

158239--0

**MEMORANDUM OF UNDERSTANDING**

**2023 – 2024**

**CITY OF PHOENIX**

**AND**

**AMERICAN FEDERATION**

**OF STATE, COUNTY**

**AND MUNICIPAL EMPLOYEES**

**LOCAL 2384, AFL-CIO**

**REPRESENTING FIELD UNIT II EMPLOYEES**

<b>PREAMBLE .....</b>	<b>4</b>
<b>ARTICLE 1: RIGHTS .....</b>	<b>5</b>
SECTION 1-1: GENDER .....	5
SECTION 1-1A: RECOGNITION .....	5
SECTION 1-2: CITY AND DEPARTMENT RIGHTS .....	5
SECTION 1-3: UNION RIGHTS .....	6
SECTION 1-4: RIGHTS OF UNIT EMPLOYEES.....	11
SECTION 1-5: PROHIBITION OF STRIKE AND LOCKOUTS.....	18
SECTION 1-6: NEW POSITIONS/CLASSIFICATIONS .....	18
<b>ARTICLE 2: GRIEVANCE/ARBITRATION/LABOR MANAGEMENT .....</b>	<b>19</b>
SECTION 2-1: GRIEVANCE PROCEDURE .....	19
SECTION 2-2: ARBITRATION .....	23
SECTION 2-3: LABOR-MANAGEMENT COMMITTEE.....	27
SECTION 2-4: HEALTH AND SAFETY COMMITTEE .....	27
<b>ARTICLE 3: COMPENSATION/WAGES.....</b>	<b>28</b>
SECTION 3-1: WAGES .....	29
SECTION 3-1A: PRODUCTIVITY ENHANCEMENT PAY.....	30
SECTION 3-2: OVERTIME .....	31
SECTION 3-2A: CALL OUT PAY .....	33
SECTION 3-3: OUT-OF-CLASS PAY.....	34
SECTION 3-4: SICK LEAVE CONVERSION AT RETIREMENT.....	35
SECTION 3-4A: SICK LEAVE PAYOUT .....	35
SECTION 3-5: SHIFT DIFFERENTIAL PAY .....	35
SECTION 3-5A: WEEKEND SHIFT DIFFERENTIAL PAY.....	35
SECTION 3-6: STAND-BY PAY .....	36
SECTION 3-7: SHOW-UP TIME.....	36
SECTION 3-8: JURY DUTY .....	37
SECTION 3-9: DEFERRED COMPENSATION PROGRAM .....	37
<b>ARTICLE 4: HOURS OF WORK/WORKING CONDITIONS .....</b>	<b>37</b>
SECTION 4-1: HOURS OF WORK.....	37
SECTION 4-2: REST AND LUNCH PERIODS.....	39
SECTION 4-3: CLEAN-UP TIME .....	40
SECTION 4-4: SENIORITY .....	40
SECTION 4-5: BUMP/BID PROCEDURE EQUIPMENT MANAGEMENT DIVISION .....	40
<b>ARTICLE 5: BENEFITS.....</b>	<b>43</b>
SECTION 5-1: HEALTH INSURANCE AND EMPLOYEE ASSISTANCE .....	43
SECTION 5-2: DENTAL INSURANCE.....	43
SECTION 5-3: LIFE INSURANCE .....	44
SECTION 5-4: LONG-TERM DISABILITY INSURANCE .....	44
SECTION 5-5: HOLIDAYS AND VACATION LEAVE .....	45
SECTION 5-6: UNIFORMS .....	47
SECTION 5-7: PARKING.....	47
SECTION 5-8: TOOL ALLOWANCE.....	48
SECTION 5-9: PARENTAL LEAVE.....	49
<b>ARTICLE 6: MISCELLANEOUS .....</b>	<b>50</b>
SECTION 6-1: SAVING CLAUSE .....	50
SECTION 6-2: COPIES OF MEMORANDUM.....	50
SECTION 6-3: APPRENTICESHIP PROGRAMS .....	50

SECTION 6-4: PART-TIME EMPLOYEES .....	51
SECTION 6-5: DEPARTMENT CERTIFICATIONS AND REQUIRED LICENSES .....	51
SECTION 6-6: SAFETY MANUAL .....	52
SECTION 6-7: TERM AND EFFECT OF MEMORANDUM .....	52
SECTION 6-8: .....	53
<b>ADDENDUM A - ALLOCATION OF STEWARDS.....</b>	<b>55</b>
<b>ATTACHMENT A.....</b>	<b>56</b>
<b>ATTACHMENT B (RELATING TO VACATION LEAVE).....</b>	<b>58</b>
<b>ATTACHMENT C (RELATING TO SICK LEAVE).....</b>	<b>61</b>

## PREAMBLE

WHEREAS the well-being dignity, respect, and morale of the employees of the City are benefited by providing employees an opportunity to participate in the formulation of policies and practices affecting the wages, hours, and working conditions of their employment; and

WHEREAS the parties hereby acknowledge that the provisions of this Memorandum of Understanding (hereinafter Memorandum or M.O.U.) are not intended to abrogate the authority and responsibility of City government provided for under the statutes of the State of Arizona or the Charter or Ordinances of the City of Phoenix except as expressly and lawfully modified herein; and

WHEREAS the parties agree that the Phoenix Employment Relations Board (P.E.R.B.) unit certification reflects that there exists a clear and identifiable community of interest among employees covered by this Memorandum; and

WHEREAS the parties, through their designated representatives, met and conferred in good faith pursuant to the Meet and Confer Ordinance in order to reach agreement concerning wages, hours, and working conditions of employees in Field Unit II;

NOW therefore, the City of Phoenix, hereinafter referred to as "the City," and Local 2384, as an affiliate of the American Federation of State, County, and Municipal Employees, AFL-CIO, hereinafter referred to as the "Union", having reached this complete agreement concerning wages, hours, and working conditions for the term specified, the parties submit this Memorandum to the City Council of the City of Phoenix with their joint recommendation that body resolve to adopt its terms.

# **ARTICLE 1: Rights**

## **Section 1-1: Gender**

Whenever any words used herein in the masculine, feminine, or neutral, they shall be construed as though they were also used in another gender in all cases where they would so apply.

## **Section 1-1A: Recognition**

- A. The City recognizes the Union as the sole and exclusive meet and confer agent pursuant to the Meet and Confer Ordinance as amended, for the purpose of representation regarding wages, hours, and other conditions of employment for all employees in positions constituting Field Unit II, as certified or as may be modified by the Phoenix Employment Relations Board (P.E.R.B.).

## **Section 1-2: City and Department Rights**

- A. The Union recognizes that the City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer, and manage its municipal services and work force performing those services in all respects subject to this Memorandum.
- B. The City Manager and Department Heads have and will continue to retain exclusive decision-making authority on matters not expressly modified by specific provisions of this Memorandum and such decision-making shall not be in any way, directly or indirectly, subject to the grievance procedure contained herein.
- C. The exclusive rights of the City shall include, but not be limited to, the right to determine the organization of City government and the purpose and mission of its constituent agencies, to set standards of service to be offered to the public, and through its management officials to exercise control and discretion over its organization and operations, to establish and effect Administrative Regulations and employment rules and regulations consistent with law and the specific provisions of this Memorandum, to direct its employees, to take disciplinary action for just cause, to relieve its employees from duty because of lack of work or for other legitimate reasons, to determine the methods, means, and personnel by which the City's services are to be provided, including the right to schedule and assign work and overtime, and to otherwise act in the interest of efficient service to the community. Nothing herein shall be construed to diminish the rights of the City under Section 5 of the Meet and Confer Ordinance.

## **Section 1-3: Union Rights**

It is understood by the parties that the benefits granted by this Article shall not be interpreted or applied as requiring the City to count as time worked, any hours or fractions of hours spent outside the employee's work shift in pursuit of benefits provided by this Article. The City shall count as time worked any hours or fractions of hours spent within the employee's regular work shift in pursuit of benefits provided by this Article.

### **A. Union Release**

The Phoenix community benefits from harmonious and cooperative relationships between the City and its employees. The City and AFSCME Local 2384 have negotiated full-time release positions, and release hours, as an efficient and readily available point of contact for addressing labor-management concerns. Examples of work performed by the release positions in support of the City include ensuring representation for employees during administrative investigations and grievance/disciplinary appeal meetings with management; participating in collaborative labor-management initiatives that benefit the City and the members; serving on City and departmental task forces and committees; facilitating effective communication between City and Department management and employees; assisting members in understanding and following work rules; and administering the provisions of the Memorandum of Understanding. Union release is also used for authorized employees to prepare for appeals and hearings and attend Union conferences, meetings, seminars, training classes and workshops so that employees better understand issues such as City policies and practices, conflict resolution, labor-management partnerships, and methods of effective representation. The cost to the City for these release positions and release hours, including all benefits, has been charged as part of the total compensation detailed in this agreement.

#### **1. Full-Time Release Positions**

Four full-time release positions, designated by the Executive Board of the Union, shall each be allowed up to 2,080 work hours per M.O.U. year to engage in lawful union activities, pursuant to and consistent with this Memorandum. There will be a deduction of hours from the Union's release bank for the fourth full-time release positions. The full-time release positions agree to comply with all City rules and regulations. Full-time release positions are subject to all City Personnel Rules and Administrative Regulations. The City will pay the employees' full time fringe benefits. Time used for this purpose in excess of 2,080 hours per position shall be at the expense of the Union, and the Union shall reimburse the City at the applicable employee's hourly rate of pay.

The Union will keep the Labor Relations Division apprised of the regular work schedules of the release positions and submit leave slips for processing.

Upon return to their regular city duties, the Unit employee shall be reinstated to their original position, location, and schedule by seniority.

The City values and benefits from the participation of Union leaders on citywide task forces and committees, Labor - Management work groups, and a variety of Health and Safety committees. These activities take time away from expected tasks such as representation and communicating with the membership and may occur outside the regular work day of the Union officials. The full-time release positions agree to participate in these important committees and task forces. In recognition of this commitment, the City agrees to pay the President of the Union two hundred eight (208) hours of straight time in his/her compensatory time bank. Each of the other three full-time Union release positions will receive eighty (80) hours of straight time in each of their compensatory time banks each MOU year.

The Union, subject to departmental operation and scheduling factors and reasonable advance notice, shall be allowed a total of one hundred and fifty (150) hours of paid leave to attend Union seminars, lectures, and conventions.

In addition, the Union shall be allowed fourteen thousand dollars (\$14,000) reimbursable to the Union by the City each M.O.U. year, for designated members of the local to attend schools, conferences, workshops and training to develop skills in effective member representation, conflict resolution techniques, labor-management cooperation, and other employee relations areas that promote cooperative and harmonious relationships. The Union will submit receipts for reimbursement by the City. If the entire \$14,000 is not used in the first year of the M.O.U. the balance will carry over into the second year not to exceed twenty-eight thousand (\$28,000) during the term of this M.O.U. Funds not used by the end of the M.O.U. will expire.

As a result of the COVID-19 pandemic, the Union was not able to attend trainings in 2020. Due to this, the parties agree to hold over the funds in Article 3, Section 1-3.A.1 until June 30, 2022.

## 2. Union Stewards

The Union may designate up to fifty-five (55) site stewards, twenty-six (26) chief stewards, and seventeen (17) lead stewards to serve as Union representatives. Such designations shall be made from amongst employees regularly working at the job sites as specified in Attachment "A" and such stewards shall service grievances at said job sites to which they are regularly assigned, in accordance with Attachment "A" hereto. Chief Stewards may substitute for job site stewards in the assigned area of jurisdiction as shown in Attachment "A."

The Labor-Management Committee will discuss the job site allocation of stewards upon request by either party (Attachment A) and will consider the deletion or

addition of stewards in the event of reorganization or expansion of Unit II departments.

- a. The Union shall notify the Labor Relations Division of the Human Resources Department, in writing, of its designations and re-designations of stewards and chief stewards.
- b. There shall be no obligations on the City, nor shall the City change or modify employees' permanent regular work schedules or assignments solely as a result of such designations.
- c. One such steward from the Grievant's home department and the grievant may, after the grievant and the supervisor were unable to resolve the matter informally (Article 2, Section 2-1) when the Union is designated by a grievant as his representative, attend mutually scheduled grievance meetings with City of Phoenix department representatives without loss of pay or benefits. One steward working in the same department as a unit member under investigation may also attend investigative meetings without loss of pay or benefits. Stewards not from the same department as the grievant or employee under investigation may provide representation, however the total time spent on representation will be requested from and charged to the bank of hours as outlined in 1-3 A 3.
- d. City employees who are on duty, either witnesses or grievants and the shop steward representing an employee, may attend Civil Service meetings and Phoenix Employment Relations Board (P.E.R.B.) meetings on City time.
- e. The Union will be allowed subject to operational and scheduling factors and fourteen (14) calendar days advance notice, up to one day of paid release time for authorized stewards to attend a one-time contract orientation session conducted by the Union in each year of the contract.
- f. Union Stewards are subject to all City Personnel Rules and Administrative Regulations.

### 3. Bank of Union Release Hours

The Union will be allowed, subject to operational and scheduling factors and seventy two (72) hours advance notice in each instance, a unit total of three thousand one hundred eighty three (3,183) hours paid release time in a bank of release hours per M.O.U. year. Requests for release time shall be submitted to the Labor Relations Administrator and approval of release time hereunder shall not be arbitrarily withheld.



With the exception of the ten elected union officials, only one representative may be released from the same work group/shop at the same time. The union may request an exception when training is being provided by the International Union. Approval will not be arbitrarily withheld. No representative (with the exception of the ten elected union officials), will be permitted to use more than 420 hours of release time from the bank of hours in any one M.O.U. year.

Any hours used in excess of the bank of Union release hours must be approved by the Labor Relations Administrator and the AFSCME Local 2384 President. The number of hours used in excess of the allowable Union release hours at the end of the contract term will be deducted from the Union release hours available for the following year. A surplus of hours will be carried over into the next year to a maximum total Union release of 8,325 hours.

#### B. Unpaid Release Time for Unit Related Activity

Union members may be authorized in advance in writing to engage in lawful Union activities during City work hours on a non-paid basis at the unrestricted discretion of the City Manager or designee consistent with the purpose of this Memorandum.

A member selected by the Union to do Unit representative work which takes the employee from his employment with the City shall, at the written request of the Union, and subject to Civil Service Rules, be granted an unpaid leave of absence. The leave of absence shall be in increments of no less than three (3) months and shall not exceed one (1) year, but it may be renewed or extended for a similar period upon the request of the Union.

C. The Union will be allowed one (1) hour each orientation session to talk to and recruit new Unit members into the Union and to explain the rights and benefits under the M.O.U. This time will be allotted in addition to new employee orientation, at the departments that have new employee orientation, in the Aviation, Public Works, and Water Services Departments. The content of such information shall not be political in nature, or abusive of any person in City employment. This time shall be considered *de minimus* time.

D. Prior to the termination of the current Memorandum and subject to operational and scheduling factors, each designated Union representative, which is defined as the elected Executive Board, will be allowed up to one day of paid release time to facilitate the familiarization of the terms of the successor Memorandum.

E. There shall be no use of official time for Union related activities except as expressly authorized under the aforesaid sections.

#### F. International and Union Representatives

Accredited International and appropriately designated Local representatives shall be admitted to the buildings and grounds of the City during working hours for legitimate Union purposes including providing representation to employees, so long as such will not interfere with any work operation or the safety and security of any work site. Such representative will check in with the supervisor involved and will be required to conform to the safety regulations of the work site. Non-City personnel will be identified to the department director or designee prior to entering restricted City areas.

#### G. Payroll Deduction

1. The City shall deduct from the first pay warrant of Union members, in each month, the regular periodic membership dues and regular periodic Union sponsored insurance premiums pursuant to the City's deduction authorization form duly completed and signed by the employee and transmit such deductions monthly to the Union no later than the fourteenth (14th) day following the end of the pay period in which the deduction occurs, along with an alphabetical list of all employees for whom deductions have been made. Such deduction shall be made only when the Union member's earnings for a pay period are sufficient after other legally required deductions are made.
2. Authorization for membership dues deduction herein under shall remain in effect during the term hereof unless revoked by the employee. Revocation of deductions shall be accepted by the City only during the first week of July or January to be effective the following payroll period. The City will notify the Union of any revocations submitted to it.
3. The City shall not make dues deductions for Unit employees on behalf of any other employee organization (as defined in the Meet and Confer Ordinance) during the term of this Memorandum. At each scheduled Labor Management Committee meeting, the City shall provide to the Union a list of any exceptions to this provision arising from transfers between any other Unit.
4. It is agreed that the City assumes no liability except for its gross negligence on account of any actions taken pursuant to this section. The City will however, as promptly as technically possible, implement changes brought to its attention. The City shall at the written request of the Union during the term of this agreement make changes in the amount of deduction hereunder for the general membership provided cost for implementing such changes shall be reimbursed by the Union.

#### H. Facilities and Services

1. The Union through its designated representative, may distribute materials on the City premises (buildings and grounds) before and after scheduled working hours or in non-work areas during scheduled work hours provided that both the employee distributing and the employee receiving such materials are on non-work periods.

2. The City shall provide the Union with accessible bulletin boards at mutually agreed upon locations. The City shall grant sole and exclusive use of such bulletin boards to the Union.
3. Materials which are abusive of any person or organization, which conflict with laws regulating the political activities of City employees, and which are disruptive of the City's operations may not be posted or distributed.
4. The Union may grieve any refusal by the City to approve posting or distributing of materials. The City will not arbitrarily disapprove materials.
5. Upon the Union's filing of a Third Party Data Sharing Agreement with the Labor Relations Division, the City shall provide the Union, upon request, a listing of Unit employees indicating name, address, job classification, department number, and/or a seniority list by job classification.
6. The City will endeavor to maintain remote computer access to the City's intranet for the Union Office.

#### I. Contracting Out

The City will comply with the provisions of Management Procedure Number 5.501, dated February 7, 1994, and notify the Union, in writing, of the City's intent to contract with a private agency for the provision of municipal services. The Union may, within seven (7) calendar days of this notification, request a Labor-Management Committee meeting for the purpose of discussing the potential contract. It is understood by all parties that the Union's exercise of rights granted by this Article shall in no way delay the process outlined in Management Procedure 5.501, nor impede the City's authority to enter into a contractual agreement with a private agency.

The City will provide the union, upon request, with a listing in electronic format of unit employees' name, home address, date of employment, and department. The City will also provide mailing information of all Unit 2 employees at the request of the Union.

The City shall provide the Union a list of all Unit 2 vacancies monthly.

Based upon mutually agreed upon frequency, departments will establish regular Labor Management meetings with union leadership to ensure productive communications on items such as: department policy changes and the outsourcing of services currently performed by unit members which could directly result in a reduction in the number of permanent Unit positions ("contracting out").

## **Section 1-4: Rights of Unit Employees**

It is understood by the parties that the benefits granted by this Article shall not be interpreted or applied as requiring the City to count as time worked, any hours or fractions of hours spent outside the employee's work shift in pursuit of benefits provided by this Article. The City shall count as time worked any hours or fractions of hours spent within the employee's regular work shift in pursuit of benefits provided by this Article.

- A. Unit employees have the right to be represented by the union and the union reserves the right to provide representation to its members in dealings with the City concerning grievances, and matters pertaining to their individual employment rights and obligations, and during an investigatory interview concerning allegations focused on the employee which may result in disciplinary action.
- B. Supervisors are encouraged to discuss concerns and attempt to resolve those concerns with an employee without utilizing a formal investigatory process. Supervisors are encouraged to not utilize an investigatory process unless they have a reasonable belief that discipline (a written reprimand or higher) could result. Should information be made during a conversation to attempt to resolve an issue that could result in discipline, the supervisor will stop the meeting and utilize an investigatory process as outlined below. Any interview becomes investigatory when facts or evidence sought by management may result in a disciplinary action.
  - An employee is entitled to Union representation if the employee reasonably believes that the investigatory interview will result in disciplinary action and the employee has requested representation from their union.
- C. The City may, at its sole discretion, either conduct investigatory interviews with employees or issue employees written questions in order to provide the employee an opportunity to gather additional information. In either case, a Notice of Inquiry (NOI) form will be used. The intent of the NOI is to clearly put employees on notice that they are under investigation that could result in discipline, inform them of the nature of the allegations against them, and inform them of their right to representation.
- D. If the City elects to issue written questions to the employee, the following shall apply:
  - 1. If an NOI is being issued and there is no active questioning, representation is not required.
  - 2. The employee will have 72-hours excluding holidays and N-days to respond in writing and provide any other material requested. This deadline may be extended by mutual agreement if there are extenuating circumstances.
- E. If the City elects to conduct an investigatory interview, the following shall apply:
  - 1. Prior to the employee being interviewed, the employee shall be advised of their right to a representative.

2. The NOI form will be issued at the meeting.
  3. The union representative may engage in meaningful representation, including but not limited to assisting and consulting with the employee, attempting to clarify the facts or questions asked, and suggesting other employees or witnesses who may have knowledge of the underlying issues. The union representative cannot speak on behalf of the employee or impede the progress of the interview.
  4. The member or representative may ask for a caucus during the meeting. The caucusing party will attempt to keep the caucus to reasonable timeframes.
  5. The interviewer may not prohibit the union representative from engaging in representation, including consulting with the employee. The member shall be allowed to seek advice and counsel from their representative in caucus during the interview.
  6. The union representative may not behave in a violent, verbally abusive, insulting, or demeaning manner toward the interviewer.
  7. Prior to the conclusion of the meeting, the member or representative shall have the opportunity to make a closing statement.
  8. If the department requires a written statement at an investigatory meeting, the employee will be given up to one hour of City time to write the statement. Additional time may be granted at the sole discretion of the department and will not be withheld arbitrarily.
  9. The employee will be provided with a copy of the interview notes and given 72 hours to confirm their answers and provide any additional information.
  10. Except for emergency situations, the unit employees shall have a minimum of 48 hours to arrange for union representation when the member is the subject of an administrative investigatory interview. The union representative will make every reasonable attempt to arrive within the 48 hours. An employee may waive the 48-hour time requirement if the employee is not opting for representation. Employees will be provided with the NOI cover sheet (and attachment if applicable) listing the allegations against the employee 48 hours in advance of the investigatory interview, however, the NOI/interview questions will not be provided in advance.
- F. Regardless of whether the City elects to interview the employee, or issue written questions, the following shall apply:
1. The employee will be instructed not to speak to anyone regarding an investigation. This restriction does not apply to the union, the employee's family or clergy, the investigator, or chain-of-command.

2. The employee will be advised if the inquiry is supervisor initiated or the result of a citizen complaint, employee/co-worker complaint, or other.
3. The member shall also be informed that none of their statements, nor any information or evidence which is gained by reason of such statements, can be issued against them in any criminal proceedings.
4. A unit member shall receive a copy of any statement that they are asked to sign.
5. An employee under investigation will be notified in writing every 90 calendar days as to the current status of the investigation. Every 30 days, an employee under investigation may request a status update. At management's discretion, the status will be provided either verbally or in writing. This will include a brief description of the number of known witnesses still to be interviewed and other investigate processes remaining to be completed, as well as an estimated date of completion.

G. Misc.

1. A unit member identified solely as a witness will not be prevented from reaching out to the union on their own time to consult with a union representative prior to their interview.
2. Only paperwork pertaining to any completed NOI investigation resolved as sustained will be kept in an employee's personnel files.
3. If a Union Steward is requested by management to hold over or is called in from home by a supervisor to represent an employee at meeting required by management, the Union Steward will receive overtime compensation for actual time held over or a minimum of 1 hour if called from home.

H. Unit employees will be permitted to apply and/or compete in a transfer process while in a pending investigation. The transfer process will not be delayed pending the conclusion of the related investigation.

I. The City will provide to the employee a copy of the Citywide completed accident investigation and any other material the City plans to present at the Citywide Accident Review Board hearing. This material will be supplied as quickly as possible after the material has been prepared.

J. It is understood by the parties that the benefits granted by this Article shall not be interpreted or applied as requiring the employer to count as time worked, any hours or fractions of hours spent outside the employee's work shift in pursuit of benefits provided by this Article unless otherwise specified in this MOU. The employer shall count as time worked any hours or fractions of hours spent within the employee's regular work shift in pursuit of benefits provided by this Article.

- K. Unit employees have the right to present their own grievance, in person or by legal counsel.
1. Any Unit member covered hereunder or his representative designated on a written form signed by the employee shall, on request and by appointment, be permitted to examine his departmental personnel file, in the presence of an appropriate supervisory official of the Department.
  2. No Unit member shall have any adverse comments entered into a departmental personnel file without the member being informed by a supervisor. The Unit member shall be asked to date and sign such material solely as evidence of being advised of its existence, not as indicating agreement. If the Unit member requests, he shall receive a copy of the adverse comment.
  3. Unit members may, at their discretion, attach rebuttal statements to any material contained in their departmental personnel file, which may be adverse in nature. The attachments must be no more than 4 pages.
- L. The City will comply with provisions of A.R.S. Section 12-2506, paragraph D, subparagraph 1, and assume responsibility for actions of any Unit II employee in a legal proceeding for personal injury, property damage, or wrongful death, when it is demonstrated that the employee was performing his regularly assigned duties without malice or any degree of negligence.
- M. Discipline older than 5 years from the date of issuance will not be considered for progressive discipline or promotion/transfer purposes except for the following types of discipline, which may be considered for the duration of employment (and upon the employee's return to employment, if applicable):

Sustained discipline of a 40-hour suspension or greater discipline of the following types:

- The employee has been abusive or threatening in attitude, language, or conduct towards fellow employees, customers of the City, or the public.
- The employee has solicited or taken for personal use a fee, gift, or favor in the course of the assigned work or in connection with it, which would lead toward favoritism or the appearance of favoritism or a conflict of interest.
- The employee is in possession of a deadly weapon (as defined in ARS 13-3101), excepting a pocketknife (as provided in ARS 13-3102) at a City worksite, unless such employee is a police officer. (A worksite includes not only City buildings and property, but also City vehicles and private vehicles while being used on City business, and other assigned work locations.)
- The employee has intentionally falsified records or documents made, kept, or maintained for or on behalf of the City of Phoenix.

- The employee has stolen or is in unauthorized possession of City property or the property of another employee or citizen.
- The employee is under the influence of alcohol or illegal drugs on the job.
- The employee has violated City of Phoenix anti-harassment or anti-discrimination policies.
- The employee committed a violation of the City's Ethics Policy.
- The employee's actions meet the elements of a felony.
- The employee committed an act of dishonesty.
- The employee has committed a Class 3 violation of use of force (For enforcement positions within the Police Department).

- N. The City shall post on employee bulletin boards for employee review any new policies and/or revision in City or written department policies and procedures affecting Unit II employees **and provide a copy to the Union**. Notice shall remain posted for not less than thirty (30) calendar days. Review of policy and procedure revisions shall be included in employee meetings and shift briefings when appropriate and practical to do so. The City will notify employees of new or revised written City or Department policies affecting Unit employees as soon after release as possible.

Based upon mutually agreed upon frequency, departments will establish regular Labor Management meetings with union leadership to ensure productive communications on items such as: department policy changes and the outsourcing of services currently performed by unit members which could directly result in a reduction in the number of permanent Unit positions ("contracting out").

- O. A coaching is a verbal discussion with an employee. A coaching is not disciplinary nor shall it be considered a first offense for purpose of progressive discipline. Employees will be advised that they are receiving a coaching at the time it is given. A written record of a coaching may be placed in the supervisor's file for both positive and negative incidents. An employee may receive more than one (1) coaching for a similar matter.

A supervisory counseling is a verbal warning that the supervisor shall document in memo form. A supervisory counseling is not discipline. They are to be used to determine only notice to the employee.

If a supervisory counseling is to be used in any disciplinary or personnel action or any performance rating, the employee will be given the supervisory counseling in memo form, that identifies the behavior requiring improvement, the reason for the improvement, and the consequences of continuing the unacceptable behavior. The memo will contain a line for the employee's signature and above the line the statement: "The employee shall date and sign the supervisory counseling, not as an indication of agreement, but solely as evidence of being advised of its existence." The employee will receive a copy of the memo.



A supervisory counseling will only be retained in the supervisor's file. It will not be placed in the employee's personnel file.

Document	Supervisory File	Department File (if applicable)	Personnel File (OFFICIAL FILE)
Coachings/Supervisory Counselings	<u>Maintain original in file.</u> Remove annually provided no further incidents.	<u>Not maintained in file.</u>	<u>Not maintained in file.</u>
Written Reprimands	<u>Maintain copy in file.</u> Remove annually provided no further incidents.	<u>Maintain copy in file.</u> Employee may request to remove after 3 years.	<u>Maintain original in file.</u> Employee may request to inactivate after 3 years.
Suspensions (other than below)		<u>Maintain copy in file.</u> Employee may request to remove after 10 years.	<u>Maintain original in file.</u> Employee may request to inactivate after 10 years.
Discipline as discussed in section 1-4.M.		<u>Maintain copy in file.</u> Cannot Remove	<u>Maintain original in file.</u> May not be inactivated

The official discipline record is maintained in the Personnel File. Copies maintained in either the Supervisory and/or Department files are not the official record. Employees may request to remove/inactivate eligible documents based on the above criteria. Official records may only be inactivated and not removed.

If an employee receives a written reprimand during the rating period, the supervisor will document the improvement required in the employee's performance evaluation without documenting the issuance of discipline.

The City continues to retain the format used for corrective action/discipline, including forms, technology, etc.

- P. If an employee is not given his/her PMG by the annual review date, the employee's merit increase will be processed within twenty-one (21) calendar days following the above due date and be retroactive to the PMG annual review date. (If PMG is an overall "met").

Employees will be notified of performance issues as they occur or are discovered.

- Q. All unit members have the right to be treated in a manner which is fair and impartial in any matter associated with the rights of unit members under specific terms of this Memorandum of Understanding.

If a unit employee is suspended, it is understood that a suspension day is defined as eight (8) hours. For employees working compressed workweek, the remaining hours of the workday would be accounted at the sole discretion of management.

### **Section 1-5: Prohibition of Strike and Lockouts**

- A. The provisions of Section 2(17) and Section 13 of the Meet and Confer Ordinance are expressly incorporated herein.
- B. There shall be no "lockout" by the City during the term hereof.

### **Section 1-6: New Positions/Classifications**

- A. The City shall give written notice to the Union 30 days in advance of a position being reallocated or reclassified such that the position is removed from the unit.

The parties agree to consult on the inclusion or exclusion of new classification(s) in the bargaining unit and may thereafter refer any such matter, jointly or individually, to the Phoenix Employment Relations Board (PERB) for appropriate action.

The City shall give notice to the Union within 10 working days whenever a classification or compensation study is undertaken that includes active positions belonging to the Union. The Human Resources Department shall provide the Union with an opportunity to meet with the person conducting the study prior to preparation of any report or recommendations. The City shall notify the affected Union of the results and recommendations resulting from any study 30 calendar days prior to that study being presented to the Human Resources Committee. It should be noted that there is no guarantee, either expressed or implied that changes to a classification or its grade and salary range will result from a study.

The Union may submit a prioritized written request of classifications specific to the unit that they wish to have studied. All written requests shall include a full explanation of why the classification should be studied. This explanation shall indicate whether the Union is requesting a full classification study (including job levels and job architecture) or if the request is limited to a compensation review to assess market competitiveness and grade and salary levels. At least two requests by the Union shall be started by the Human Resources Department in order of their ranking per contract year.

## **ARTICLE 2: Grievance/Arbitration/Labor Management**

### **Section 2-1: Grievance Procedure**

It is understood by the parties that the benefits granted by this Article shall not be interpreted or applied as requiring the City to count as time worked any hours or fractions of hours spent outside the employee's work shift in pursuit of benefits provided by this Article. The City shall count as time worked any hours or fractions of hours spent within the employee's regular work shift in pursuit of benefits provided by this Article.

#### **A. Informal Resolution**

1. The parties agree that the first attempt to resolve employee complaints arising under this M.O.U. will be an informal discussion between the employee and his immediate non-unit supervisor only.
2. It is the responsibility of Unit members who believe that they have a bona fide complaint concerning their working conditions to promptly inform and discuss it with their immediate non-unit supervisor in order to, in good faith, endeavor to clarify the matter expeditiously and informally at the employee-immediate supervisor level.
3. If such informal discussion does not resolve the problem to the Unit member's satisfaction, and if the complaint constitutes a grievance herein defined, the Unit member may file a formal grievance in accordance with the following procedure.

#### **B. Definition of Grievance**

1. A "grievance" is a written allegation by a Unit employee, submitted as herein specified, claiming violation(s) of the specific express terms of this Memorandum for which there is no Civil Service or other specific method of review provided by State or City law.
2. The City continues to retain the format used for the grievances, including forms, technology, etc.
3. A grievance which does not meet the requirements set forth in this Article shall be null and void and will not be processed in accordance with this procedure.

#### **C. Procedure**

In processing a formal grievance, the following procedure shall apply:

A grievance must be reduced to writing, citing the specific Article and Section of this Memorandum alleged to have been violated.

## Step 1

The unit employee shall reduce the grievance to writing by completing all parts of the grievance form provided by the City, and submit it to the second line supervisor designated by the City or City designee within fourteen (14) calendar days of the initial commencement of the occurrence being grieved or when the employee had reasonable cause to become aware of such occurrence. The City will assign a grievance number within fourteen (14) calendar days. Either party may then request that a meeting be held concerning the grievance or they may mutually agree that no meeting be held.

The second line supervisor shall, within fourteen (14) calendar days of having received the written grievance or such meeting, whichever is later, submit his response thereto in writing to the Grievant and the Grievant's representative, if any. The parties by written mutual agreement may skip from Step 1 to Step 2 of the grievance procedure.

## Step 2

If the written response of Step 1 does not result in resolution of the grievance, the grievant may appeal the grievance by completing the City form and presenting it to the second Step of review, the Department Head or his designee, within fourteen (14) calendar days of the grievant's receipt of the Step 1 response.

Either party may request that a meeting be held concerning the grievance or may mutually agree that no meeting be held. Within fourteen (14) calendar days of having received the written grievance or the meeting, whichever is later, the second level of review shall submit his response to the grievance to the grievant and the grievant's representative, if any. The parties by written mutual agreement may skip from Step 2 to Step 3 of the grievance procedure.

## Step 2.5

After the Step 2 response, but prior to review by the Grievance Committee/Arbitrator, the parties involved may mutually agree to submit the grievance to Labor Relations. The grievance, as originally written and Step 1 and Step 2 responses, must be submitted to Labor Relations within fourteen (14) calendar days of receipt of the Step 2 response. Labor Relations shall, within fourteen (14) calendar days of the receipt of the grievance, meet with the department head, or designees, and the Grievant and the Grievant's representative, if any, in an attempt to resolve the grievance. Labor Relations shall then submit a written response to all parties within fourteen (14) calendar days of the meeting.

## Step 3

- a. If the written response of the Step 2 (or 2.5 if applicable) does not result in resolution of the grievance, the grievant and Union may, within fourteen (14) calendar days of having received the Step 2 response, appeal the grievance by completing the City form and presenting it to the Grievance Committee. The Grievance Committee shall be composed of:

The Grievance Committee will consist of:

Chairman: A member of the City Manager's Office designated by the City Manager.

Member: A mutually agreed upon neutral member.

Member: The President or the President's designee of another civilian union/association, other than the Grievant's, representing employees with the City.

At the beginning of each contract year, the Union and the City will each select five Department Directors to serve as Grievance Committee members. No selected Department Director will serve as a committee member when the grievance involves his/her department. Staff support to the Grievance Committee will be provided by the Human Resources Department. The Labor Relations Administrator and/or Department Director in Labor Relations will serve as an advisor to the committee.

The Grievance Committee shall, within fourteen (14) calendar days of receipt of the appeal, schedule a hearing regarding the grievance at which the grievant shall be afforded the opportunity to fully present his position and to be represented. The Grievance Committee shall, within fourteen (14) calendar days of the conclusion of the hearing, make advisory recommendation on the grievance and submit it to the City Manager for final determination for those employees who have elected to use this procedure instead of arbitration.

The Grievance Committee shall submit findings and advisory recommendation(s) to the City Manager. The City Manager shall make the final determination of the grievance and submit it in writing to the Grievant and his designated representative.

- b. In lieu of such hearing, the grievant and the Union may jointly invoke the following procedure by submitting the written notice to the Labor Relations Division within fourteen (14) calendar days of having received the Step 2 response. If the grievant and the Union so elect in writing within the above time limit, in lieu of such Grievance Committee hearing, the grievance may be reviewed by an arbitrator.

The parties or their designated representatives shall agree on an arbitrator, and if they are unable to agree on an arbitrator within a reasonable time, either party may request the Federal Mediation and Conciliation Service to submit to them a list of seven (7) arbitrators who have had experience in the public sector. The parties shall, within fourteen (14) calendar days of the receipt of said list, select the arbitrator by alternately striking names from the said list until one-name remains. Such person shall then become the arbitrator. The arbitrator so selected shall hold a hearing as expeditiously as possible at a time and place convenient to the parties, and shall be bound by the following:

- i. The arbitrator shall neither add to, detract from, nor modify the language of the Memorandum or of Departmental rules and regulations in considering any issue properly before him/her.
- ii. The arbitrator shall be expressly confined him/her to the precise issues submitted to him/her and shall have no authority to consider any other issue not submitted to him/her.
- iii. The arbitrator shall be bound by applicable State and City Law.

The arbitrator shall submit his findings and advisory recommendations to the grievant and the City Manager, or their designated representatives. The costs of the arbitrator and any other mutually incurred costs shall be borne equally by the parties. The City Manager shall make the final determination of the grievance and submit it in writing to the Grievant and his designated representative.

#### D. Union Grievance

The Union may, in its own name, file a grievance that alleges violation by the City of the rights accorded to the Union by the specific terms of Article 1, Section 1-3 of this Memorandum. The Union shall file such grievance at Step 3 of the procedure. All other grievances must be filed and signed by Unit employees subject to the provisions of this Article.

#### E. Group Grievance

When more than one Unit employee claims the same violation of the same rights allegedly accorded by this Memorandum, and such claims arise at substantially the same time and out of the same circumstances, a single group grievance may be filed in the name of all such employees. Such group grievances shall be filed at the step of this procedure which provides the lowest level of common supervision having authority over all named grievants. Each Unit employee that is a party grievant must be named and must sign such group grievance. The Union may sign a group grievance on behalf of employees, however, in such instance, the grievance

must be amended within fourteen (14) days naming each Unit employee who is a party grievant and containing his signature.

F. Time Limits

Failure of the City Management representatives to comply with time limits specified in Section 2-1 C shall entitle the grievant to appeal to the next level of review; and failure of the grievant to comply with said time limits shall constitute abandonment of the grievance. Except, however, that the parties may extend time limits by mutual written agreement in advance.

G. Notice to Union of Grievance Resolution

The City will put the Union on notice of proposed final resolutions of grievances where the Union has not been designated as the grievant's representative for the purpose of allowing the Union to ascertain that a final resolution will not be contrary to the terms of this Memorandum.

The City will ensure that a copy of every M.O.U. grievance filed by a Unit member, including the response from management, is forwarded to the Union at each step of the process.

H. The City will not discriminate or retaliate against employees because of their exercise of rights granted by this Article.

I. Employer grievances, should they occur as a result of official Union activities or actions, including the failure to act as required under this agreement, will be presented directly to the Union President or any Officer of the Union within fourteen (14) calendar days of the occurrence prompting the grievance, or within fourteen (14) calendar days of the date upon which the employer became aware of the situation prompting the grievance. The President, or designee, shall, in each case, provide a written answer within fourteen (14) calendar days from receipt of the grievance

Unresolved employer grievances may be submitted to arbitration pursuant to Step 3 herein; provided that the employer shall bear the cost of the services of the arbitrator.

J. The Union and the City agree to meet at regular intervals (as defined in Article 2 Section 2-2 Labor/Management Committee) to find ways to improve the grievance procedures.

## **Section 2-2: Arbitration**

A. Independent Arbitrator

Any Unit member who is a classified employee having completed the prescribed probationary period who has received a disciplinary demotion, suspension, or discharge, and has a right to appeal that disciplinary action pursuant to the Personnel Rules, may under the provisions of this article request the Civil Service Board appoint as a hearing officer an independent arbitrator selected pursuant to the procedures described in Section 2-1 C below.

## B. Appeal

The Union, on behalf of the employee, may request the selection of an independent arbitrator as the hearing officer for a Civil Service Board appeal of a disciplinary action. Such request must be made within fourteen (14) calendar days after the date of service of notice of the order of suspension, demotion, or dismissal on him personally, or twenty-one (21) calendar days from the date of mailing by certified mail the notice of the order of suspension, demotion, or dismissal. The request must be in writing and must state specific allegations in the discipline notice with which the employee disagrees. The request must be personally delivered to the Board or deposited in the United States mail, certified return receipt requested, postage prepaid, addressed to the office of the Civil Service Board, within the above-stated time.

The Union, on behalf of the employee, shall also immediately thereafter file copies thereof with the complainant department head and the City Attorney. At the time the Union files the request for hearing, it shall set forth whether the hearing will be public or private.

## C. Selection of Arbitrator

If the request for an independent arbitrator to be appointed as a hearing officer is approved by the Civil Service Board, the Labor Relations Administrator or his designated representative on behalf of the City and the Union president or his designated representative on behalf of the employee shall agree on an independent arbitrator within ten (10) calendar days after approval and appointment by the Board of the appeal request. If an agreement on an independent arbitrator cannot be reached within said ten (10) calendar days, either party may request that the Federal Mediation and Conciliation Service (FMCS) or the American Arbitration Association (AAA) provide a list with the names of seven (7) arbitrators with public sector experience. In requesting such lists, the parties shall stipulate that arbitrators should be from within Arizona.

The parties shall, within seven (7) calendar days of the receipt of the list, select the arbitrator by striking names alternately until one-name remains. The remaining name shall be designated as the independent arbitrator appointed by the Civil Service Board as the hearing officer for the appeal. The parties shall jointly communicate with the chosen arbitrator to advise him of the appointment.



In the event that the chosen arbitrator is unable to accept the appointment as hearing officer, the parties shall either select another independent arbitrator from a new list in the same manner as described above, or if mutually agreeable select another independent arbitrator from the original list. The independent arbitrator chosen shall be designated as the hearing officer appointed by the Civil Service Board for the appeal.

#### D. Time for Hearing

When possible the hearing date shall be set within thirty (30) calendar days from the request. Delays may be granted by mutual agreement of the parties. However, any such delay occurring at the request of the Union, shall automatically be excluded from any calculations of back pay to the employees, if any, as determined by the Civil Service Board.

#### E. Hearing Procedures

The hearing procedures will be the same as the procedures set forth in Rule 22d, Personnel Rules of the City of Phoenix. In the conduct of the hearing, the hearing officer shall not be bound by the technical rules of evidence, nor shall informality in any of the proceedings or in the manner of taking testimony invalidate any order, decision, rule, or regulation made or approved by the Civil Service Board.

#### F. Witnesses

An employee appellant, or an employee subpoenaed as a witness, shall be granted a leave of absence from his/her regularly assigned duties during his/her regularly assigned work hours without loss of pay for the time.

At the request of either party, the arbitrator shall order that any witness who will testify during the hearing be excluded from the hearing room until such time as they testify. The City and the Union may exclude from the operation of this provision one representative each of the City and the local Union.

#### G. Proposed Findings; Objections to Report

Either party may file with the hearing officer written proposed findings of fact and conclusions within seven (7) calendar days of the conclusion of the hearing. A copy of such proposed findings and conclusions shall be served on the other party at the same time as filing with the hearing officer.

No later than two (2) calendar days before the Civil Service Board meeting where the appeal has been scheduled for hearing either party may file with the Civil Service Board written objections to the hearing officer's report. A copy of such objections

shall be served on the other party at the same time as filing with the Civil Service Board. No post-hearing evidence shall be submitted.

#### H. Requirements

The independent arbitrator selected by the parties and appointed by the Civil Service Board pursuant to this article shall be bound by the following:

1. The independent arbitrator shall neither add to, detract from, nor modify the language of this Memorandum of Understanding.
2. The independent arbitrator shall be expressly confined to the precise issues submitted and shall have no authority to consider any other issue.
3. The independent arbitrator shall be bound by applicable Federal, State, and City laws.

#### I. Report

Within two (2) weeks of the conclusion of the hearing, the hearing officer shall forward all records and the report containing a statement of the findings of fact, conclusions, and recommendations concerning the appeal to the Civil Service Board and send a copy of the report to the parties. The hearing officer may recommend to the Civil Service Board the discipline be upheld or modified, or rescinded pursuant to Personnel Rule 22 (e).

#### J. Costs

The cost of the independent arbitrator and other costs related to obtaining said arbitrator shall be borne equally by the parties. Each party will be responsible for its own costs incurred in the hearing process, including but not limited to costs for legal services, service of subpoenas, and expert witnesses.

#### K. Civil Service Board

It is expressly understood that this article shall not impinge on the powers and duties of the Civil Service Board as provided for in Section 3 of Chapter XXV, Phoenix City Charter and Rule 22, Personnel Rules of the City of Phoenix.

#### L. Representation

The parties agree that for the purpose of this article the City will be represented by the Labor Relations Administrator for the City of Phoenix or designee and the employee will be represented by the President of AFSCME, Local 2384 or designee.

### **Section 2-3: Labor-Management Committee**

It is understood by the parties that the benefits granted by this Article shall not be interpreted or applied as requiring the City to count as time worked, any hours or fractions of hours spent outside the employee's work shift in pursuit of benefits provided by this Article. The City shall count as time worked any hours or fractions of hours spent within the employee's regular work shift in pursuit of benefits provided by this Article.

- A. There shall be a Labor-Management Committee consisting of representatives of the Union and representatives of the City. The purpose of the Committee is to facilitate improved labor-management relationships by providing a forum for the free discussion of mutual concerns and to attempt to resolve problems brought to its attention. Participants will agree to meet quarterly.
- B. During the term of this M.O.U., the Union and the City shall establish an Apprenticeship Labor Management Committee. The Apprenticeship Labor Management Committee shall be comprised of a maximum of five (5) persons each from Labor and from Management.
- C. The Committee shall meet monthly or at other mutually scheduled times.
- D. The members shall, upon request for a meeting, provide the Chairman with proposed agenda items, and the Chairman shall provide the members with the meeting agenda in advance of the meeting.
- E. The Union shall be advised of management recommendations for contracting of work presently being performed by Unit employees which would directly result in a reduction in the number of permanent Unit positions during the term of this agreement. The Union may request an opportunity to discuss these recommendations in the Labor-Management Committee prior to any final recommendation to the City Council. Failure by the City to notify the Union under this Article may be subject to the Grievance Procedure of this Memorandum.

The Management recommendations, and final decision thereon by the City, shall not be subject to the Grievance Procedure (Article 2 Section 2-1) of this Memorandum.

- F. Any signed/dated written Labor/Management agreements with the signatures of both parties and the Chairperson will be binding on the parties for the remaining term of this M.O.U.

### **Section 2-4: Health and Safety Committee**

It is understood by the parties that the benefits granted by this Article shall not be interpreted or applied as requiring the employer to count as time worked, any hours or fractions of hours spent outside the employee's work shift in pursuit of benefits provided

by this Article. The employer shall count as time worked any hours or fractions of hours spent within the employee's regular work shift in pursuit of benefits provided by this Article.

- A. The City will continue to undertake all reasonable efforts to provide for employee health and safety in accordance with the State's Occupational Safety and Health Law.

The City will continue its practice of providing personal protective equipment to protect employees from recognized safety and health hazards, this includes voucher for boots on an as needed basis.

A Unit employee may file, without fear of discipline, retaliation, or discrimination, a grievance (Article 2 Section 2-1) when, in his best judgment, the City has failed to comply with specific safety and health standards promulgated by local, state, and federal regulations.

- B. In order to facilitate this policy, a joint committee entitled "Health and Safety Committee" shall be established. This committee shall be composed of two (2) Unit employees appointed by the Union and two (2) City representatives as designated by the City Manager. The chair shall rotate among the members.
- C. The committee shall meet quarterly or at other mutually scheduled times to consider on-the-job safety matters referred to it by the existing departmental safety committees and safety officers, or otherwise coming to its attention, and shall advise Department Heads and the City Manager concerning on-the-job safety and health matters.

All written recommendations of the committee shall be submitted to the Department Head concerned and to the City Manager.

- D. In the discharge of its function, the committee shall be guided by the applicable regulations of the State's OSHA agency, and the City's existing practices and rules relating to safety and health, and formulate suggested changes.
- E. Employee members of the committee shall not lose pay or benefits for meetings mutually scheduled during their duty time. Union members assigned to the Health and Safety Committee shall be permitted to attend Department Health and Safety Committee meetings.

### **ARTICLE 3: Compensation/Wages**

Various sections of this M.O.U. contain a form of compensation, wages, or benefits that have been negotiated in good faith and may or may not provide a direct payment of wages or other benefit to each member. Those forms of compensation, wages, or benefits that do not provide a direct payment to each unit member have been negotiated in place of a

direct payment and costed as part of the overall economic package. Examples include: life insurance, long term disability insurance, leave payouts, etc.

### **Section 3-1: Wages**

A. **The economic value of ongoing total compensation increases will equal 4.5%. This will be paid as follows:**

1. A **5.55%** base wage increase, effective the first full pay period in July **2023**.

B. **Additionally, Unit 2 employees will receive a non-continuous payment equal to the economic value of 5.0% of their base wage to be paid out on the first full pay period in August of 2023.**

C. **The City will complete a classification and compensation study before December 31, 2023.**

The City will evaluate the American Rescue Plan Act and will provide a (non-specified) percentage of premium pay as allowed by the legislation and deemed appropriate by the City Council, balancing the needs of the community and employees in their development of a strategic plan for the ARPA funds. The strategic plan will follow guidelines provided by the Department of Treasury. This language will expire at the conclusion of the 2021-2023 MOU.

D. If the City projects a General Fund surplus for Fiscal Year 2018-2019 in the five-year forecast that is presented to City Council in February 2018, the parties will Meet and Confer in February 2018.

E. Licensed Pesticide Applicators shall receive fifty (\$.50) in addition to their base hourly rate for each hour engaged in assigned and authorized activities when applying, mixing, or managing herbicide or pesticides. This compensation includes any preparation and maintenance of application equipment.

F. Unit II Employees required by the City to maintain a Commercial Drivers License (CDL) as a secondary part of their regular position duties shall receive twenty cents (\$.20) in addition to their base hourly rate. This pay is not applicable to all positions in classifications which hold CDLs, nor is it applicable to positions in classification in which driving is a primary function of the position.

G. It is understood that for implementation purposes, the practice of rounding off fractional cents shall be done in accordance with universally accepted mathematical and accounting principles.

- H. The term "Pay Schedule" shall mean the schedule computed and published by the Human Resources Department for payroll purposes.

#### Unpaid "Floating" Holidays

Unpaid "floating" holidays must be designated and approved by their supervisor by August 1 of each fiscal year. If not all unpaid "floating" holidays are designated by the deadline, the holidays will be designated by the department by September 1. The unpaid "floating" holiday furlough may be taken in at least a one (1) hour increment. Per state law, New Year's Day, Independence Day, Labor Day, Thanksgiving, and Christmas must be paid holiday; and therefore, cannot be designated unpaid "floating" holidays.

Administration and approval of unpaid "floating" holidays are not subject to the grievance procedure.

The unpaid holiday requirement will be phased out by Year Two of the 2016-19 MOU.

### **Section 3-1A: Productivity Enhancement Pay**

#### Productivity Enhancement Pay

In recognition of continuous service and overall performance, the City agrees to the following Productivity Enhancement pay formula for Unit II employees.

##### A. Pay Benefit:

In November of each calendar year, and June of each calendar year, unit members who have completed at least six (6) years of continuous full-time service and who meet the additional qualifications specified in this section shall qualify for one hundred and three dollars (\$103.00) for the completion of each year of continuous full-time service in excess of five (5) years, up to an annual maximum of three thousand five hundred and two dollars (\$3,502) at the completion of 22 years of continuous full time service.

In November of each calendar year, and June of each calendar year, unit members who have completed twenty three (23) years or more of continuous full-time service and who meet the additional qualifications specified in this section shall qualify for one hundred thirty-eight dollars and eighty-nine cents (\$138.89) for the completion of each year of continuous full-time service in excess of five (5) years, up to annual maximum of six thousand one hundred twelve dollars (\$6,112) at the completion of twenty-seven (27) years.

##### B. Qualifications:

1. An employee must have completed at least one year of continuous full-time service at the top step in his classification.

Qualifications for Productivity Enhancement pay are made in the base class and will not be affected by movement into or out of assignment positions. As well, Productivity Enhancement pay will not be affected by movement to positions within the same pay range.

When a position is reclassified to a higher classification, or when a classification is assigned to a higher pay range, incumbents who are receiving Productivity Enhancement pay shall be moved to that step of the new range which corresponds to the closest to their combined base pay and previous Productivity Enhancement amount (incumbent's annualized payment), and which does not result in a decrease from that amount. The placement in the new range will be limited to the maximum step in the range. If the reclassification or pay range change results in only a maximum possible one-range increase and the incumbent is receiving Productivity Enhancement pay, he/she will be moved to the top step and continue to be eligible for Productivity Enhancement pay.

2. An employee must have completed six (6) years of continuous full-time service.
3. An employee must have received an overall performance rating of "Met" on his latest scheduled performance evaluation on file at the time of the qualifying date.
4. An employee must be on full-time active status. Employees on industrial leave shall qualify for this payment for only the first year of the industrial leave. However, the entire period of industrial leave shall qualify as continuous service when the employee returns to active employment.

C. Terms of Payment:

1. The Productivity Enhancement payment will be pro-rated and included each pay period in the qualifying unit member's regular paycheck.

### **Section 3-2: Overtime**

- A. Overtime is defined as time assigned and worked beyond the regularly scheduled workweek or daily work shift; it being understood that overtime for Unit members who normally work a daily work shift of eight (8) consecutive hours, including a paid meal period on the job, is defined as time assigned and worked in excess of forty (40) hours in a seven (7) day work period, or eight (8) hours per daily shift including paid meal periods. In addition, when an employee is assigned and works two (2) eight (8) hour shifts, and/or two (2) ten (10) hour shifts, or any combination of the two shifts, the second of which commences less than twelve (12) hours after the regularly scheduled conclusion of the first, that amount of time falling within said twelve (12)

hour period is deemed overtime for purposes of Section 3-2 D below, except, however, that such twelve (12) hour rule does not apply to regular shift change situations, relief positions, and positions in the classification of Event Services Worker at the Phoenix Convention Center. The twelve (12) hour rule also does not apply if an employee works less than a full shift either before or after his/her regular shift.

- B. For the 2019 – 2021 M.O.U. contract, except for paid sick leave, all duly authorized paid leave time shall be considered as time worked for the purposes of the regularly scheduled workweek (but not daily work shift). Paid sick leave shall not be considered as time worked for the purpose of calculating overtime for the regularly scheduled workweek.

The employee's appropriate leave bank will be charged only for the difference between the scheduled daily work shift and the hours actually worked that day.

- C. Overtime shall be worked and shall be allowed if assigned by the non-Unit supervisor or other authorized representative of the City.
- D. Overtime work will be compensated at one and one-half (1 1/2) times the regular rate, which will be computed in accordance with provisions of the Fair Labor Standards Act. Such payment will commence after the first seven (7) minutes.
- E. In lieu of cash payment, a Unit member may request compensatory time credits up to a maximum accumulation of two hundred and fifteen (215) hours. Authorized overtime hours worked in excess of the maximum accumulation shall be paid in cash. The request for compensatory time credit must be made at the time the overtime is worked. The Department Head shall make the final determination on the method of payment (either cash or compensatory time). Use of compensatory time off shall be subject to departmental approval and scheduling.

- F. Compensatory Time Conversion

Effective July 1, 2018, a unit member may convert accumulated compensatory time credits to cash twice per M.O.U. year, up to a maximum of seventy (70) hours by notifying the Department Head in writing of such intent either July and/or November. Payment will be made on or before August 31 or November 30.

- G. The City shall endeavor to distribute the opportunity for non-standby overtime equally between employees or crews of employees within the same classification and work location.

Records of overtime worked by employees shall be provided to the designated Union Steward, to be posted on a quarterly basis on Union bulletin boards. In areas where no Steward is available, the list will be sent electronically to the Union Hall general email address: [afscme2384@afscme2384.com](mailto:afscme2384@afscme2384.com). In addition, records of overtime



worked by Unit members shall be made available for inspection by an authorized representative of the Union upon advance request and at reasonable times.

- H. Overtime shall be voluntary, except however, the City reserves the right to assign overtime in the event insufficient employees volunteer, or to avoid inadequate staffing, or to ensure service delivery, or to conduct mandatory training.
- I. Where a ten (10) hour, four (4) day workweek schedule is implemented, overtime is defined as time assigned and worked beyond ten (10) hours a day or forty (40) hours a week.

### **Section 3-2A: Call Out Pay**

The eight (8) hour period before the start of a Unit employee's regular shift is to be called "rest time." If an employee is called out during this time, the employee shall be allowed to adjust their work hours up to 4 hours (flex time) to allow the employee to have proper rest before the start of the employee's shift, whenever possible at the supervisor's discretion. Example: An employee starts at 6 am, and is allowed to start at up to 10 am to 8 pm.

An employee shall have a minimum of three (3) hours' pay at overtime rates when called out for work after going home from a shift, or when called out for overtime work while on standby pay.

Overtime for this call-out shall begin when employees report to the place where they are instructed to report and shall terminate forty-five (45) minutes after being relieved from duty. These forty-five (45) minutes travel time shall be included in the minimum guarantee and shall be paid only if the total work and allowed travel time exceed the minimum.

Travel time shall not apply when the employee is working on overtime which was planned in advance. An employee requested to report early, before the normal starting time of the shift, shall not be eligible for travel time, but would qualify for overtime for the extra time worked.

Provisions of this section shall be interpreted in a manner which complies with the Fair Labor Standards Act.

#### **Remote Access Support**

Employees on Stand by called to perform work by remote access, such as VPN, shall receive a minimum of thirty (30) minutes pay at the overtime rate or the actual amount of time expended, whichever is greater. Remote access overtime shall be paid even when more than one call out is made provided these calls are separated by more than thirty (30) minutes. Calls placed closer than thirty (30) minutes shall be treated as a single event and subject to the actual time worked or minimum payment.

#### **Telephone Support**

Employees on Stand by called to perform work by means of telephone support shall receive fifteen (15) minutes pay at the overtime rate or the actual amount of time expended whichever is greater. Telephone support overtime shall be paid even when more than one call out is made provided these calls are separated by more than fifteen (15) minutes. Calls placed closer than fifteen (15) minutes shall be treated as a single event and subject to the actual time worked or minimum payment.

### **Section 3-3: Out-of-Class Pay**

A Unit employee who is temporarily required to serve in a regular authorized position in a higher classification shall be compensated at a higher rate of pay in accordance with the following:

- A. To be eligible for the additional compensation, the Unit employee must first accumulate ten (10) regular working shifts of assignment in the higher class within any twenty-four (24) month period. Satisfactory performance during a previous appointment to the higher class will be credited to the qualifying period. The days of out-of-class will be credited to the qualifying period. The days of out-of-class assignment need not be consecutive. Once this qualification is satisfied, no additional re-qualification will be required. In addition, out-of-class credit shall be given for out-of-class work for five (5) hours work for a ten (10) hour shift and for four (4) hours work for an eight (8) hour shift.
- B. Temporary assignments out-of-class shall be recorded only in full shift units. A Unit employee working out-of-class for five (5) hours for a ten (10) hour shift or four (4) hours for an eight (8) hour shift shall be credited with working out-of-class for the entire shift.
- C. To qualify for out-of-class pay, a Unit employee must be given the assignment in writing by a non-Unit supervisor or other authorized management representative of the City.
- D. Time worked in a higher class shall not earn credits toward the completion of probationary requirements in the higher class. Such time, however, shall be submitted by the employee as creditable experience in promotional examinations for the higher class.
- E. A Unit member who has qualified under these provisions shall be compensated at the minimum rate established for the higher class for each completed work shift served in the higher class. In the event of overlapping Unit salary ranges, a minimum one-step differential shall be paid for out-of-class assignments into Unit classifications. The higher rate of pay shall be used in computing overtime when authorized overtime is served in out-of-class work assignments. The overtime rate shall be the rate established by the overtime regulations that apply to the higher classification.

## **Section 3-4: Sick Leave Conversion at Retirement**

### **A. Sick Leave Cash Out Formula**

Effective July 8, 2002, the following benefits shall apply:

Upon retirement, bargaining Unit employees with a minimum of 750 hours of accrued and unused sick leave, excluding the first 250 hours, will be paid for 25% of the remaining hours as base hourly wage.

Additional language of this Section 3-4 is contained in Attachments B and C.

## **Section 3-4A: Sick Leave Payout**

All accumulated sick leave hours on the city's official file at the time of the member's death will be paid. Payment will be based upon the member's base hourly rate at the time of death.

## **Section 3-5: Shift Differential Pay**

Unit employees shall receive ninety cents (\$0.90) per hour in addition to their regular rate of pay when working a night shift which ends at or after 9:00 p.m., and before midnight, and one dollar and twenty-five cents (\$1.25) per hour in addition to their regular rate of pay when working a night shift which includes work during the period after midnight to 4:00 a.m.

Employees shall receive shift premium pay only for hours scheduled and worked, and not while on paid leave time.

Shift premium pay shall continue to be paid at the rate of the regular shift for any additional hours worked following the regular shift. Effective July 1, 1999, night shift premium pay applies to regular part-time employees.

## **Section 3-5A: Weekend Shift Differential Pay**

Employees shall receive shift premium pay only for hours scheduled and worked, and not while on paid leave time.

Effective July 10, 2006, a Unit member shall receive forty cents (\$0.40) per hour in addition to his base hourly rate of pay and any other shift differential or any other premium

pay he may be receiving for working a weekend shift. A designated weekend shift is defined as any shift that starts on or after 2:00 p.m., on Friday, and continuing through any shift that starts on or before, but not after 11:59 p.m., on Sunday.

A Unit member shall receive weekend shift pay differential only for hours scheduled and worked, and not while on paid leave.

A Unit member who is called out and works between 2:00 p.m., on Friday and 11:59 p.m., on Sunday, will be paid weekend shift differential for all hours worked at the rate specified in this article. If a Unit member was called out while on stand-by status, he will not receive weekend shift differential.

### **Section 3-6: Stand-By Pay**

When a Unit member is required to be available for call-out outside the employee's regular work schedule, the member shall be compensated for such assigned stand-by hours at two dollars (\$2.00) per hour. Starting in the first pay period in July 2007, stand by pay shall increase to two dollars and fifty cents (\$2.50) per hour. Employees serving in stand-by assignments shall be subject to contact requirements as provided for by the Department Head.

### **Section 3-7: Show-Up Time**

Except in emergencies, an employee who is scheduled to report for work, has not been notified to the contrary, and presents himself for work as scheduled, shall be paid for at least four (4) hours at the applicable rate of pay. If work on the employee's regular job is not available for reasons beyond his control, the City may assign the employee substitute work. In the event scheduled work is interrupted due to conditions beyond the City's control and substitute work is not available to be assigned, affected employees shall be paid for four (4) hours at the regular rate of pay, beginning at release, or to the end of the scheduled work shift, whichever occurs first.

Except in emergencies, an employee who is scheduled to report to work for overtime, has not been notified to the contrary, and presents himself for work as scheduled shall be paid for at least four (4) hours at the applicable rate of pay. An employee who is entitled to four (4) hours of pay due to cancellation in whole or in part of their shift will not receive pay for travel time to and from the worksite for this shift. Employees are not entitled to submit vacation or compensation time for the remainder of an overtime shift.

An employee will only be paid at the overtime rate for hours "actually worked" and will be paid at the otherwise applicable rate of pay for the remainder of the four (4) hours. "Actually worked" is defined as the time the employee is scheduled and available to perform work or performing job duties, prior to being released by a supervisor because that work has ended.

Employees released hereunder prior to the end of their scheduled shift may be required to stand by and keep themselves available for immediate call-back during the balance of their scheduled shift (for which time they shall be entitled to stand-by pay under Article 3, Section 3-6, "Stand-By Pay" hereof). An employee shall have the option of using either vacation time or compensatory time for the balance of his regular shift. Employees called back to work shall be entitled to their regular pay only and not any premium for work performed during the balance of their regularly scheduled shift.

### **Section 3-8: Jury Duty**

A Unit employee called for jury duty or subpoenaed by a court as a witness shall be granted a leave of absence from municipal duties without loss of pay for the time actually required for such service and reasonable travel time and shall, if he chooses, retain jury or witness pay, except where such testimony or witness duty is the result of an employee's official duties as a City employee.

To be eligible for paid leave for jury or witness duty, an employee must present verification of his call to jury duty or witness duty.

Paid witness leave shall not be allowed when the Unit employee is the defendant or plaintiff in a court action.

### **Section 3-9: Deferred Compensation Program**

The City will contribute 3.62% of the base wage to a 401(a) Deferred Compensation Plan (DCP) for each Unit employee for each year.

## **ARTICLE 4: Hours of Work/Working Conditions**

### **Section 4-1: Hours of Work**

A. This Article is intended to define the normal hours of work and to provide the basis for calculation and payment of overtime pursuant to Article 3, Section 3-2.

The City, in collaboration with the Union, may experiment with flextime schedules when the following conditions are met:

- a. Approval of Department Head
- b. Approval of Union President
- c. Mutually agreed schedule between Unit Member and Supervisor
- d. Signed Wavier

- B. The work week shall only consist of a schedule of consecutive work days in a seven (7) calendar day pre-established work period, except in the Equipment Management Division of Public Works Department. Any changes to the consecutive workday schedule will be made by mutual agreement between AFSCME 2384 and the City on the 4 day, 10 hour work shift.
- C. Within a five (5) day work schedule, the work day will consist of eight (8) hours of work within any twenty-four (24) hours in a pre-established work schedule, excluding relief positions. Within a four (4) day work schedule, the work day will consist of ten (10) hours of work within any twenty-four (24) hours in a pre-established work schedule, excluding relief positions.

The City and the Union recognize that no regularly scheduled shift lengths, other than those outlined in Article 4, shall be observed in Field Unit II.

D. Relief Crews

At the 91st Avenue and 23rd Avenue Wastewater Treatment Plants, there may be one (1), but no more than one (1), relief crew per plant as determined by management.

- E. Permanent regular work schedules showing the employees' shifts, workdays, and hours shall be posted on appropriate department bulletin boards.
- F. When changes are to be made by the City on a permanent basis for other than emergency reasons, or where new permanent schedules are to be adopted, the City will notify the affected employees and the Union Hall, not less than fourteen (14) calendar days in advance and will notify the Union of such changes, prior to actual implementation.

In emergency situations, temporary work schedules may be adopted without the fourteen (14) calendar days notice to the affected employees. "Emergency" shall mean unforeseen operational circumstances.

Employees have the option to waive their fourteen (14) calendar day notice and begin their new schedule with the City and Union's written approval.

- G. Summer hours shall begin no later than the last Monday in April and shall terminate no earlier than the second Monday in September whenever such scheduling impacts operations, all of which are within the discretion and control of the City, and where such summer scheduling has been customarily used in the past. Summer scheduling may, at the discretion of the City, be implemented earlier in the year than specified in this section, or terminated later in the year than specified in this section.

H. The City may implement ten (10) hours per day, four (4) days per week work schedules when it is determined by the City that such scheduling is beneficial to City operations.

## **Section 4-2: Rest and Lunch Periods**

Scheduled work shifts shall include meal periods to be observed as follows:

5 DAY WORK WEEK	MEAL PERIOD
8 hours	Under normal conditions, no less than 30 minutes on the job, paid at straight time.
8-1/2 hours	No less than 30 minutes, unpaid.
9 hours	No less than 60 minutes, unpaid.
4 DAY WORK WEEK	MEAL PERIOD
10 hours	Under normal conditions, no less than 30 minutes on the job, paid at straight time.
10 1/2 hours	No less than 30 minutes, unpaid.
11 hours	No less than 60 minutes, unpaid.

Two (2) non-work periods of fifteen (15) minutes during the above scheduled work shifts shall be permitted to promote the health, safety, and efficiency of employees on the job. Activities of employees during those non-work periods shall not be subject to any unreasonable restrictions.

When work demands permit, with a supervisor's approval, a Unit member may combine their thirty (30) minute meal period with one of his fifteen (15) minute rest periods to achieve a forty-five (45) minute meal period. This paid leave time counts as hours worked.

When a unit member works overtime of two (2) hours or more in addition to their daily work shift, they shall be entitled to an additional fifteen (15) minute break. Every additional two (2) hours of overtime will entitle an employee to an additional fifteen (15) minute break.

After four (4) consecutive hours of overtime, a unit member shall be entitled to a paid meal break of thirty (30) minutes, but in no event shall a unit member be entitled to more than one such break for every eight (8) consecutive hours of overtime.

Employees shall be allowed reasonable time, as necessary, for personal clean up prior to the commencement of the lunch and break periods.

### **Section 4-3: Clean-Up Time**

Unit employees will be given time, in keeping with past practice, at the end of a normal daily shift for personal clean up. Such time is in addition to and exclusive of any time the City requires be spent for maintaining equipment.

### **Section 4-4: Seniority**

- A. The City shall provide the Union with a list of Unit members showing each Unit member's City employment date and class employment date.
- B. Seniority shall be by length of service within a class. If seniority within the class is not determinative, then length of service with the City shall prevail.
- C. Seniority shall be used as a factor consistent with established Civil Service procedures in choice of training, work assignments, vacation schedules, and in the determination of layoffs.

### **Section 4-5: Bump/Bid Procedure Equipment Management Division**

Policy: To provide an equitable system for employee selection of shift, days off, and area location, the Union and the City recommend that departments considering the implementation of a bump/bid policy for a designated group of Unit II employees use this article as a guideline in the development of their policy.

#### **A. General Guidelines**

##### **1. Annual Bump/Bid**

There will be a full Bump/Bid each fiscal year, in December, which will become effective the first pay period in January.

##### **2. Interim Bump/Bid**

A layoff, a transfer of a vacant position number to another shift or shop, the addition of a permanent position number, a promotion, demotion, dismissal, resignation, or retirement will be filled subject to the in-class Bump/Bid. This means that any time positions become vacant within a particular classification, an open sign-up will be held. Vacant positions will be filled according to the seniority ranking of interested employees within a class.



### 3. Exceptions

a. The specialties listed below will be exempt from the general Bump/Bid procedure. Employees in these specialties will Bump/Bid only within their specialty and/or section.

- 1) Motorcycle Mechanics
- 2) Heavy Equipment Mechanics in the following assignments:
  - Fire shop
  - Off-road equipment
  - Aerial equipment
  - 91st Ave. Treatment Plant
  - Landfills
- 3) Police substations-
  - Auto Technicians (master)
  - Fire Shop Auto Technicians
  - Equipment Service Worker II
- 4) Leads
- 5) Temporary, new hire and promoted employees\*
- 6) Rovers
- 7) Make-ready shop (all personnel)
- 8) Service writers
- 9) Auto Parts Clerk III (annual bump for this class will be effective after the physical inventory each year).
- 10) Engine diagnostic specialist
- 11) Auto Mechanic at the 91<sup>st</sup> Ave. Treatment Plant

\* Management reserves the right to place new employees on any shift and location for a six (6) month period for training and evaluation purposes. These employees become subject to the Bump/Bid procedure upon completion of six (6) months' employment. The day after the due date shown on their six (6) month performance rating will be the effective date.

At the end of the six (6) months, the position occupied by the temporary, new, or promoted employee will become available to the most senior employee who has signed up within the class. The two employees will then "switch" positions until the next Bump/Bid.

b. Positions of employees who have been on long-term industrial leave or light duty, or personal illness, for at least one hundred (100) days, at the time of the annual bump/bid will be excluded from the process. Upon return to regular, full-time employment, management will assign the employee to an available shift and location until the next Bump/Bid. Employees must return to work seven (7) days prior to the original bump/bid posting to be included in the bump/bid.

#### 4. Annual Bump/Bid Completion

All personnel shall be frozen into the position selected, except to bid for openings created as outlined in Section 4-5 A (2) "Interim Bump/Bid."

#### 5. Delegation of Authority

Employees may delegate/select a representative to participate in the bump/bid in their absence. This may be done by completing a proxy form and presenting it at the designated sign-up time. This form must be signed by the delegating employee and the employee performing the selection. The actual Bump/Bid Sign-up Sheet will be annotated by the employee's representative printing the employee's last name and initialing the entry. The Proxy form will be created in Labor Management with the City and Unit II in efforts to create one universal document. The Labor Management committee will also identify procedures of distribution, request process, process to submit, deadlines and any other concerns regarding this form.

#### 6. Official Notification

The annual bump/bid will be posted, in its entirety, for a minimum of fourteen (14) calendar days prior to the official sign-up date. A copy of the document will be posted at all Equipment Management Division Facilities.

### B. Seniority

Seniority within classification will be the principal factor for bumping and/or bidding.

#### 1. Determination of Seniority

Seniority constitutes length of certified status within a class of the City service. When two or more employees have the same length of time in the class, the employee with the longest certified City employment time shall be senior. If a tie still exists, the employee with the least amount of leave of absence without pay (excluding leave of absence due to sickness, injury, or military service) shall have the greater amount of seniority.

#### 2. Dispute Resolution of Seniority

Any disputes concerning the calculation of seniority length will be resolved by the Public Works Department Human Resources Officer using the guidelines identified in the above "Determination of Seniority."

## **ARTICLE 5: Benefits**

### **Section 5-1: Health Insurance and Employee Assistance**

The City will continue to offer health insurance plans for Unit members.

#### **A. Medical and Dental Insurance**

1. Effective August 1, 2004, the City and the Union agree to maintain the current split for the health insurance monthly contribution for both single and family coverage. If there is a rate increase or decrease, the City will pay 80% of the new monthly contribution and the employee will pay 20%.
2. It is understood between the City and the Union that any changes in health insurance benefits or rates shall be effective on or about January 1, and that the City's monthly contributions will not, under any circumstances, exceed the actual premium cost.

#### **B. Employee Assistance Program**

The City will continue the Employee Assistance Program, which will provide confidential individual and family counseling to all Unit employees and their eligible dependents. These services will be furnished by an independent contract agency to be chosen by the City.

- C. The City agrees to the continuation of a Health Insurance Advisory Committee for the purpose of studying existing plans and to explore alternative plans. The Committee shall include representatives of the City and Local 2384.
- D. The \$150 monthly allowance for Post Employment Health Plan accounts (PEHP) continues for all qualifying employees eligible to retire after August 1, 2022. (The date of an individual's retirement eligibility was determined on August 1, 2007).

### **Section 5-2: Dental Insurance**

The current dental split will also remain the same. If there is a rate increase or decrease, the City will pay 100% of the new monthly contribution for single coverage. If there is a rate increase or decrease, the City will pay 75% of the new monthly contribution, and the employee will pay 25% for family dental coverage.

The City agrees to contribute 100% of the cost to provide dental insurance for employees enrolled in the base HMO or PPO plan for single employee coverage, and 75% of the cost for family coverage.

The City agrees to retain the dental insurance plan for Unit members and their qualified dependents. The plan shall consist of eighty percent (80%) payment of reasonable and customary charges covered for preventive and diagnostic services, basic services, and major services. The Plan shall also include an orthodontia benefit providing for eighty percent (80%) payment of reasonable and customary charges up to a maximum lifetime benefit of four thousand dollars (\$4,000) per person. This plan is subject to the deductibles and limitations contained in the contract between the dental insurance carrier and the City of Phoenix.

### **Section 5-3: Life Insurance**

The City will provide at no cost to Unit employees off-the-job and on-the-job life and dismemberment insurance with a face value equivalent to the employee's annual base salary rounded up to the next one thousand dollars (\$1,000.00) or twenty-five thousand dollars (\$25,000.00), whichever is greater; in addition, the City will also provide death in the line of duty insurance with a face value of seventy-five thousand dollars (\$75,000.00). It is understood between the City and the Union that any change in life insurance benefits shall be effective on or about January 1. The designated beneficiary of a Unit member will be paid for all accumulated sick leave hours that remain on the City's official file at the time of a line-of-duty death of the Unit member, and payment will be based upon the Unit member's base hourly rate of pay at the time of death. The beneficiary shall be that person designated on the Employee Declaration of Beneficiary card for the City of Phoenix Group Life Insurance Program on file in the City Human Resources Department.

Additionally, the City will provide to each Unit member a \$200,000 death benefit covering the Unit member's commutation to and from his City work location. This policy will be consistent with the policy negotiated in 1997 with CIGNA Group Insurance, and will cover the Unit member commute for up to two hours before his shift begins, and two hours after his shift concludes. The Union will only pay the cost of this benefit the first year of the M.O.U.

In the event of the death of a Unit member while commuting to or from his work location, for a period of two hours each way, the City will continue to pay the full monthly health insurance premium for the spouse and all eligible dependents. This policy will be consistent with the terms of the 1997 agreement between the City of Phoenix and CIGNA Group Insurance, for the payment of a supplementary commutation life insurance policy for each Unit member. The Union will pay the cost of this benefit, if any, the first year of each new M.O.U. period.

### **Section 5-4: Long-Term Disability Insurance**

Pursuant to A.R. 2.323, the City will offer a long term disability benefit for all regular full-time unit members. The City may revise the A.R., provided, however, that such revisions shall not conflict with the express provisions of the M.O.U. Employees who have been

continuously employed and working on a full-time basis for twelve (12) consecutive months are eligible for long term disability coverage. After an established ninety (90) calendar day qualifying period, the plan will provide up to 66 2/3% of the employee's basic monthly salary at the time disability occurs and continue up to age seventy-five (75) for employees who have been employed full-time for 36 months and one day. This benefit will be coordinated with leave payments, industrial insurance payments, unemployment compensation, social security benefits, and disability provisions of the retirement plan. Unit II members must apply to activate this benefit.

Employees who have been employed full-time with the City of Phoenix for 36 months or less, will be eligible to receive a long term disability benefit for no more than thirty (30) months. Unit II members must apply to activate this benefit.

### **Section 5-5: Holidays and Vacation Leave**

A. Employees, except those on hourly paid status, shall, when possible, without disrupting the various municipal services, be allowed the paid holidays listed below:

New Year's Day	January 1
Martin Luther King's Birthday	Third Monday in January
President's Day	Third Monday in February
Cesar Chavez's Birthday	March 31
Memorial Day	Last Monday in May
<b>Juneteenth Day</b>	<b>June 19</b>
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Thanksgiving Day	Friday after Thanksgiving Day
Christmas Eve	Four (4) hours on December 24
Christmas Day	December 25

24 Personal Leave Hours

After completion of six (6) months' service

1. Personal leave hours are added to an employee's vacation leave bank to be used as such.
2. When a holiday named herein falls on Sunday, it shall be observed on the following Monday, and when a holiday named herein falls on a Saturday, it shall be observed on the preceding Friday, except that the Library Department may observe such holidays on Saturday, and in the case of continuous and/or seven (7) day operations, holidays shall be observed only on the calendar days on which they actually fall. This paragraph shall not apply to Christmas Eve which shall be granted only when it falls on the employee's regular scheduled workday.

A Unit employee working in continuous and/or seven (7) day operation, whose regularly scheduled day off falls on a holiday specified above, who is not on standby (Article 3 Section 3-6), and who is scheduled to work a regular shift on such holiday and scheduled day off, shall be compensated as follows: eight (8) hours pay for the holiday plus pay at time and one-half (1 1/2) the regular rate for each hour assigned and worked to a maximum of eight (8) hours.

B. Vacation Accumulation

Vacation accrual, carryover, and separation pay-out shall be governed by the following table:

<u>SERVICE</u>	<u>MONTHLY ACCRUAL</u>
0-5 years	8 hours
6-10 years	10 hours
11-15 years	11 hours
16-20 years	13 hours
21+ years	15 hours
<u>MAX. CARRYOVER</u>	<u>MAX. PAYOUT</u>
192 Hours	240 Hours
240 Hours	300 Hours
264 Hours	330 Hours
312 Hours	390 Hours
360 Hours	450 Hours

Unit members shall be allowed "vacation sell-back" twice per calendar year, on the last paycheck of November and/or May. The total annual buy out is up to a maximum of eighty (80) hours taken in no more than forty (40) hour increments, after the

employee has accumulated a minimum of one hundred twenty (120) hours of vacation leave. The employee must take a minimum of forty (40) hours of vacation/comp-time during the calendar year to qualify for these payments. From July 1, 2016 through June 30, 2018, the vacation sell back remains in concession at 40 hours maximum. Effective July 1, 2018, this benefit is restored to 80 hours.

Unit members may contribute accrued vacation or compensatory time to other employees in accordance with City policy governing contribution of leave for serious illness of an employee or their immediate family member. An immediate family member is defined as the employee's spouse, qualified domestic partner, mother, father or child. Child is defined as a biological, adopted, foster or stepchild, legal ward, or a child of a person standing in place of a parent. Or a brother, sister, grandparent, or in-law who are living with the employee and under his/her care. Requests to receive such leave contributions will require a completed doctor's certification.

**All** unit members whose regularly assigned work week consists of 4/10 **hour** shifts, shall not be required to submit documentation for 2 hours of paid leave on the following holidays:

1. **Memorial Day, last Monday in May**
2. **Juneteenth, June 19**
3. Independence Day, July 4
4. Labor Day, **first Monday in September**
5. Veterans Day, November 11
6. Thanksgiving Day, **fourth Thursday in November**
7. Friday after Thanksgiving Day
8. Christmas Day, December 25

## **Section 5-6: Uniforms**

- A. Airport Security Guards (Class Code 24000) uniforms will be supplied by the Aviation Department.
- B. On the effective date of this Memorandum, the City will assume responsibility for the weekly cleaning/laundry of uniforms issued to those Unit members who are employees of the Equipment Management Division of the Public Works Department.

## **Section 5-7: Parking**

- A. Employees regularly assigned to the Airport Terminal buildings shall be provided parking facilities without charge at a location at the airport to be specified by the Director of Aviation.

- B. Effective July 8, 2002, all employees who pay for parking will be charged half price at any downtown City owned parking garage if they park a motorcycle.
- C. All regular full-time and regular part-time Unit employees will receive, upon request, a City issued bus pass at no cost to the employee.
- D. **The City will provide 4 parking cards to the Union.**

### **Section 5-8: Tool Allowance**

- A. Unit employees in the following eligible classifications will receive a tool maintenance allowance of three hundred dollars (\$300.00) per annum.

Payment for tool allowance will be made on or about September 1.

#### Classification

User Technology Specialist U2

Instrumentation and Control Specialist

Trades Helper, Assigned U2

Equipment Service Worker I

Electrician Helper

Electrician Apprentice

Electrician

Electrician, Assigned Lead

Traffic Signal Technician

Telecommunications Specialist

Welder, Assigned U2

Building Equipment Operator I, assigned U2

Building Equipment Operator II, assigned U2



Building Maintenance Worker, Assigned U2

Locksmith

- B. Unit employees in the following eligible classifications will receive a tool maintenance allowance of six hundred dollars (\$600.00) per annum.

Payment for tool allowance will be made on or about September 1.

Equipment Service Worker II

Automotive Technician and all assignments

Heavy Equipment Mechanic and all assignments

Equipment Repair Specialist

Body Repair Specialist

Helicopter Mechanic

Fuel Systems Support Technician

Aircraft Technician and assignment

## **Section 5-9: Parental Leave**

- A. The City will, as a matter of general policy, and subject to operational needs, authorize up to three (3) months of unpaid leave for an employee who is the parent of a newly born or legally adopted child or any Unit member who needs to care for an ill family member. Family members include spouse, children (natural, adopted, foster, or stepchildren), brother, sister, parents, grandparents, as well as others living in the same household with the employee. Approval and use of this leave shall be subject to existing Personnel Rules.
- B. An employee may use up to ten (10) hours of accumulated sick leave in at least one-hour increments each calendar year for the home care or medical treatment for an immediate family member residing in the employee's household. When there is an extreme illness or injury situation where a life or death question exists involving an immediate family member, an employee may use up to five (5) days of accumulated sick leave. (This should not be construed as bereavement leave under Personnel Rule 15g).

In addition, employees may have dependent care situations where the above leave is insufficient to cover their absence. Therefore, employees will be allowed to use

unscheduled accumulated vacation or compensatory time for the care of an immediate family member up to a maximum of five (5) incidents not to exceed a total of forty (40) hours each calendar year.

For all the above mentioned leaves, (sick leave, vacation, and compensatory leave) the employee will not have these leaves be considered a negative factor, when evaluating the job performance of an employee involved in a leave-management program, up to a maximum total of seven (7) incidents per calendar year. An incident is defined as an absence from work, regardless of the length of time.

An immediate family member is defined as the employee's spouse, qualified domestic partner, mother, father or child. Child is defined as a biological, adopted, foster or stepchild, legal ward, or a child of a person standing in place of a parent. Or a brother, sister, grandparent, or in-law who are living with the employee and under his/her care.

## **ARTICLE 6: Miscellaneous**

### **Section 6-1: Saving Clause**

- A. If any article or section of this Memorandum should be held invalid by operation of law or by a final judgment of any tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such tribunal, the remainder of this Memorandum shall not be affected thereby; and upon issuance of such final decree, the parties, upon request of either of them, shall meet and confer to endeavor to agree on a substitute provision or that such a substitute provision is not indicated.

### **Section 6-2: Copies of Memorandum**

Within sixty (60) days of the date that this Memorandum is adopted by the City Council, the Union will arrange for printing of jointly approved copies of it for furnishing one to every Unit employee, Unit supervisor, and to management personnel. The cost of such duplication and distribution will be borne equally by the Union and the City.

Printing vendors secured by the Union shall comply with Ordinance G-1372 (Affirmative Action Supplier's Ordinance), as may be amended, and Ordinance G-1901 (Affirmative Action Employment by Contractors, Subcontractors and Suppliers), as may be amended.

### **Section 6-3: Apprenticeship Programs**

The City will make available to the Union copies of all existing apprenticeship agreements affecting Unit II employees.

## **Section 6-4: Part-Time Employees**

- A. Hourly paid Unit members, excluding seasonal and temporary employees, who have worked a minimum of fifty (50) hours in each pay period for twenty-six (26) consecutive weeks shall be entitled to vacation credits of four (4) hours per month. Vacation credits shall be calculated and paid in cash, in December and June.

Continuation of this entitlement will be determined on November 1, February 1, and May 1. If the employee has worked a minimum of fifty (50) hours in each pay period in July, August, and September, his participation shall continue for the period November through January. A similar review and qualification will be required for October, November, and December; January, February, and March; and April, May, and June. If the employee separates from City employment, the participation will cease.

- B. Hourly paid employees, excluding seasonal employees, may be considered for advancement from pay step 1 to pay step 2 after completing 1,040 hours of work at step 1. Advancement from pay step 2 to pay step 3 and each subsequent step in a range may be considered after working 2,080 hours in each step.
- C. No full-time or part-time permanent employees in the City Civic Plaza Department shall be displaced or their hours reduced by the utilization of temporary employees, unless the issue has been discussed by the parties in a Labor/Management meeting and the City has complied with the provisions of Management Procedure 5.501, dated February 7, 1994.

Based upon mutually agreed upon frequency, departments will establish regular Labor Management meetings with union leadership to ensure productive communications on items such as: department policy changes and the outsourcing of services currently performed by unit members which could directly result in a reduction in the number of permanent Unit positions ("contracting out").

## **Section 6-5: Department Certifications and Required Licenses**

The City will reimburse Unit members of the Water Services Department for expenses incurred as a result of acquiring and maintaining certification required by the Arizona Department of Environmental Quality. Unit member of the Water Services Department will be reimbursed for 1 (one) fail and/or 1 (one) pass per certification.

Employees will be allowed City time to renew their CDL license and/or related endorsements and will be reimbursed for such renewal fees which include the HAZMAT background screening fee.

The City will provide reimbursements to Unit members for CDL endorsements.

Employees in the Water Services Department will receive a one-time special merit increase/step adjustment when they obtain a higher ADEQ Grade Certification than required for their job classification. Employees must provide a copy of their examination results.

When the employee obtains a higher ADEQ Grade Certification and submits results for reimbursement or merit increase, there will be no change to the employees PMG anniversary date.

## **Section 6-6: Safety Manual**

The parties agree that, during the term of this Memorandum, the City will publish a Safety Manual covering all citywide safety issues.

The Health and Safety Committee established in Article 2 Section 2-3 of this Memorandum will be given the opportunity to review and to offer input on the manual while it is in draft form and before its final publication.

Once published, there will be no changes made in the manual without the review of the Health and Safety Committee.

Employees are entitled to exercise the rules under OSHA by relating to the competent person assigned that the situation is unsafe and in conflict with OSHA rules.

## **Section 6-7: Term and Effect of Memorandum**

- A. This Memorandum shall remain in full force and effect commencing **with the beginning of the first regular pay period in July 2023** up to **the beginning of the first regular pay period commencing in July 2024**, and thereafter shall continue in effect year by year unless one of the parties notifies the other in writing no later than December first of the final contract year of its request(s) to modify or terminate it.
- B. Except as expressly provided in this Memorandum, the City shall not be required to meet and confer concerning any matter, whether covered or not covered herein, during the term or extensions thereof.

However, the parties will continue to meet with affirmative willingness to resolve grievance and disputes relating to wages, hours and working conditions without effecting the terms of this agreement.

- C. If any section or provision of this Memorandum violates existing Federal, State, or City law, then such law shall supersede such provision or section.
- D. The lawful provisions of this Memorandum are binding upon the parties for the term thereof. The Union having had an opportunity to raise all matters in connection with the meet and confer proceedings resulting in this Memorandum is precluded from initiating any further meeting and conferring for the term thereof relative to matters under the control of the City Council or the City Manager.
- E. The provisions of this Memorandum apply to all Unit employees, except that entitlement to health, life, and long term disability insurance; holiday, overtime, and show-up time benefits for regular hourly employees shall continue in accordance with present practice and policy.

Permanent employees shall not be laid off from City employment and replaced by the hiring of part-time employees solely for the purpose of eliminating the cost of existing full-time benefits received by permanent employees.

- F. This Memorandum constitutes the total and entire agreements between the parties and no verbal statement shall supersede any of its provisions. All side agreements modified during this contract period must contain an effective starting and expiration timeframe. Any supplements, amendments, or modifications to this M.O.U. shall be executed by duly authorized representative of each party.

### **Section 6-8:**

The City shall create an Employee Memorial for those Unit II employees lost to COVID-19 to thank them for their service to the City of Phoenix. This Memorial can be in conjunction with other Memorials the City may have planned.

IN WITNESS WHEREOF, the parties have set their hands this  
9<sup>th</sup> day of May, 2023

Jason Henley, President, AFSCME Local 2384

Jason Perkiser, Assistant Human Resources Director, Labor Relations, City of Phoenix

Jeff Barton, City Manager, City of Phoenix



2023 MAY 12 AM 10:55

CITY OF PHOENIX

ATTEST:

05.12.2023

Denise Archibald, City Clerk, City of Phoenix

APPROVED TO FORM:

ACTING City Attorney, City of Phoenix

AFSCME 2384 Team:

- Jason Henley, President
- James Sagar
- Diana Peterson
- James Mckenna
- Donald Furnival
- Alejandro Gutierrez
- Mario Ayala
- Christopher Idlebird
- Lorenzo Ortega

City of Phoenix Team:

- Corina Ramsey, Deputy Human Resources Director
- Janice Pitts, Deputy Human Resources Director
- Brandy Kelso, Water Services Department
- Gabe Nevarez, Aviation Department
- Keith Carbajal, Public Works Department
- Bob Fingerman, Phoenix Convention Center
- Brittany Whittle, Human Resources (Coordinator)
- Donna Love, Human Resources (Scribe)

## **Addendum A - Allocation of Stewards**

The allocation of new steward positions under Article 1 will be referred to the Labor-Management Committee for appropriate action.

Guidelines for designation of new stewards shall include:

1. A designated steward must be one from amongst employees regularly working at a specified job site.
2. The designation of job site stewards shall take into consideration the following:
  - a. proportional representation of approximately 1-30,
  - b. organizational structure of department,
  - c. avoidance of duplicating service,
  - d. crew size of work unit divisions.

**ATTACHMENT A**  
(Subject to Reallocation)

Site Steward Allocations

<u>Department/Division</u>	<u>Site</u>
Aviation/Bldg. Ops. General Aviation	Sky Harbor Airport Deer Valley Airport Goodyear Airport
Maint/Air. Sect. Op./Custodians Electrical Maint. Op./Security Event Services Housing/Conventional Elderly Public Works Bldg Maint Equipment Mgmt.	Sky Harbor Airport All Term.-Sky Harbor Electrical Shop Phoenix Convention Center Phoenix Convention Center All Conventional Sites All Elderly Sites 2631 S. 22 <sup>nd</sup> Ave. 22 <sup>nd</sup> Ave. Service Center Fire Operations Salt River Service Center Union Hills Service Center Glenrosa Service Center Okemah Service Center
Fire Operations Center Street Trans./Materials/Insp. Street Trans./Survey Street Trans./Operations Waste/Wastewater Treatment	150 S. 12 <sup>th</sup> St. 1034 E. Madison 1034 East Madison 2141 E. Jefferson 23 <sup>rd</sup> Ave. & Durango 91 <sup>st</sup> Ave. Plant
Water Pollution Control Wastewater Collection	52 <sup>nd</sup> St. & Thomas Northwest Service Center North Yard
Water Customer Service	A.1-2525 E. Hess A.2-2002 E. Maryland A.3-16201 N. 21 <sup>st</sup> Ave. A.4-2301 W. Durango A.5-138 E. Union Hills
Water Production	Verde Plant Deer Valley Plant Squaw Peak Plant Union Hills Plant Val Vista Plant 52 <sup>nd</sup> St. & Thomas Phoenix Wells West



**ATTACHMENT A - CONTINUED**  
(Subject to Reallocation)

Site Steward Allocations

Water Distribution	3045 S. 22 <sup>nd</sup> Ave. 52 <sup>nd</sup> St. & Thomas Corona Yard Deer Valley Yard Morten Yard Paradise Valley Yard Heavy Maint. Yard Heavy Maint. Yard
Water/Wastewater Specialized Svcs	Electricians Heavy Maint. Light Maint. (O&M) Instrument & Control Specialist

Chief Steward Allocations

<u>Department</u>	<u>Division</u>
Aviation Sky Harbor	All (4)
Police/Fire/Street Trans.	All (3)
Public Works	All (2)
Housing	All (2)
Water/Wastewater	
Wastewater Treatment – 23 <sup>rd</sup> Avenue	91 <sup>st</sup> Avenue (3)
Wastewater Collections	All (2)
Water Customer Services	All (2)
Water Pollution Control	All
Water Production	All (3)
Water Distribution	All (2)
Specialized Services	All (2)

Lead Steward Allocations

<u>Department</u>
Aviation (3)
Public Works (2)
Street Transportation
Phoenix Convention Center (2)
Fire
Housing
Police
Water Services (6)

## **Attachment B (Relating to Vacation Leave)**

All of the following, including the agreed-upon Intent, are material terms of this Attachment B and if any provision contained herein is not accepted by the City, the City Council or the employee group, this entire Attachment B becomes null and void:

### Section 3-4 (Continued)

#### A. Final Average Compensation and Vacation Leave

1. The number of vacation leave hours eligible to be cashed out and included in an employee's Final Average Compensation upon retirement will be limited to the number of vacation leave hours in the employee's leave bank on June 30, 2014, not to exceed 450 hours.
2. The City recognizes that the Union may bring a lawsuit regarding the City's proposed implementation of the practice set forth in this Attachment B by submitting the dispute concerning the City's proposal and planned implementation of the practice in Paragraph B.1 of this Attachment B to a court of competent jurisdiction.
3. The Parties expressly agree that nothing contained in Section 3-4 or this Attachment B shall be construed to constitute an agreement by the Union to the lawfulness of the practice set forth in Attachment B or the lawfulness of implementation of the changes set forth in Paragraph B.1 of this Attachment B. Nor shall anything contained in this Attachment B constitute a waiver of the Union's, employees' or the City's claims or defenses in connection with a lawsuit as set forth in Paragraph B.2. hereof regarding the lawfulness of the City's proposed implementation of the changes set forth in Paragraph B.1. The City agrees not to make any argument based on this Attachment B regarding waiver, estoppel, ratification, novation or any similar arguments based on this Attachment B. The City expressly agrees it waives any rights to argue and will not and may not argue, based on this Attachment B, in any lawsuit as set forth in Paragraph B.2 regarding the lawfulness of City's proposed implementation of the changes in Paragraph B.1, that the Union or Unit 2 employees agreed to the lawfulness of such changes including, without limitation, by asserting that the Union or employees agreed to the lawfulness of such change based on this Attachment B, the negotiations leading up to this Attachment B, the ratification of the M.O.U. by the Unit 2 employees or

based on any action or statements of the Union in relation to this Attachment B.

4. The Parties further agree that until there is a final judgment and declaration with respect to the rights of the parties regarding the lawfulness of and the proposed implementation of the practice in Paragraph B.1, if the City calculates retirement benefits based on such practice, the Union will not seek a temporary restraining order, preliminary injunction or other interim relief to cease the practice set forth in paragraph B.1. The City expressly agrees that it waives any rights to argue and will not and may not argue that failure to seek a temporary restraining order, preliminary injunction or other interim relief to cease the practice set forth in paragraph B.1 constitutes estoppel, an agreement to such practice or waives any rights to challenge such practice nor will the City argue that either the Union or Unit 2 employees agreed to the lawfulness of the practice set forth in Paragraph B.1 or such practices based on the failure to seek a temporary restraining order, preliminary injunction or other interim relief.
  
5. The City and the Union further agree that in the event a court determines in a lawsuit as described in Paragraph B.2., after final judgment and all appeals are exhausted, that: (a) the vacation payments at issue in Paragraph A are compensation within the meaning of the Charter; or (b) determines that the practice set forth violates the contractually vested rights of employees; or (c) determines that the practice violates either the Arizona or United States Constitutions, the City shall, as soon as is reasonably practicable after final judgment and all appeal rights are exhausted, sever Paragraph B.1 of this Attachment B and its terms from this M.O.U. and will take whatever administrative action is reasonably necessary to undo the practice described in this Attachment B as required to implement such court's judgment and make any affected employees whole. The City shall meet and discuss with the Union about such administrative action before such action is taken and shall advise the Union first before advising affected Unit 2 employees about any such administrative action that directly affects Unit 2 employees
  
6. The City and the Union further agree that, in the event of a final judgment in the Union's favor such as described in Paragraph B.5. of this Attachment, and after all appeals are exhausted, the City will apply such judgment retroactively to undo the effect of the practices described in this Attachment B.1 on any employees affected or bound by this Attachment B and make such employees whole, including without limitation those Unit 2 employees who

retire after June 30, 2014 but before such final judgment and appeals are concluded. The City shall meet and discuss with the Union about what actions are taken to undo the effect of the practices and shall provide the Union with information concerning what Unit 2 employees retired after June 30, 2014 who were affected by Paragraph B.1 of this Attachment B as reasonably requested by the Union. The City agrees that it will not argue or claim that such judgment should be applied prospectively only.

## Attachment C (Relating to Sick Leave)

All of the following are material terms of this Attachment C and if any provision contained herein is not accepted by the City, the City Council or the employee group, this entire Attachment C becomes null and void:

Section 3-4 (Continued)

### B. Sick Leave Cash Out Formula (Continued)

#### 1. Final Average Compensation and Sick Leave.

a. The number of sick leave hours eligible to be cashed out and included in an employee's Final Average Compensation upon retirement will be limited to the number of sick leave hours in the employee's leave bank on July 1, 2012, provided all criteria are met as described in Subsection A of Section 3-4 of this M.O.U..

b. Employees with less than 250 hours of accrued and unused sick leave on July 1, 2012, will not meet the minimum balance requirements for a sick leave cash out that can be included in their Final Average Compensation.

c. The portion of accrued and unused sick leave that is not included in the Final Average Compensation upon retirement can be cashed out as a lump sum upon retirement, provided all criteria are met as described in Subsection A of Section 3-4 of this M.O.U.

2. The Parties agree that Paragraph C.1(a-c) of this Attachment C of this M.O.U. shall not take effect, unless and until a final judgment, after all appeals are exhausted, has issued in the City's favor on all claims asserted by the Plaintiffs, as to the lawfulness of the practice described in Paragraph C.1(a-c), in the pending lawsuit, *Piccioli, et. al., v. City of Phoenix, et al.*, Ariz. Super. Ct. Case No. CV2012-010330 ("*Piccioli*").

3. The Parties agree that nothing in either Paragraph C.1 (a-c) or this Attachment C of this M.O.U. shall be construed to be a waiver of either the Union's or the City's claims or defenses in connection with the *Piccioli* lawsuit, including any of the City's arguments in defense of continuing its current practice under Administrative Regulation 2.441 or any of the Union's arguments that it never agreed to such changes in the MOU effective July 1, 2012 through June 30, 2014 or otherwise. The City agrees not to make any argument based on this Attachment C regarding waiver, estoppel, ratification, novation or any similar arguments based on this Attachment C. The City expressly agrees it waives any rights to argue and will not and may not argue, based on this Attachment C, in the *Piccioli* matter regarding the City's proposed implementation of the changes in Paragraph C.1(a-c), that the Union or Unit 2 employees agreed to the lawfulness of such changes including,

without limitation, by asserting that the Union or employees agreed to the lawfulness of such change based on this Attachment C, the negotiations leading up to this Attachment C, the ratification of the MOU by the Unit 2 employees or based on any action or statements of the Union in relation to this Attachment C.

4. In the event a final judgment as described in Paragraph C.2. is issued, the Parties agree that the City may, as soon as is reasonably practicable after final judgment and all appeal rights are exhausted, take whatever administrative action is reasonably necessary to implement the practice described in Paragraph C.1(a-c) of this Attachment C, provided such action is consistent with the Court's final judgment. The City shall meet and confer with the Union about such administrative action before such action is taken and shall advise the Union first before advising any other Unit 2 employees about any administrative action regarding implementation of Paragraph C.1(a-c) that directly affects Unit 2 employees.