

MEMORANDUM OF UNDERSTANDING

JULY 1, 2020 – JUNE 30, 2024

**CITY OF EL MIRAGE AND
EL MIRAGE FIRE FIGHTERS ASSOCIATION (EMFFA)**

CHAPTER OF THE NORTHWEST VALLEY FIREFIGHTERS LOCAL 4361

This Memorandum of Understanding is made and entered into between the City of El Mirage, Arizona, hereinafter referred to as "City", and the El Mirage Fire Fighters Association, hereinafter referred to as "Association," under the authority of the City of El Mirage Ordinance No. 00-01-04.

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DEFINITIONS

For the purpose of this Memorandum of Understanding, the following definitions will apply:

<i>Association</i>	The El Mirage Fire Fighters Association under the authority of the City of El Mirage Ordinance No. 00-01-04.
<i>Association Representative</i>	Vice President or designee (Trustee).
<i>City</i>	City of El Mirage, Arizona
<i>Commencement Date</i>	The date this MOU becomes effective, i.e. July 1, 2020.
<i>Department Representative</i>	A non-MOU Member of the Fire Department (Fire Chief and/or designee).
<i>Employee</i>	The City of El Mirage eligible Members of this M.O.U.
<i>Regular Rate of Pay</i>	The regular rate of pay is determined by adding applicable paramedic assignment pay, bilingual pay, and the regular rate as outlined in Article 3: Wages”.
<i>Shift Representative</i>	A representative designated by the Association Representation (Trustee).

ARTICLE 1: MEMBERSHIP

In addition to the term ""Employee", either in the singular or plural form, shall mean employees or the City of El Mirage that are specifically covered by these M.O.U. Members shall include all full-time sworn fire employees up to and including the rank of Fire Captain.

ARTICLE 2: CONTRACTUAL RIGHTS OF THE PARTIES

1) Contractual Rights of the Association

- a) The Association, as the authorized representative, has the exclusive contractual right to serve as the meet and confer representative of all employees in the Fire Fighter Unit as determined by the El Mirage City Council Ordinance No. 00-01-04.
- b) Certain specified representatives of the Association have the contractual right to paid release time under the Grievance procedure as follows:
 - i) The Association may designate one (1) representative for each shift (Shift A, B, and C Shift) and shall notify the Fire Chief of such designations. There shall be no obligation of the Fire Chief to change or adjust normal departmental scheduling or assignments of personnel as a result of such designation.

- ii) A shift representative may, when the Association is designated in writing by a grievant as his or her representative, attend mutually scheduled Memorandum (M.O.U.) grievance meetings and hearings with the department representatives without loss of pay from benefits. In no event shall this paid release time be used for any other purpose, such as gathering information interviewing the grievant or witness, or preparing a presentation.
 - iii) The Association representative is required to obtain permission of his or her immediate supervisor to absent himself or herself from his or her duties to attend scheduled grievance meetings. A representative wishing to enter a work area for the purpose of investigating a formal grievance must first gain the permission of the work area supervisor. This permission will not be unreasonably withheld, giving proper consideration to essential work of the department and the occupational safety of the shift representative.
- c) The Association through its designated representatives may distribute materials on the City premises (building and grounds) only before and after scheduled departmental activities designated by the Fire Chief. The Association agrees that no Association printed material will be placed on any City bulletin board without the express written approval of the City Manager or designee. The distribution of any material shall also comply with any other City or Department rules and regulations.
- d) The Association shall select four (4) Officers/Members of the Association who shall be granted leave from duty with full pay for Association business such as, but not necessarily limited to, attending educational conferences, seminars, and training courses for the improvement of the fire service. Leave requests shall be submitted in writing to the Fire Chief or designee at least eight (8) calendar days prior to departure or with as much advance notice as possible.
- i) Association Officers shall each be authorized the necessary time off with pay to attend one monthly executive board and one monthly Association membership meeting. If fifty percent (50%) or more of the Association Officers come from one (1) shift, the Association shall change the executive board meeting date to a date a majority of the Association Officers are not on shift.
 - ii) Association Officers shall not be placed on the bottom of the overtime and/or callback list when doing Association business.
 - iii) An Association Officer or Member may accept a callback or scheduled overtime and attend Association functions, but shall not receive overtime or callback pay for the period of the time the Association Officer or Member is participating in Association functions.
 - iv) The Association Officer or Member shall immediately notify the Fire Chief or designee when such an opportunity is created, and inform the Fire Chief or designee of the time frame of the Association business. If the Department must call back or schedule overtime for another Member to fill the vacancy created by the Association business, the callback or scheduled overtime shall be for a minimum of two (2) hours. The Association Officer, or Member, shall notify the Fire Chief or designee upon completion of Association business and shall

immediately return to duty.

- v) If an Association Officer or Member accepts a callback or overtime and attends an Association function at the beginning of a shift, and the function is expected to last less than four (4) hours, the Fire Chief or designee can hold over an employee for the period of time that the Association Officer or Member attending the function. The Association Officer, or Member, shall notify the Fire Chief or designee upon completion of Association business and shall immediately return to duty.
- vi) At no time during a single 24-hour shift shall the combined hours of the callback/overtime and the attendance at an Association function by the Officer or Member exceed a total of twenty-four (24) hours.
- e) The City shall furnish to the Association upon request and after receiving payment for the actual cost of reproduction, a listing of Association Members on City payroll deduction in July and January during the term of this agreement indicating name, and job assignment.
- f) The City will provide the Association, upon request, non-confidential and readily available information concerning the Fire Fighter that is necessary to the Association representation for negotiations, and is otherwise not available to the Association, such as personnel census, and survey information. "Confidential" means any information deemed confidential by City Code, County Ordinance, State or Federal Statute, by law or by agreement. Such request shall be made through the City Manager or his or her designee. Any usual cost incurred by the City in connection with this section shall be borne by the Association. Further, the Association may designate not more than three (3) persons who shall be authorized to examine the documents provided. Such persons need not be employees of the City or Association, but include accountants, time study experts, or other hired by the Association for the purpose of such examination. Such examination shall be made during reasonable business hours, and upon reasonable prior notice given to the City. The obligation of the City under this section shall be cumulative of, and shall not derogate from, any other requirement expressed in this agreement with respect to furnishing notices, communications or any other writing to the Association.
- g) The Employee agrees that non-employee Officers and representatives of the Association shall have reasonable access to the employer during working hours with reasonable advanced notice to the appropriate employer representative. Such access shall be for the reasons of the administration of this agreement. The Association agrees that such activities shall not interfere with normal work duties of the employees.

2) Contractual Rights of Management

- a) The Association recognizes that the City has and will continue to retain, whether exercised or not, the unilateral and exclusive contractual right to operate, administer and manage its municipal services and workforce performing those services.
- b) The City Manager and Fire Chief have exclusive decision-making authority on matters not expressly addressed or modified by specific provisions of this Memorandum. Such decision-

making shall not in any way, directly or indirectly, be subject to the grievance procedure contained herein.

- c) The exclusive rights of the City shall include but are not limited to: the contractual right to determine the organization of the City government and purpose and the mission of its constituent agencies and departments; to set standards of service to be offered to the public, and through its management officials to exercise control and discretion of its organization and operations; to establish and affect administrative regulations and employment rules consistent with law or any other regulation, ordinance or statute that is controlling and the specific provisions of this Memorandum; to direct its employees; to take disciplinary action for proper cause; to relieve its employees from duty because of lack of work or other legitimate reasons; to determine the methods, means and personnel by which the City's services are to be provided, including the contractual right to schedule and assign work and overtime; and to otherwise act in the best interests of the efficient service to the community; to adopt and to manage its budget, providing for the funding of the certain levels of service; to add, delete, modify, or suspend certain programs, functions, divisions, and departments as the City Council determines in the exercise of its legislative authority; and to create and manage the City's budget as necessary and appropriate. Nothing herein shall be construed to diminish the rights of the City under Ordinance No. 00-01-04.
- d) In areas not expressly covered or addressed under this Memorandum of Understanding, the City of El Mirage Personnel Policies and Procedures and Departmental Policies and Procedures will apply. The City Manager or City Manager's designee shall have the sole authority to determine if any conflict exists in the interpreting of this paragraph.
- e) The Association agrees that its Members who work for the City will individually and collectively perform loyal and efficient work and service; that they will protect the property of the City and its service to the public; and that they will cooperate in promoting and advancing the welfare of the City and the protection of its service to the public at all times.
- f) The Association and City mutually agree through the labor/management process to cooperate in achieving increased productivity for the mutual benefit of all concern through better utilization of equipment, manpower and methods of work.

3) Contractual Member Rights

- a) All Members shall have the contractual right to have the Association serve as their "meet and confer" representative as set forth in Ordinance No. 00-01-04, without discrimination based on membership in the Association.
- b) Members shall have the contractual right to be presented by the Association in dealings with the City concerning grievances as defined in this Memorandum (Article #16).
- c) Members shall have the contractual right to present their own grievance in person.
- d) Any Member covered hereunder or his representative designated in written form, signed by

the Member, shall, on request and by appointment, be permitted to examine his Personnel File and/or his department file.

- e) No Member shall have any adverse comments entered into his or her Personnel File without being informed by a supervisor. If the Member requests, he may receive a copy of the adverse statement.
- f) Within thirty (30) days of notification of the entrance of the adverse comment into their personnel file, the Member may, at his discretion, attach a statement of rebuttal to any adverse material contained in his personnel file
- g) A letter of reprimand or document of reprimand which does not contain a notice of suspension or demotion will remain active in for not less than one (1) year. After the one-year period, the Member may submit a written request, through the Member's appropriate chain of command, to the Fire Chief or designee that the letter or document be removed from the Member's file. The Fire Chief, at his/her sole discretion, may remove the letter or document from the Member's file, provided there are no other disciplinary actions of any kind taken against the Member during that one-year period.

ARTICLE 3: WAGES

- 1) Wages. The Step Pay Plan as set forth is designed to incrementally increase employees' pay through the Step Pay Plan. (Reference Appendix A).
- 2) Plan implementation. The goal is to move all employees to the step that corresponds to the years in the position over the four year contract. Employees will receive an increase (up to 7%) until the employees step and time in the position aligns. Once the employee reaches the appropriate step, future increases will be 5% until the top of the range is met or the agreement expires. During the transition, employees' salaries may not align with an identified step.
- 3) Members assigned as paramedics, whose positions are classified as non-exempt under the Fair Labor Standards Act, shall receive their regular rate of pay plus \$2.50 per hour for paramedic assignment.
- 4) Members who have demonstrated a proficiency in a second language, and routinely provide translation from another language to English, including American Sign Language, shall be eligible to receive \$0.75 per hour as language adjustment pay. Members must pass an initial proficiency test to receive/continue receiving bilingual pay. At no time will a Member be able to obtain more than an adjustment of \$0.75 per hour regardless of the number of language or sign language in which the Member becomes proficient.
- 5) It is mandatory for each Member to contribute \$25 per pay period, for 26 pay periods per year, to the City designated deferred compensation provider. The City of El Mirage will contribute \$10 per pay period.
- 6) The City of El Mirage agrees to participate in the Post Employment Health Plan (PEHP) for

Members in accordance with the terms and conditions of the Plan's Participation Agreement. The parties hereto designate Nationwide Retirement Solutions to act as Plan Administrator for the Plan, or its successors appointed in accordance with the Plan and Trust documents. For the term of the Agreement, the City shall contribute for each eligible employee the amount of \$35 per pay period.

- 7) Members called back to work after leaving City facilities upon completion of their regular shift shall receive a minimum of two (2) hours pay at the appropriate regular rate, subject to overtime as described in Article 11. City personnel rules and administrative regulations will govern the application of this provision.

ARTICLE 4: HOURS OF WORK

- 1) Personnel classified as nonexempt under the Fair Labor Standards Act.

The Fire Chief shall determine the weekly shift schedules of Fire personnel. The duty hours of personnel shall consist of regularly scheduled shifts of forty-eight (48) hours on duty followed by ninety-six (96) hours off duty ("48/96 Schedule"), unless otherwise determined by the Fire Chief in the event of any emergency.

The Fire Chief may determine that an operational need exists to assign an employee to a forty (40) hour work week.

- 2) Personnel classified as exempt under the Fair Labor Standards Act.

Personnel exempt under the Fair Labor Standards Act (FLSA) are expected to work a schedule compatible with the requirements of the Fair Labor Standards Act and the needs of the organization as determined by the Fire Chief.

ARTICLE 5: SHIFT TRADES

- 1) Two Members serving in the same classification, or in the current promotional list for that classification, may be granted the opportunity to exchange shifts in accordance with departmental policies. All shift changes are subject to the approval of the Fire Chief or his designee and shall be in conformance with regulations issued by the Fire Chief and Section 7(p)(3) of the FLSA.
- 2) Section 7(p) (3) of the FLSA provides that two individuals employed in the same capacity by the same public agency may agree, solely at their option and with the approval of the public agency, to substitute for one another during scheduled work hours. 29 U.S.C. §207 (p) (3). It further states that the hours worked by the substituting employee shall be excluded by the public agency in the calculation of the hours for which the substituting employee is entitled to overtime compensation under the Act. The implementing regulations provide that when "one employee substitutes for another, each employee will be credited as if he or she had worked his or her normal work schedule for that shift." 29 CFR §553.31(a). Source: U.S. Department of Labor

ARTICLE 6: HOLIDAY BENEFITS

- 1) Members regularly assigned to a forty-hour work schedule will be entitled to the following holidays off with ten (10) hours of leave for each holiday.
- 2) Holiday pay is determined by multiplying ten (10) hours by a factor of 1.5. Holiday pay will be paid at the Member's current regular rate of pay for the work period.

New Year's Day	January 1
Martin Luther King, Jr. Birthday	Third Monday in January
Presidents Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November
Thanksgiving Recess	Day after Thanksgiving
Christmas Day	December 25

Whenever a holiday falls on a Friday or Saturday, it shall be observed on the preceding work day. Whenever a holiday falls on a Sunday, it shall be observed on the following Monday.

- 3) Members regularly assigned to a 48/96 Schedule will, in lieu of time off with pay, be paid in addition to the Member's regular pay and regardless of whether the Member works the holiday, Holiday Pay for the ten holidays listed in Paragraph 2 above. Holiday Pay hours will not be counted as hours worked for purpose of calculating overtime.
- 4) Holiday pay will be paid in the paycheck for the work period it occurs in. Holiday pay will be determined by calculating the number of holiday hours in a work period (by multiplying the number of holidays in the pay period by ten (10) hours and then multiplying the number of holiday hours by a factor of 1.5. The holiday hours determined by this calculation will then be paid at the Member's current regular rate of pay for the work period.

EXAMPLE: The Holiday Pay for the work period containing both Thanksgiving and the day after Thanksgiving will be calculated as follows: Two holiday days times ten hours equals 20 holiday hours; 20 holiday hours times 1.5 equals 30 holiday hours for that pay period. The 30 holiday hours will then be paid at the Member's regular rate of pay for the pay period.

5) Service Award Leave – Personal Hours

Members regularly assigned to a 40-hour work schedule or a 48/96 work schedule are eligible for Service Award Leave – Personal Hours as described in the Employee Recognition and Reward Policy.

ARTICLE 7: LIFE INSURANCE

- 1) The City will provide Basic Life and Accidental Death and Dismemberment (AD&D) insurance

in the amount of one times annual salary rounded to the next higher \$1,000, if not already a multiple thereof, subject to a maximum of \$200,000. A Member's "current equivalent annual pay," for purposes of this Article 7 only, shall be calculated by multiplying the employee's regular rate of pay at the time by three thousand and three (3003) hours, rounded to the nearest thousand dollars.

ARTICLE 8: HEALTH AND DENTAL INSURANCE

- 1) Health and Dental Coverage:
 - a) The City will pay up to 100% of the member's monthly health and dental premiums but not more than the actual cost of the lowest health and dental premium. The members agree to pay any additional amount above the lowest health and dental premium plan.
 - b) The City will continue to pay the approved amount for dependent coverage per month, but not less than 70% of the dependent premium for the lowest health and dental premium plan. The member agrees to pay any additional premium above that amount for dependent coverage.
- 2) If a Member is killed while on duty, or while performing Fire Department functions as determined by the City, the City will pay the full monthly COBRA health insurance premium for the Member's spouse and all eligible dependents of the Member from the date of the qualifying event for a period as defined by COBRA.

ARTICLE 9: TUITION ASSISTANCE

- 1) The City, in accordance with personnel regulations of the City, shall offer Members tuition reimbursement assistance. Members shall be allowed to attend College Fire Related Courses and other courses approved by the Fire Chief. Each Member who wishes to be reimbursed must receive written approval from the Fire Chief and the City Manager prior to enrolling in the course. A Member must obtain a grade equivalent of "C" or better in order to be reimbursed.
- 2) Subject to funding availability, the City agrees to assist Members in their pursuit of additional training and higher education in courses related to their employment responsibilities and promotion opportunities, including core courses in a degree program, but excluding non-job related electives not approved as core courses in the degree program.
 - a) Courses must be from a fully accredited college, university or approved technical/ trade/ business school. Online courses will be eligible for a reimbursement using the same criteria of a maximum of six credit hours based on a fifteen (15) week college semester.
 - b) Each Member who wishes to be reimbursed must receive written approval from the Fire Chief and the City Manager prior to enrolling in the course.
 - c) Reimbursement will be at 100% of the tuition, and required lab fees, charged per credit hour up to a maximum of \$4,000 per calendar year. For undergraduate and specialty classes,

reimbursement shall be paid at the end of each semester upon presentation of proof of each course passed with a "C" grade or higher, or its equivalent where letter grades are not used. For graduate classes, reimbursement shall be paid at the end of each semester upon presentation of proof of each course passed with a "B" grade or higher, and presentation of receipt for tuition costs.

- d) Members shall not be reimbursed for non-tuition expenses such as administration fees, books, recreation fees, etc.
- e) The amount of reimbursement shall be reduced by any financial assistance the Member receives from any outside source. When applying for tuition reimbursement, the Member shall notify the Human Resources Department of any financial assistance received from an outside source. Financial assistance does not include loans or other debt instruments.
- f) The courses must be taken on a Member's personal time and the Member will have personally paid the fee for which the Member is requesting reimbursement.
- g) Any Member who resigns or is discharged for any reason prior to completion of a course will not be eligible for reimbursement.

ARTICLE 10: UNIFORM ALLOWANCE

- 1) Firefighter Recruit; members hired as a firefighter recruit shall receive the following uniform allowances. Prior to starting the Regional Fire Academy the Fire Department will provide all initial academy uniforms as designated by the Fire Chief, to include dress uniform needed for graduation. Upon successful completion (graduation) of the Regional Fire Academy the individual will receive a payment of \$550. This will allow the individual to purchase necessary regular duty uniforms. The individual will then receive their next reimbursement in conjunction with all other employees, regardless of proximity to the initial reimbursement.
- 2) Sworn full time personnel will be entitled to receive reimbursement for authorized original issue and/or maintenance of uniforms up to one thousand one hundred (\$1,100) dollars per fiscal year, with no carryover to the next fiscal year.
- 3) Both parties agree that the allowance shall be structured in a manner that exempts the allowance from taxation and retirement contributions. The City will pay 50% of the allowance twice per year, through the City's Accounts Payable process, on or about July 1st and January 1st. MOU employees must be employed on each date shown above to receive the payment. The EMFFA agrees to provide documentation substantiating that the annual cost of uniform and duty clothing maintenance meets or exceeds the proposed allowance. Should the City Attorney determine during the term of this agreement that modification is necessary to exempt the allowance from taxation and retirement contributions the City will implement guidelines to comply. Regardless of how the allowance is processed the allowance shall not be less than \$1,100 annually for an MOU employee who was employed for an entire fiscal year.

ARTICLE 11: OVERTIME

- 1) All overtime will be paid in accordance with the regulations of the Fair Labor Standards Act (FLSA). Personnel classified as exempt under the FLSA are not eligible for overtime. Overtime shall be worked and shall be allowed if assigned by the Fire Chief or his designee. Employees assigned to a 48/96 shift schedule: overtime will be calculated and paid at one and one-half (1.5) times the Member's regular rate of pay for all hours worked in excess of one hundred thirty-six (136) hours in an eighteen (18) day work period. Employees assigned to a 40-hour schedule: overtime will be calculated and paid at one and one-half (1.5) times the Member's regular rate of pay for all hours worked in excess of forty (40) hours in a seven (7) day work period.
- 2) Except as otherwise provided in Article 13, Paid and Unpaid Leave, below, hours worked shall not include paid annual leave (vacation) compensatory time, sick leave, bereavement, holiday leave pay, Association business leave, and/or any other comparable hours (including non-disciplinary administrative leave time) during which the Member is not performing services for the City.
- 3) In the event the State of Arizona or the United States imposes upon the City any additional form of leave, paid or unpaid, for the purpose of family or child assistance, such leave shall not be considered as time worked for purposes of the regularly scheduled work week.

ARTICLE 12: WORKING OUT OF CLASS

- 1) Members who are temporarily upgraded by management to perform substantially the full range of duties and responsibilities of a higher level of classification or to conduct arson investigation shall be paid an additional five percent (5%) when “working out of class”.

ARTICLE 13: PAID AND UNPAID LEAVE

All leaves of absence shall be granted in accordance with federal and state law, and the City of El Mirage Personnel and Procedures.

- 1) Vacation Leave
 - a) Members who are regularly assigned to a 40-hour work week shall accrue vacation leave at the rate set forth in the City's Personnel Manual. For the purpose of vacation leave accrual only, a Member whose average work week is 56 hours shall not be considered as regularly assigned to a 40-hour work week while temporarily assigned to light duty or on industrial leave or educational leave. They shall continue to accrue vacation leave based on a 56-hour work week.
 - b) Members hired on or after January 1, 2004, who regularly are assigned to an average 56-hour work week shall accrue vacation leave at the rates set forth in the following schedule:

Years of Service	Annual Vacation Hours (56 Hour)	Accrual Rate per pay period (56 Hour)
Less than 2 years	120	4.62
2 but less than 5 years	144	5.54
5 but less than 10 years	180	6.92
10 and more years	240	9.23

- c) The maximum accrual of vacation hours for any Member is five hundred seventy-six (576) hours. Vacation leave shall be deducted from a Member's accrued vacation leave on an hour-for-hour (1-for-1) basis.
- d) Members may begin to utilize accrued vacation leave after one (1) year of employment.
- e) Upon termination of a Member's employment, whether with or without cause, the Member shall be paid the Member's vacation accrual balance at the Member's regular rate of pay at the time of termination.

2) Members hired on or before December 31, 2003 who regularly are assigned to an average 56-hour work week shall accrue vacation leave at the rates set forth in the following schedule:

Accrual Rate Per Pay Period:	Maximum Carryover Hours:
6.1538	320

- a) Vacation leave shall be deducted from a Member's accrual bank on a 3-for-1 basis. By way of example, a Member who takes six hours off for vacation time will only have two hours deducted from the Member's vacation accrual bank.
- b) At the time of termination, whether with or without cause, Members shall be paid their vacation leave balance at the Member's regular rate of pay at the time of termination.
- c) A Member's vacation leave balance at the time of termination will not be paid at a 3-to-1 rate.

3) Vacation Leave Pay

An employee who has completed a minimum of two (2) years of service with the City and who has used a minimum of one hundred twelve (112) hours of vacation leave in the previous twenty-four months may request to be paid any portion of the employee's accrued vacation hours in excess of fifty-six (56) hours (a minimum of 56 hours must remain in the accrual) at the employee's current regular rate of pay at the time of the request. The City Manager may deny a request for payment of accrued vacation leave if the City Manager determines, in his/her sole discretion, granting such request will create a financial hardship to the City.

4) Sick Leave

- a) Members hired on or after January 1, 2004 who regularly are assigned to an average 56-hour work week shall be entitled to sick leave with pay. Members will accrue sick leave at the rate of 5.54 hours per pay period (equivalent of 6 shifts per year) with no maximum accrual limit. Sick leave shall be deducted from a Member's accrued sick leave on an hour-for-hour (1-for-1) basis.
- b) Members hired on or before December 31, 2003, who regularly are assigned to an average 56-hour work week, shall be entitled to sick leave with pay. Members will accrue sick leave at the

rate of 3.69 hours per pay period with not maximum limit. Sick leave shall be deducted from a Member's sick leave accrual bank on a 3 for 1 basis. By way of example, a Member who takes six hours off for sick time will only have two hours deducted from the Member's sick leave accrual bank.

- c) Members who are regularly assigned to a 40-hour work week shall accrue sick leave with pay at the rate set forth in the City's Personnel Manual. For purposes of sick leave accrual only, a Member whose average work week is 56 hours shall not be considered as regularly assigned to a 40-hour work week while temporarily assigned to light duty or on industrial leave or educational leave. They shall continue to accrue sick leave based on a 56-hour work week.

5) Sick Leave Conversion at Termination

- a) Members hired on or after January 1, 2004. Members who have accumulated a minimum of three hundred and sixty (360) hours of unused sick leave and have worked for the City at least ten (10) years will be eligible at the time of termination from the City, in good standing, to payment of an amount of compensation equal to twenty percent (20%) of the total accumulated unused sick leave hours at the Member's regular hourly rate at the time of termination.
- b) Members hired on or before December 31, 2003. Members who have accumulated a minimum of one hundred and twenty (120) hours of unused sick leave and have worked for the City as least ten (10) years will be eligible at the time of termination from the City, in good standing, to payment of an amount of compensation equal to forty (40%) percent of the total accumulated unused sick leave hours at the Member's regular hourly rate at the time of termination.
- c) Death of a Member while employed by the City. In the event of a Member's death while employed by the City of El Mirage, the City shall pay to the Member's designated beneficiary, regardless of the number of years the Member has worked for the City prior to the time of death, will receive one hundred percent (100%) of the total accumulated unused sick leave hours at the Member's regular hourly rate at the time of death.
- d) For purposes of this section, regular hourly rate includes any additional compensation that has been added to the base hourly rate.

6) FMLA

It is the policy of the City to fully comply with the requirements of the Family and Medical Leave Act (FMLA).

7) Industrial Leave (On duty or work-related injuries)

- a) It is the policy of the City of El Mirage to follow and comply with the reporting and processing of on-the-job injuries and illnesses in accordance with the State of Arizona workers' compensation statutes.

- b) Employees who are injured on the job will receive industrial injury leave (salary continuance) when the health care provider renders the employee is unable to perform the essential functions of his/her job, with or without reasonable accommodation, when treatment is required by a licensed professional, and providing the claim is approved by the City's workers' compensation administrator. If claim is denied by the workers' compensation administrator, employee will be charged leave time or shall pay back amount owed. An employee's income from the City while receiving salary continuance must not exceed the employee's base bi-weekly gross salary.
- c) While on approved industrial injury leave; sick, vacation, compensatory, or any other paid leave will not be charged.
- d) Employee must authorize the workers' compensation administrator to mail temporary disability checks to the City for time lost from work due to an industrial injury. If employee receives temporary disability check (workers' compensation wages) from the City's workers' compensation administrator, the employee must endorse the check back to the City.
- e) Family and Medical Leave (FML) will run concurrent with Industrial Leave

8) Limited Alternate Assignment (Off duty injuries)

- a) The City may, at its sole discretion, provide limited alternate assignments for Members who are unable to perform the essential functions of their positions, with or without reasonable accommodations, due to temporary injuries or illness, physical or mental, that are not covered by Worker's Compensation.
- b) The limited alternate assignment (for off-duty injuries/illness) will not exceed a period of sixty (60) calendar days, unless to do so would be in the best interest of the City. Any extension of the sixty (60) calendar days will be with the recommendation of the Fire Chief and require approval of the City Manager.
- c) Actual hours worked on light duty related to an off-duty injury will count as 1.4 hours worked for purposes of achieving the Fair Labor Standards Act (FLSA) 18 day cycle overtime. Actual hours worked in excess of 144 hours in an 18 day cycle will be paid at overtime rates.

9) Bereavement Leave

- a) Bereavement leave is available to any Member for the purpose of attending to family needs that arise in connection with the death or a Member's immediate family. Immediate family shall be defined as: (1) the Member's spouse, parent, child, brother, sister, grandparent, or grandchild; (2) the Member's spouse's parent, child, brother, or sister; (3) the Member's child's spouse. The City Manager may give special consideration for the death of a person other than a Member's immediate family if the deceased's association with the Member was similar to any of the above relationships, including any person who has been a parent substitute to the Member.

- b) Emergency vacation or compensatory time may be requested for family members not considered as immediate family.
- c) Bereavement leave will be permitted in the following amounts:
 - i) Forty-hour employees. Forty (40) hours of bereavement leave shall be provided for the death of an immediate family member.
 - ii) Employees regularly assigned to a 48/96 schedule. Sixty (60) hours of bereavement leave shall be provided for the death of an immediate family member.
- d) Bereavement leave shall be counted as hours worked for purposes of calculating FLSA overtime, but only in an amount needed to bring a Member's total hours worked for a work period to one hundred forty-four (144) hours.

10) Limited Use of Accrued Leave as Hours Worked

- a) Accrued vacation leave shall be counted as hours worked for purposes of calculating FLSA overtime when a Member missed a regularly scheduled shift(s) due to vacation, illness or injury, but only in an amount needed to bring a Member's total hours worked for a work period to one hundred forty-four (144) hours.
- b) Sick leave shall never be counted as hours worked.
- c) Vacation hours that increase a member's hours for a work period above one hundred forty-four (144) hours shall not be counted as hours worked and shall be paid at straight time.
- d) A Member who has taken time off that would be covered under sick leave may, at the Member's option, request the use of vacation time instead of sick leave in order to bring the Member's total hours worked for the work period to one hundred forty-four (144) hours.
 - i) Example A: A Member takes 24 hours of vacation during a work period and does not work any additional time other than the Member's regularly scheduled time. The Member's hours worked without the vacation time would be 120 hours. The entire 24 hours of vacation shall be considered hours worked so the Member's total hours worked for purposes of calculating overtime for the work period will be 144 hours. This Member would be paid 136 hours at straight time and 8 hours at time and one-half.
 - ii) Example B: A Member takes 12 hours off for vacation, but also works 30 extra hours beyond the Member's regularly scheduled time. Since this Member will have 162 actual hours worked in the work period, none of the vacation leave time is needed to bring the total hours worked up to 144 hours. Therefore, none of the 12 hours of vacation leave will be counted as hours worked for purposes of calculating overtime. This Member would be paid 132 hours worked at straight time, 12 hours vacation at straight time, and 26 hours as overtime at time and one half (132 hours worked plus the additional 30 hours worked equals 162 actual hours worked. Subtracting the FLSA hours (136) for an 18-day work

period leaves 26 hours to be paid at time and one half and the 12 hours of vacation to be paid at straight time).

- iii) Example C: A Member takes 48 hours of vacation, but also works 24 hours outside the Member' regularly schedule time. This Member will only have 120 hours of actual hours worked in the work period. Therefore, 24 hours of the vacation hours will be counted as hours worked in order to bring the total hours worked for this work period to 144 hours. The remaining 24 hours of vacation time will not be considered hours worked for purposes of calculating overtime. This Member will have a total of 168 hours reported (120) actual worked and 48 vacation), 8 hours of which will be paid at time and one half and 160 hours paid at straight time. [The overtime is the difference between the 144 hours worked (120) actual hours worked plus 24 hours vacation time to bring hours worked to 144 hours), less the FLSA hours (136) for an 18-day work period. The remaining 160 hours are paid at straight time].
- iv) Example D: A Member becomes ill during a shift and leaves after working only 18 hours. This Member has 30 hours (48-hour shift less 18 hours worked) that qualify for use of sick leave. If the Member uses sick leave, and does not work any other time outside the Member's regularly scheduled time, the Member will be paid 144 hours at straight time (114 hours worked plus 30 hours sick leave). However, if the Member requests to charge vacation leave rather than sick leave for the 30 hours, the Member would be paid 130 hours at straight time and 8 hours at time and one half.

ARTICLE 14: STAFFING

The minimum level of staffing for the El Mirage Fire Department shall be consistent with current Phoenix Regional Dispatch Consortium staffing requirements.

ARTICLE 15: HEALTH AND SAFETY COMMITTEE

A Fire Department Safety Committee shall be establish in accordance with department policy to address safety issues including, but not limited to NFPA 1500, NFPA 1710, OSHA, City, and departmental regulations. This policy shall not be modified without consulting the Labor/Management Committee.

ARTICLE 16: GRIEVANCE PROCEDURES

- 1) The City and Association agree that the procedure provided in this agreement shall be the administrative process required for grievances of this M.O.U. Grievances on issues outside the terms under this agreement may not be grieved under the provision of the agreement.
- 2) Informal Resolution
 - a) It is the responsibility of the Member who believes he/she has a bona fide complaint concerning violation of the M.O.U. to promptly inform and discuss it with his or her supervisor in order to, in good faith, endeavor to clarify the matter expeditiously and

informally at the employee-immediate supervisor level.

- b) If such informal discussion does not resolve the problem to the Member's satisfaction, and if the complaint constitutes a grievance as herein defined, the Member may file a formal grievance in accordance with the procedures set forth herein below.

3) Definition of Grievance

- a) A "grievance" is a written allegation by an Employee, submitted in a timely manner in accordance with this provision, alleging specific violations of the terms of this Memorandum which are alleged to be violated and the specific remedy request. Failure to identify the specific provision of the Memorandum and the specific remedy shall automatically terminate the grievance.
- b) A "Unit" grievance is a written allegation by which the Association, submitted as herein specified, charges violation(s) of the specific express terms of the Memorandum that involved the entire unit and not the merely a specific application of this Memorandum to one or more employees.

4) Procedures

- a) Unit grievances shall skip Steps 1 and 2 and shall commence at Step 3.
- b) In processing a formal grievance, the following procedures shall apply:
 - i) STEP 1: The unit employee shall reduce the grievance to writing by signing and completing all parts of the Grievance form provided by the City, and submit it to his or her immediate supervisor as designated by the City within fourteen (14) calendar days of the event giving rise to the grievance. Either party may then request that a meeting be held. The supervisor shall, within fourteen (14) calendar days of having received the written grievance, or such meeting, whichever is later, submit a response thereto in writing to the grievant and the grievant's representative, if any.
 - ii) STEP 2: If the response to the first level of review does not result in a resolution of the grievance, the grievant may appeal by signing and completing the form and presenting it to the Battalion Chief as designated by the Fire Chief, within seven (7) calendar days of the grievant's, or representative'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 seven (7) calendar days of having received the appeal, or the meeting, whichever is later, the Battalion Chief, as designated by the Fire Chief, shall submit a response to the grievant and the grievant's representative, if any.
 - iii) STEP 3: If the response of the second-level review does not result in a resolution of the grievance, the grievant may appeal by signing and completing the form and presenting it to the Fire Chief within seven (7) calendar days of the grievant's receipt of Step 2 response. Either party may request that a meeting be held concerning the grievance or

may mutually agree that no meeting be held. Within twenty-one (21) calendar days of having received the written grievance, or the meeting whichever is later, the Fire Chief shall submit a response to the grievant and the grievant's representative, if any.

- iv) STEP 4: If the response of the third level of review does not result in a resolution of the grievance, the grievant and the Association may submit the grievance to a Grievance Committee for a review and recommendation within seven (7) calendar days of the receipt of the Step 3 response. The Grievance Committee shall include two representatives of the City Manager and two representatives of the Association. These four individuals will review the grievance and make a recommendation for resolution of the grievance, within fourteen (14) calendar days of having received the appeal. If a resolution does not resolve the grievance, and if both parties agree, Step 5 may be skipped and the grievance may be submitted to the City Manager for resolution.
- v) STEP 5: If the response of the fourth level of review does not result in a resolution of the grievance, the grievant and the Association may jointly invoke the Step 5 procedures. Department management and the grievant, 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 them a list of seven arbitrators who have experience in the public sector. The parties shall, within seven (7) calendar days of receipt of the said list, select the arbitrator by striking names from the said list until one name remains. Such person shall then become an 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:
 - (1) The arbitrator shall neither add, detract nor modify the language of the Memorandum or departmental rules and regulations in considering issues properly before him or her.
 - (2) The arbitrator shall expressly confine himself or herself to the precise issues submitted to him or her and shall have no authority to consider any other issue not submitted to him or her.
 - (3) Applicable federal, state, and City law shall bind the arbitrator.
 - (4) The arbitrator shall, within thirty (30) days from the close of the arbitration hearing, submit a recommendation to both parties.
 - (5) The cost of the arbitrator and any other mutual incurred costs shall be borne equally by the parties.
- vi) STEP 6: If Step 5 does not resolve the grievance, either party may submit the grievance to the City Manager. The City Manager may accept, modify, or reject the arbitrator's recommendation and shall submit his or her decision in writing to the grievant and his or her designated representative within twenty (20) calendar days of receipt of the written

arbitrator's recommendation.

- vii) **TIME LIMITS:** Failure of the departmental representatives to comply with time limits specified in Step 1 and 2 shall entitle the grievant to appeal to the next level of review. Failure of the grievant to comply with the said time limit shall constitute abandonment of the grievance. However, the parties may extend time limits by mutual written agreement in advance.

ARTICLE 17: PROHIBITION OF STRIKES AND LOCKOUTS

The Association pledges to maintain unimpaired firefighting and related support services as directed by the Fire Chief. It shall not cause, condone, counsel, or permit its Members, or personnel, or any of them, to strike, fail to fully and faithfully perform duties, slow down, disrupt, impede, or otherwise impair the normal functions and procedures of the department.

ARTICLE 18: FISCAL CRISIS

- 1) The parties to this agreement acknowledge that in the event of a fiscal crisis, the City may request the Member organization to modify this Memorandum of Understanding for the purpose of including alternatives to temporary reductions in force or the permanent elimination of position in the City employment.
- 2) The term fiscal crisis shall include, but shall not be limited to, a loss of state revenues, reduction in City sales tax revenues, failure of votes to approve expenditure limitations, expenditures limits imposed on the City by the State Legislature or courts after the effective date of this MOU, a monetary judgment against the City that exceeds or is not covered by the City's insurance coverage, or emergency increase in expenditures not included in the regular City budget.
- 3) The City shall provide the Association with a request to re-open the Memorandum specifying the specific actions requested. The Association shall have ten (10) days to accept or reject the request. If the Association accepts the request, the process shall be in a manner as close as practicable to the Meet and Confer process. If the Association rejects the request, the City may take any actions legally permitted under federal, state, and City law.

ARTICLE 19: SAVING CLAUSE

- 1) If any Article or Section of this Memorandum should be held invalid by operation of law or by final judgment of any tribunal or 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. 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.
- 2) It is recognized by the parties that the provisions of the Fair Labor Standards Act are currently applicable to certain wages and premium pay provisions of this MOU, and that this MOU shall be administered in compliance with the FLSA for so long as the act is applicable.

3) It is understood by both parties that the benefits provided by this MOU in Articles pertaining to Association Rights, Employee Rights, Grievance Procedure and Articles constituting labor management joint endeavors conducted under this MOU, shall not be interpreted as requiring the employer to count as time worked any hours of fractions thereof spent outside the Member's work shift in pursuit of such benefit. The employer shall count as time worked any hours or fractions thereof spent within the employee's regular work shift in pursuit of such benefit.

ARTICLE 20: TERM AND EFFECT

- 1) This Memorandum of Understanding, as amended, shall be effective as of 1st day of July, 2020 and shall remain in full force and effect to include all pay and benefits until the 30th day of June 2024, or until such time as it is superseded by a new Memorandum of Understanding between the parties, whichever occurs later.
- 2) The City shall not be required to meet and confer concerning any other matters, covered or not covered herein, during the terms of this Memorandum of Understanding.
- 3) This Memorandum constitutes the total and entire agreement between the parties and no verbal statement supersedes any of its provisions.
- 4) This Memorandum shall only be amended in writing signed by both parties and approved by the City Council.

IN WITNESS WHEREOF, the parties have set their hand this _____ day of _____, 2020.

CITY OF EL MIRAGE:

EL MIRAGE FIRE FIGHTERS ASSOCIATION:

BY: J. Crystal Dyches, City Manager

BY: Darrell Tirpak, Association VP

APPROVED AS TO FORM:

Justin Pierce, City Attorney

Witness

ATTEST:

Sharon Antes, City Clerk

APPENDIX A: WAGES

1) Implementation of a Step Program: (based on 3003 hours), as follows:

Firefighter

RECRUIT	\$15.71
STEP 1	\$16.50
STEP 2	\$17.33
STEP 3	\$18.19
STEP 4	\$19.10
STEP 5	\$20.06
STEP 6	\$21.06

Engineer

STEP 1	\$23.16
STEP 2	\$24.32

Captain

STEP 1	\$26.76
STEP 2	\$28.09
STEP 3	\$29.50
STEP 4	\$30.97

Notes: MOU Employees regularly assigned to a 40-hour schedule will have the rate multiplied times 1.4.

Recruit: Assigned to work 40 hour schedule (rate of pay from date of hire through successful completion of Fire Academy).

2) Implementation of Step Plan: The goal is to move all employees to the step that corresponds to the years in the position over the four year contract. Employees will receive an increase up to seven percent (7%) annually until the employees' step and time in the position aligns. Once the employee reaches the appropriate step, future increases will be five percent (5%) until the top of the range is met or the agreement expires. During the transition, employees' salaries may not align with an identified step.