the compensation in this section is special compensation for those employees who are normally required to work on an approved holiday because they work in positions that require scheduled staffing without regard to holidays and shall be reported as such pursuant to Title 2 CCR, Section 571(a)(5) holiday pay.

## **ARTICLE 19, SICK LEAVE**

### 19.1 Accrual Rates

Unit members assigned to shift duty shall accrue sick leave at the rate on one-half (1/2) shift for each full month of service, to be earned and reported in shift hours.

Fire Captains on a 40-hour workweek shall accrue sick leave at the rate of 8.57 hours for each full month of service.

### 19.2 Sick Leave Maximum Accrual

Sick leave shall accrue to a maximum of three (3) months or seven hundred and twenty (720) hours. Notwithstanding the preceding sentence, if an employee's accrued sick leave reaches 720 hours, they will continue to accrue sick leave in that calendar year subject to the following: An employee may cash out any accrued sick leave above 720 hours in the last pay period in July, if an employee still has sick leave on the books in excess of 720 hours by the pay day for the first pay period of December, the unused sick leave above 720 hours shall be compensated by a cash payment in an amount equal to the member's straight time hourly rate of pay for those unused accumulated sick leave hours.

## **ARTICLE 20, FORTY HOUR CONVERSION**

The employee leave benefits accorded to Unit members in this MOU shall be converted to accommodate those members who work an average of forty (40) hours per week (shift hours/1.4 = 40 hour conversion).

## **ARTICLE 21, SHIFT TRADING**

Shift trades are provided per Fire Department Standard Operating Procedure.

There is no limit on the number of shift trades a Unit member may enter into, but the PSFA encourages members to notify management no later than 24 hours prior to the exchange taking place.

## **ARTICLE 22, VACATION RELIEF**

The City agrees that for vacation relief, minimum staffing be maintained by replacing individuals on a rank for rank basis.

## **ARTICLE 23, STAFFING**

The station safety shift staffing shall be not less than 16 per day City-wide. Effective on the pay period following City Council approval of the MOU, the safety shift staffing shall be not less than 18 per day City-wide. Effective the pay period following when the City implements a Paramedic Response Unit (i.e., puts the unit into service) the safety shift staffing shall be not less than 20 per day City-wide.

The parties agree that either party may reopen negotiations during the term of the MOU regarding this Article.

## **EMPLOYER/EMPLOYEE RELATIONS**

### **ARTICLE 24, NON-TOBACCO USE REQUIREMENT**

All Unit members shall not use tobacco products on or off duty throughout the term of their employment. This includes, but is not limited to, all e-cigarettes.

### **ARTICLE 25, CERTIFICATION**

#### **25.1**

As a condition to participation in an examination for promotion to Fire Engineer, an employee must continue to be certified on an aerial unit, a triple combination pumper, and an ARFF unit prior to the examination application closing date.

#### **25.2**

All Fire Engineers must continue to be certified on all apparatus before the end of their probationary period.

### **ARTICLE 26, DMV PHYSICALS**

The City does not pay for medical exams that were formerly required by the Department of Motor Vehicles. Should the Department of Motor Vehicles reinstate that requirement for Fire Engineers, then City will resume payment for those medical exams, provided the affected employees utilize the physician(s) designated by the City.

### **ARTICLE 27, BOMB SEARCH**

Unit members will not be required to perform bomb searches. Upon receipt of a bomb threat, Unit members shall be asked to stand by should a rescue or suppression become necessary.

### **ARTICLE 28, SIDA BADGES**

All new members shall obtain a SIDA Badge within first three months of employment, at no cost to the member.

### **ARTICLE 29, ELECTRONIC COMMUNICATION GUIDELINES**

The Unit agrees to the City-wide Electronic Communication Guidelines.

### **ARTICLE 30, STRIKES AND WORK STOPPAGES**

#### **30.1 Prohibited Conduct**

The PSFA, its officers, agents, representatives and/or Unit members agree that, they will not cause or condone any strike, sympathy strike, walkout, slowdown, sick out, or any other unlawful and/or concerted job action by withholding or refusing to perform services.

## 30.2

Any PSFA members who participate in any conduct prohibited in 31.1 above shall be subject to suspension, demotion, or dismissal by the City.

## 30.3

In addition to any other lawful remedies or disciplinary actions available to the City, if the Unit fails, in good faith, to perform all responsibilities listed below in 31.4 - The Unit Responsibility, the City may suspend any and all rights and privileges accorded to the Unit in this MOU, including but not limited to suspension of the Grievance Review Procedure and Dues Deduction.

## 30.4 The Unit Responsibility

In the event that the Unit, its officers, agents, representatives, or Unit members engage in any of the conduct prohibited in 31.1 - Prohibited Conduct, the Unit shall immediately instruct any such persons engaging in such conduct that their conduct is in violation of this MOU and unlawful, and they must immediately cease engaging in conduct prohibited in said Section 31.1 and return to work.

## **ARTICLE 31, LAYOFF AND RECALL**

The Unit agrees to Personnel Rule 13.3 Layoff and Recall, except as modified herein. If a Unit member bumps to a lower classification as a result of layoffs, the employee's "Classification Seniority" in the lower position will be defined as all of the time in any of the classifications in the Unit. For members of the Unit, layoff of any member shall be made in the following order: Members shall be laid off by classification in the reverse order of seniority in that classification. In the event that two (2) or more members in the same classification have the same classification seniority, then layoff shall be made on the basis of final ranking on the eligibility list for the position, then departmental seniority, then City seniority.

## 31.1 Seniority

In the absence of a definition for the term "seniority" as used in the City's Personnel Rules and MOU with PSFA, "seniority" shall mean "the length of the employee's continuous unbroken service with the City.

An employee who separates from the City for any length of time and for any reason but who returns to employment with the City shall have the calculation of seniority based on the most recent date of hire. Any prior service for the City prior to separation shall not be considered.

## **ARTICLE 32, GRIEVANCE PROCEDURE**

### 32.1 Definition of Grievance

- A. A "Grievance" is a dispute of one or more employees or a dispute between one or more employees involving the interpretation, application or enforcement of the

provisions of the MOU, or of the Personnel Rules and Regulations that are within the statutory scope of representation, and for which there is no specific method of review provided by federal, state or local law.

- B. Personnel rules 4.3.3 or 7.7 are excluded from the grievance procedure as well as any other rules as specified and complaints involving harassment shall be handled by a separate procedure.
- C. Release or lay-off of employees during an initial probationary period after hire, reinstatement, or reemployment is not subject to the grievance procedure.

### 32.2 Time Limits and Waivers

- A. Working Days - For purposes of the Grievance Procedure, working days, further referred to as "days", are defined as the period from 8 a.m. to 6 p.m. City Hall working days, currently Monday-Thursday, excluding holidays.
- B. Initiation - A Unit employee must initiate the grievance within fifteen (15) days of the occurrence of the event giving rise to the grievance or within fifteen (15) days after the grievant should, with reasonable diligence, have had knowledge of such occurrence, whichever is later.
- C. Management Reply - Failure by management to reply to the employee's grievance within the time limits specified under the grievance procedure shall automatically grant the employee the right to process the grievance to the next level of review.
- D. Failure to Submit to Next Level - If a Unit employee fails to submit from one level to the next level within the time limits and in the manner provided under the grievance procedure, the grievance shall not be subject to further consideration and will be deemed resolved.
- E. Waiver by Mutual Agreement - Any level of review or any time limits established in the procedure may be waived or extended by mutual agreement between the Unit employee and management, which must be confirmed in writing.
- F. Outside of Authority - If the supervisor, manager, or department head designated by the grievance procedure below to receive the grievance determines that they do not have the authority to resolve it, that supervisor, manager, or department head, shall so inform the grievant and forward the grievance to the next higher level of supervision with authority to resolve it, if applicable, or advise the grievant in writing they may continue to the next level in the process.

### 32.3 Informal Resolution

- A. The responsibility of a Unit employee with a bona fide grievance concerning terms and conditions of employment is to promptly inform and discuss the grievance with the department supervisor or designee in order to, in good faith, endeavor to resolve the matter expeditiously and informally.

- B. If such informal discussion does not resolve the grievance to the Unit employee's satisfaction, such employee may file a formal grievance in accordance with the procedure set forth in this section.

#### 32.4 Procedure

- A. The Unit employee shall provide the grievance in writing, with signature and date, and submit it to their immediate supervisor within fifteen (15) days of the initial commencement of the occurrence being grieved. The supervisor shall further consider and discuss the grievance with the Unit employee and such employee's designated representative as deemed appropriate, and shall, within fifteen (15) days of having received the written grievance, submit a response thereto in writing to the employee and the employee's representative, if applicable.
- B. If the written response of the immediate supervisor does not result in a resolution of the grievance, the Unit employee may further submit the grievance, by presenting a written request, with date and signature, to the Unit employee's department head within seven (7) days of the Unit employee's receipt of the supervisor's response. The department head may investigate the grievance and may set a meeting with the Unit employee, employee's designated representative, and other persons as deemed appropriate to consider the grievance. Within thirty (30) days of receipt of the grievance by the department head, the department head shall submit a response to the grievance to the Unit employee and employee's representative, if applicable.
- C. If the response by the department director, does not result in a resolution of the grievance, the Unit employee may further submit the grievance, by presenting a written request, with date and signature to the Human Resources Director, for submission to the Office of the City Manager, within seven (7) days of the unit employee's receipt of the department head's response. The City Manager or designated representative, may set a meeting with the Unit employee, employee's designated representative, and other persons as deemed appropriate, to consider the grievance. Within thirty (30) days of receipt of the grievance the City Manager or designated representative shall submit a response to the Unit employee and employee's representative, if applicable. The decision of the City Manager Office is final and binding.
- D. This grievance procedure is the sole and exclusive method for alleging a violation, misinterpretation or misapplication of any provision of this MOU.

#### **ARTICLE 33, DISCIPLINARY APPEALS PROCESS**

The parties agree that effective July 1, 2018, the disciplinary appeals process is as follows:

##### PROVISIONS:

- A. Disciplinary actions defined:



## 1. Oral/Written Warning

The use of an oral or written warning shall be used as a tool by supervisors to address performance problems or minor instances of misconduct and may be initiated at any time. If it qualifies as punitive action under the Firefighter Procedural Bill of Rights Act, the employee shall be entitled to an administrative appeal per the informal process below. The supervisor or manager will review with the employee both the specific deficiencies in question and the City's standards. The cause(s) of the deficiency will be identified along with specific improvement needed. The employee should be advised of the action that will be taken should they fail to achieve the improvement outlined within the time period specified. Any written warnings will be kept in the supervisory file, not the official personnel file, and a copy given to the employee. The supervisory file is intended to be a temporary file to record performance, both positive and negative, throughout the performance year. Once the performance evaluation is completed for the year, all items in the file should be referenced in the performance evaluation if appropriate, and discarded at the end of the performance year.

## 2. Written Reprimand

A Written Reprimand generally is appropriate to correct instances of more serious circumstances or employee misconduct which do not warrant suspension or discharge, repeated instances of minor misconduct or identified performance problems. The purpose of a Written Reprimand is to put the employee on notice that the City will take other disciplinary action unless immediate, real and consistent improvement in performance is demonstrated. Any decision to issue a Written Reprimand should be reviewed by the Human Resources Department. The supervisor or manager issuing the Written Reprimand shall meet with the employee to discuss specific improvements required within a defined time period to avoid further disciplinary action. A copy of the Written Reprimand will be placed in the employee's official personnel file.

## 3. Suspension

Suspension is the temporary removal of employees from their duties without pay.

## 4. Reduction in Pay

A Reduction in Pay is a reduction in hourly salary for a limited and defined period of time, and does not result in any classification change. The employee continues to report to work for the duration of the Reduction in Pay.

## 5. Demotion

Demotion is the movement of an employee from the current classification to a new classification having a lower salary range.

## 6. Discharge

An employee may be discharged for cause.

### B. Pre-Disciplinary Procedure

If an employee is to be suspended, receive a reduction in pay, be demoted or discharged, the employee shall:

1. Receive written notice of the intended action at least 7 calendar days before the date it is intended to become effective, stating the specific grounds and the particular facts upon which the action is based.
2. Receive copies of any known materials, reports or other documents upon which the intended action is based.
3. Be accorded the right to respond in writing within a reasonable period of time to the intended charges.
4. Be accorded the right to meet within a reasonable period of time with the Department Head or designee who has the authority to modify or eliminate the intended disciplinary action.
5. Be given the written decision of the Department Head or designee prior to the effective date of the disciplinary action.

### C. Appeal Process

The following appeals procedures are adopted by the parties pursuant to Government Code § 3254.5 of the Firefighters Procedural Bill of Rights Act.

#### 1. Definitions

- a. The term “firefighter” means an employee who is considered a firefighter under Government Code § 3251(a) as well as any firefighter who is a peace officer pursuant to Penal Code § 830.37. This includes all employees who are in this Unit.
  - b. The term “punitive action” means any action defined by Government Code § 3251(c), i.e., “any action that may lead to dismissal, demotion, suspension, reduction in salary, written reprimand, or transfer for purposes of punishment.”
2. Formal Appeals Procedures – For Punitive Action Causing a Loss of Pay Not Covered by the Informal Hearing Process

A firefighter shall be entitled to an appeal hearing before an Administrative Law Judge assigned from the Office of Administrative Hearings which shall be conducted in accordance with Chapter 5 (commencing with § 11500) of Part 1 of Division 3 of Title 2 of the California Government Code.

- a. Notice of Discipline as Accusation - The final notice of discipline which may be issued at the conclusion of the pre-disciplinary procedures shall serve as the Accusation as described in Government Code §§ 11500, *et seq.*
  - (1) Pursuant to Government Code § 3254(f), the discipline shall not be effective sooner than 48 hours of issuance of the final notice of discipline.
  - (2) The notice shall be prepared and served in conformity with the requirements of Government Code §§11500, *et seq.* A copy of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the California Government Code shall be provided to the firefighter concurrently with the notice of discipline.
- b. Administrative Law Judge - Pursuant to Government Code § 11512, the appeal will be heard by an administrative law judge
- c. Time and Place of Hearing- Pursuant to Government Code § 11508, unless otherwise decided by the administrative law judge, a hearing shall be conducted at City Hall or in another City facility at a time to be determined by administrative law judge with the input of the representatives of both the City and employee.
- d. Notice of the Hearing- A notice of the hearing shall be provided to the parties pursuant to Government Code § 11509.
- e. The burdens of proof and production of evidence shall be borne by the City. The standard of proof shall be by a preponderance of the evidence.
- f. The proposed decision of the administrative law judge shall be in writing. Copies of the proposed decision shall be delivered to the parties by registered mail and accompanied by a proof of service
- g. Following receipt of the proposed decision, the City Council, or any designee (e.g., the City Manager) to the extent authorized by law, may take any of the actions set forth in Government Code § 11517(c)(2) A through E.

### 3. Appeals Procedures Informal Process

The Informal Hearing Procedure, as opposed to the formal procedures, will be used for disciplinary action imposed on an employee that does not involve termination from employment, demotion, suspension without pay for more than two (2) shifts for employees working a 56-hour suppression schedule or three (3) working days for employees working a 40-hour administrative schedule, or where the practical financial effect of the discipline equates to a two shift suspension or less for employees working a 56-hour suppression schedule or three (3) working days or less for employees working a 40-hour administrative schedule.

- a. Appeal to the Fire Chief or Designee

- (1) A firefighter who receives notice of a punitive action shall be entitled to appeal the action to the Fire Chief prior to the effective date of the punitive action. The appeal is an opportunity for the firefighter to present written material and arguments why a punitive action should not occur or offer alternatives to the action.
  - (2) Notice of Appeal: Within seven (7) calendar days of receipt by a firefighter of notification of a punitive action, the firefighter shall notify the Fire Chief in writing that they intend to appeal the punitive action. The notice of appeal shall specify the action being appealed and the substantive and procedural grounds for the appeal. Nothing in this section shall limit the right of the Department to institute disciplinary action, notwithstanding that an appeal may be pending.
  - (3) Hearing Officer: The Fire Chief or designee shall act as the hearing officer. If the Fire Chief cannot serve as the hearing officer because of actual bias, prejudice or interest as defined by Government Code §11425.40, then the City Manager or designee shall serve as the hearing officer. The hearing shall take place within thirty (30) calendar days of the date the firefighter was notified about the punitive action (e.g. received a written reprimand) or such other time as may be agreeable by the parties.
- b. Burden of Proof: The City shall bear the burden of proof at the hearing.

The Department shall have the burden of proving by a preponderance of the evidence the facts which form the basis for the charge(s) and that punitive action was reasonable under the circumstances.

c. Conduct of Hearing:

- (1) The formal rules of evidence do not apply, although the Hearing Officer shall have discretion to exclude evidence which is incompetent, not relevant or cumulative, or the presentation of which will otherwise consume undue time. The rules of privilege shall be observed.
- (2) The parties may present arguments through documents and statements.
- (3) If the punitive action being appealed is a written reprimand, the parties will not be entitled to confront and cross-examine witnesses.
- (4) Following the presentation of written material and statements, the involved parties may submit closing arguments orally or in writing for consideration by the hearing officer.
- (5) Representation: The firefighter may be represented by an association representative or attorney of choice.

d. Decision:

After the hearing, a decision will be submitted in writing within thirty (30) calendar days and provided to the employee. The decision shall advise the firefighter that the time within which judicial review of the decision may be sought is governed by Code of Civil Procedure § 1094.5.

e. Decision to Impose Discipline:

If, after the hearing, a decision is rendered which imposes discipline, pursuant to Government Code § 3254(f), the discipline shall not be effective sooner than 48 hours of issuance of the final notice of discipline.

### **ARTICLE 34, ASSOCIATION BUSINESS BANK**

The City will provide a bank of one hundred twenty (120) hours per year to be allocated by the Association as directed by the Association's Board of Directors for use by Association Officers or members. The Association President will be responsible for notifying the City's Director of Human Resources of the use of such hours when those hours are used. The use of the banked time must be approved by the employee's immediate supervisor and the City agrees that the use of the time will not be unreasonably denied. In addition, the Association will provide a report to the Human Resources Department upon request (up to twice a year) of the use of these hours in the previous year.

### **ARTICLE 35, NO REQUEST FOR CHANGES DURING TERM**

The terms agreed upon by this MOU shall take effect at the times specified herein upon approval by resolution by the City Council and shall remain in full force and effect until midnight, June 30, 2021. The PSFA hereby expressly waives any right to demand any improvements or any changes in the wages, hours, or other conditions of employment of Unit member covered by this MOU, and the City shall not be required to meet and confer as to any such demand or request.

### **ARTICLE 36, REQUIREMENT TO LIVE WITHIN 75 MILES OF THE CITY LIMITS**

Unit members hired on or after 8:00 a.m. on October 11, 2015 must live within 75 miles of the City limits.

### **ARTICLE 37, JOINT LABOR MANAGEMENT COMMITTEE**

If necessary, the parties agree to meet to discuss labor relations issues of interest to either of them (e.g., employees donating vacation to the Association Business Bank or modifications to testing procedures). Such meetings are not labor negotiations, but rather, discussions of issues to which either side has an expressed interest. Once a year, either party can request to convene a meeting and the other party will agree to meet within a reasonable period time. If the parties mutually agree to meet more frequently, they can agree to do so.