

RESOLUTION R21-05-13

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF EL MIRAGE, MARICOPA COUNTY, ARIZONA, APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF EL MIRAGE AND THE EL MIRAGE POLICE EMPLOYEE ASSOCIATION (EMPEA)

WHEREAS, the City of El Mirage (“City”) and the El Mirage Police Employees Association (“EMPEA”) through their designated representatives have met in good faith to reach an agreement for matters concerning wages, benefits and working conditions; and,

WHEREAS, the current Memorandum of Understanding (MOU) between the City and EMPEA is set to expire June 30, 2021; and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of El Mirage:

1. City Council approves the successor MOU between the City and EMPEA for the period of July 1, 2021 through June 30, 2025, a copy of which is attached hereto as Exhibit A.
2. That this Resolution shall be effective at the soonest date after its passage and approval, according to law.

APPROVED AND ADOPTED by the City Council this 4th day of May, 2021.

Alexis Hermosillo, Mayor

ATTEST:

APPROVED AS TO FORM:

Sharon Antes, City Clerk

Justin Pierce, City Attorney

Exhibit A

CITY OF EL MIRAGE

AND

EL MIRAGE POLICE EMPLOYEES ASSOCIATION

MEMORANDUM OF UNDERSTANDING (MOU)

COVERING POLICE EMPLOYEES UNIT

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 Police Employees Association, hereinafter referred to as "Association," under the authority of the City of El Mirage Ordinance O17-06-07.

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ARTICLE 1: DEFINITIONS

- 1) ASSOCIATION: El Mirage Police Employees Association.
- 2) ASSOCIATION REPRESENTATIVE: A member appointed by the Executive Board of the El Mirage Police Employees Association (EMPEA).
- 3) BASE HOURLY WAGE/RATE: The wage as identified in this MOU APPENDIX I.
- 4) CHIEF OF POLICE: Chief or designee.
- 5) CITY: City of El Mirage.
- 6) CITY MANAGER: City Manager or designee.
- 7) DEPARTMENT: Non-member management personnel of the El Mirage Police Department.
- 8) EXECUTIVE BOARD: Officers elected by the Association Members (President, Vice-President, Secretary, Treasurer).
- 9) GENDER: Whenever any words used herein are 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.
- 10) MEMBER:
 - a) In addition, the terms Unit employee, Unit member or employee either in the singular or plural form shall mean employees of the City of El Mirage covered by this MOU.
 - b) The following full time Police employee positions shall be covered under this MOU: Police Officer; Sergeant.
- 11) ORGANIZATIONAL REPRESENTATIVE: An alternate appointed by the Executive Board of the EMPEA.
- 12) PROBATIONARY PERIOD OF MEMBERS: The probationary period shall be twelve (12) months after position start date. One extension of the probationary period, not to exceed the length of the original probation, may be required by the Chief of Police with approval of the City Manager.
- 13) RETIREMENT: To terminate employment for the purpose of immediately collecting a pension Arizona State Retirement System (ASRS) or Public Safety Personnel Retirement System (PSPRS).

ARTICLE 2: CONTRACTUAL RIGHTS OF THE PARTIES

1) CONTRACTUAL RIGHTS AND RESPONSIBILITIES OF THE ASSOCIATION

- a) The Association serves as the meet and confer representative for all eligible members as determined by the El Mirage City Council in Ordinance O17-06-07.
- b) Upon authorization of the unit member, the City will deduct an amount approved by the membership of the Association. Unit members will be required to complete and sign a form provided by the Association. The City will transmit such deductions to the Association via electronic transfer at least monthly. The Association agrees to pay all associated costs for this transfer. The Association is responsible for collecting signed authorization forms from the unit members and submitting them to the City for deduction. The City has no obligation to make deductions from any employee who does not authorize them in writing. The City shall not make dues deductions for unit employees on behalf of any other employee organization during the term of this memorandum. The City assumes no liability on account of any action taken pursuant to this paragraph and the Association and its Members release the City from any liability pursuant to this paragraph.
- c) The Association, through its designated representatives, may distribute Association related printed material on City premises (building and grounds) only before and after scheduled working hours, provided that both the employee distributing and the employee receiving such material are on non-work periods.
- d) The City does grant the Association permission to use City provided information boxes assigned to each individual police employee located within the employee's designated work area to distribute said materials.
- e) The Association agrees that no Association printed material will be placed on any City bulletin board without express written approval of the Chief.
- f) The employer agrees those Officers, and non-employee representatives of the Association, shall have reasonable access to the premises of the employer during working hours with advance notice to the appropriate employer representative. Such visitations shall be for the reasons of the administration of this agreement. The Association agrees that such activities shall not interfere with the normal work duties of employees, including the duty to protect persons and property in the City.
- g) The City will provide the Association, upon request, non-confidential and readily available information concerning the Unit that is necessary to Association representatives for negotiation and MOU grievances, and is not otherwise 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 Statutes, or by court order. Such requests shall be made through the City Manager. Any usual costs 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

may include accountants, time study experts, or others hired by the Association for the purpose of such examination. Such examinations shall be made during reasonable business hours, and upon reasonable prior notice given to the City.

- h) The obligation of the City under this section shall be cumulative of, and shall not detract from, any other requirement expressed in this agreement with respect to furnishing notices, communications, or any other writing to the Association.
- i) The Association shall be permitted to place a bulletin board in the Police Department break room, and the locker rooms. The City agrees that this bulletin board is the sole property of the Association. The Association shall be responsible for all costs and upkeep with these bulletin boards. The parties agree that this Article does not authorize or approve the posting of material that is political in nature or abusive of any person or organization. The City agrees that public information based on factual information and events and free of personal opinion, especially that of a political nature (i.e. editorials), regarding a political figure within the City shall not be considered political in nature. These articles must be free of any additional script and placed solely for the purpose of informing association members of current events within the City. All items are subject to approval by the Chief of Police or his designee. Only those persons that the Association authorizes shall be allowed to place or remove items from the association bulletin board. The overall size shall not exceed 48" x 24" and will be enclosed with a locking glass door. Only the employee association board member will have access.
- j) The City agrees to allow the use of the departmental e-mail system for the purpose of meeting and training notices. These are the only matters in which departmental e-mail may be used for Association business with the exception that the City will allow the City email system for the purposes of exchanging communication, and documents of common interest between the City and the Association. The Association will disseminate as appropriate, the information to the membership via non-city email addresses. Notwithstanding this paragraph, members will be responsible for following all policies and regulations regarding use of email.

2) CONTRACTUAL RIGHTS/RESPONSIBILITIES 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.
 - i) The Association agrees, for its members who work for the City, that they will individually, and collectively, perform loyal and efficient work and service; that they will serve and protect the City and 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.
 - ii) The Association and the City mutually agree to cooperate in achieving increased productivity for the mutual benefit of all concerned through better utilization of equipment, manpower, and methods of work.

- b) The City Manager and the Chief have exclusive decision-making authority on matters not expressly 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 not be limited to, the contractual 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 consistent with law and 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 interests of efficient service to the community.
- 3) Commencing July 1 of each year covered by this agreement, (MOU Period) the Association will, subject to operational and scheduling requirements be allowed association release time (RT) with pay, which shall not be unreasonably withheld, up to a maximum combined total of two hundred forty (240) hours annually, which the City finds reasonable based on *Cheatham v. Diccio*, 240 Ariz. 315 (2016), for duly elected executive board officers or member representatives specifically appointed by the EMPEA President. Those hours shall be used for the responsibilities of meeting with City officials, negotiations, or problem-solving meetings, providing representation to MOU covered employees throughout City disciplinary, administrative investigation, or grievance processes, or providing appropriate training for those EMPEA members tasked with those responsibilities.
 - 4) Notice of events and names of EMPEA representatives attending must be submitted to the Chief by the association no later than seven (7) days in advance of the release time. The Chief may authorize release time with less advance notice in an emergency or for the convenience of the City.
 - 5) Unused release time will not carry over into the following year. Release Time (RT) will not be used for outside organizing. No individual shall be permitted to utilize more than 60 hours of RT absent unusual circumstances, 80 hours of RT for years in which the MOU is being negotiated. Additional individual hours shall be approved only by, and in the complete discretion of, the City Manager.
 - 6) Quarterly meetings. City Manager and Association Executive Board or designee will meet quarterly, as requested.
 - 7) CONTRACTUAL RIGHTS OF THE EMPLOYEE:
 - a) All employees shall have the contractual right to have the Association serve as their "Meet and Confer" representative as set forth in Ordinance O17-06-07, without discrimination based on membership or non-membership in the Association.

- b) Employees shall have the contractual right to be represented by the Association in dealings with the City concerning grievances as defined in this Memorandum.
- c) Employees shall have the contractual right to present their own grievance in person.
- d) Any employee covered hereunder or his representative designated in written form signed by the employee shall, on request and by appointment, be permitted to examine his personnel file.
- e) No employee shall have any adverse comments entered into his personnel file, without it first being properly documented and informed by their supervisor. If the employee requests they may receive a copy of the adverse comment.
- f) Within 30 days of notification of the entrance of the adverse comment into their personnel file, employees may, at their discretion, attach a statement of rebuttal to any material contained in their personnel file, which may be adverse in nature.
- g) Disciplinary letters of reprimand, demotion, or suspension are filed in the member's personnel file. One year after a member has received a letter of reprimand the member may submit a memorandum to the Police Chief to request that the letter of reprimand be removed from the employee's personnel file. If the member has not committed any further infractions of work rules or policy violations in the preceding year, from date of letter, the Chief will consider the request. When approved, the Chief will notify the Human Resources Department to purge the letter from the member's personnel file. When a request is denied, no further requests will be accepted for a period of one year from the date of denial. Letters of demotion shall not be removed from the personnel file. The Police Chief will not consider removal of disciplinary letters that involved:
 - Abusive or threatening attitude, language, or conduct towards fellow employees
 - Falsification of documents or records
 - Theft
 - Alcohol or illegal drug use on the job
 - Violation of the City harassment or discrimination policies
 - City ethics policy violations
 - Dishonesty
 - Any felony

ARTICLE 3: WAGES

- 1) The Step Pay Plan as set forth is designed to incrementally increase employees' pay through the Step Pay Plan (Reference APPENDIX I)
- 2) The Step Pay Plan is effective on or about July 1, 2021 through the pay period ending on approximately June 30, 2025. The step pay plan will be paid to all full-time employees if the normal work week is worked or fulfilled as paid leave or holiday pay.

Fiscal year 2021-2022 (July 1, 2020 – June 30, 2025) Step Increase:

- a) Employees hired on or before June 30, 2020 will be eligible for a one-step increase, effective on or about July 1, 2021. Step increases are subject to a satisfactory or better performance review.
 - b) Employees hired on or after July 1, 2020 will be eligible for a one-step increase on the pay period following their date of hire anniversary date, subject to satisfactory or better performance review.
 - c) The same format for a) and b) above shall be implemented on July 1, 2022, July 1, 2023, and July 1, 2024.
 - d) Employees who have reached the maximum step wage will not be eligible for additional step increases.
 - e) Employees who receive an overall performance rating below satisfactory are not eligible for that year's annual step increase.
 - f) Police Officer - Lateral: Employees hired on or after July 1, 2021 will be placed on the appropriate step, up to step six (6), based on prior service and the Chief's recommendation. Employees will be eligible for a one-step increase on the pay period following their date of hire anniversary date, subject to satisfactory or better performance review. Following one year of service in position, employees will be eligible for one step increases on the dates noted in Article 3.2.c.
- 3) FTO: All Unit members assigned as Field Training Officers/Employees (FTO) shall receive their regular rate plus 5% base hourly rate for FTO Assignment Pay upon successful completion of the Certification requirements and while actively involved in FTO training.
 - 4) Master Patrol Officer (MPO) Assignments: Members who are assigned by the Chief to perform substantially the full range of duties and responsibilities of a higher level of classification, including FTO shall receive specialty pay at the rate of additional five percent (5%) to their base wage. FTO pay is included in the MPO assignment pay.
 - 5) Deferred Compensation: It is mandatory for each Unit member to contribute a minimum of \$35 per pay period to the City designated deferred compensation provider. The City of El Mirage will match each Unit member's minimum contribution, indicated above.
 - 6) Compensatory time (CTO) will follow City Council Resolution R20-12-25. In the event a court renders a binding decision, or the Department of Treasury promulgates regulations concluding that the election of compensatory time off does not result in constructive receipt, the parties will meet and confer over (a) the mandatory payout and maximum CTO accrual and (b) to address any constructive receipt issue created by the payout.
 - 7) Bilingual Pay: 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.

- 8) Shift Pay Incentive: Police Officers and Police Sergeants are eligible for shift pay incentive when regularly assigned to a squad/schedule by bid or administration that is eligible for shift pay incentive. The Chief will identify the squad(s) that are eligible for a \$1.00/hour shift pay incentive (generally referred to as Graves or Graveyard) and the squad(s) that are eligible for a \$0.50 shift pay incentive (generally referred to as Swing or Afternoon) during the annual bid process. The Neighborhood Enforcement Team (NET) may be identified by the Chief as eligible for a \$0.50 shift pay incentive.
- 9) Standby Pay Incentive: Officers formally assigned to Investigations will receive an additional \$2.00 per hour standby premium pay computed into their hourly rate for being on a standby rotation throughout the year. The Sergeant formally assigned to Investigations will receive an additional \$4.00 per hour standby premium pay computed into their hourly rate for being on standby throughout the year. The standby rate shall be included with the base rate for determining overtime rate as long as the unit member is assigned to standby.
- 10) Call Back: When an employee has completed his/her regularly scheduled shift and is called back to perform work of any nature within two (2) hours after the regular shift, he/she shall receive pay at the appropriate regular rate subject to overtime. An employee called back because of his/her own negligence, whether in the proper care and use of City equipment, or for his/her failure to complete official reports prior to securing for the day, shall be paid for such call back at appropriate regular rate subject to overtime which commences at the time they arrive at their workstation. For the purpose of calculating total work hours, only the time actually worked will be used.
- 11) Call Out: Any Unit member who is 'called out' for any reason, i.e. related to his/her duties, manpower needs, specialty knowledge or skills, on call status, emergency needs of the PD, scene or investigative requirements, will be paid for such call out at appropriate regular rate subject to overtime with a Two (2) hour minimum or actual hours worked, whichever is greater. Compensable time begins with receipt and acknowledgment by the employee of the call out. Call out compensation shall not impact or alter any other compensations listed in this agreement.
- 12) Court Appearance (General): When an employee is on Court duty outside his regular scheduled shift, he shall receive court duty compensation at the appropriate overtime rate and shall be guaranteed a minimum of two (2) hours or actual time if longer than two (2) hours overtime pay for in-city court time and for out-of-city court time. This shall apply to all subpoenaed court appearances and hearings (i.e. MVD, Attorney depositions), whether by phone, by remote attendance or any subpoena cancelled within two hours of scheduled appearance time.

Any court time within two (2) hours of an employee's duty time shall be paid at the appropriate regular rate subject to overtime for the time worked. Periods of more than two (2) hours will be paid in accordance with Article 3.10. For the purpose of calculating total work hours, only the

time actually worked will be used.

- 13) Off-Duty Arrests: Any employee who makes an off-duty arrest shall receive a minimum of three (3) hours pay at the overtime rate, or the actual number of hours required, whichever is the greater. The term "off-duty arrest" shall not include an arrest made while privately employed in a law enforcement capacity and will meet approved guidelines as set in police policies and procedures.
- 14) On-Call Court Time (Court Detail): If called to appear in court, the employee will be entitled to the two (2) hour at time and on-half in addition to actual hours worked. This does not include hours worked as a Bailiff.
- 15) Death of Employee: In the event an employee dies while employed by the City, the employee's accumulated sick leave shall be paid to the employee's designated beneficiary at the employee's rate of pay at the time of death regardless of the number of hours accumulated or the number of years the employee has worked with the City prior to the time of death.

ARTICLE 4: HEALTH AND DENTAL INSURANCE

- 1) 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 member agrees to pay any additional amount above the lowest health and dental premium plan. 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) Continuation of coverage upon death while on-duty: In the event a member is killed while on-duty or while performing a police function as determined by the City, the City will continue to pay the full monthly medical premium (both employer and employee amounts) for the spouse and all eligible dependents. Should the surviving spouse remarry or qualify for Medicare health insurance, the benefits of this provision shall be discontinued for the surviving spouse.

ARTICLE 5: TUITION ASSISTANCE

- 1) Tuition Assistance: Subject to funding availability, the City agrees to assist employees 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 a core course in the degree program.
 - a) In-person and online courses must be from a fully accredited college, university or approved technical/trade/business school.
 - b) Each employee who wishes to be reimbursed must receive written commitment from the Chief, City Manager and Human Resources prior to enrolling in the course.

- c) Reimbursement will be at 100% of the tuition charged per credit hour up to a maximum of \$4,000 per calendar year. For undergraduate 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) Employees shall be eligible for reimbursement of *required* expenses such as administration fees, lab fees, books, recreation fees, etc.
- e) The amount of reimbursement shall be reduced by any financial assistance the employee receives from any outside source. When applying for tuition reimbursement, the employee shall notify the Human Resource Department of any financial assistance received from an outside source.
- f) The courses must be taken on an employee's personal time and they will have personally paid the fee for which they are requesting reimbursement.
- g) Any employee who resigns prior to completion of a course, or is discharged will automatically terminate their eligibility for reimbursement.

ARTICLE 6: PAID AND UNPAID LEAVE

- 1) Vacation Leave: All full-time Unit personnel working for the police department shall earn vacation leave as outlined in City of El Mirage Policies and Procedures, but not less than the following schedule:

Service	Annual Accrual (Hours)
0 to 2 years	80
2 to 5 years	96
5 to 10 years	120
10 -15	160
15+	180

- 2) Maximum Limit. Effective July 1, 2022, the maximum vacation leave limit is 320 hours.
- 3) When a Unit employee is temporarily recalled to duty while on an authorized vacation out of the City, and out of Maricopa County, by order of the Chief of Police, or his designee, he shall be reimbursed for necessary and provable transportation expenses and associated costs as determined by the Chief.
- 4) Sick Leave Accrual: Accrual for full time Unit personnel shall be at a rate of (3.7) hours per pay period, up to 96 hours per year, and shall have no maximum limit.
- 5) Employer Bonafide Leave Sharing Program:

- a) Employees requesting donated sick leave are required to submit a written application describing a medical emergency on the City's designated form. A medical emergency is defined as a medical condition of the employee or an immediate family member, as defined in the FMLA regulations, that will require the prolonged/extended absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available.
 - b) After the application is approved and the member exhausts all his or her paid leave, the member is eligible to receive paid sick leave (at his or her normal rate of pay) donated by other members.
 - c) The amount of leave a donor may donate in any given year may not exceed forty-hours per year. However, the donor must maintain a minimum sick leave balance of 80 hours after the donation. Donated time that is not used will not be returned to the donor. The unused leave will be assigned to a leave bank for use of a future eligible member.
- 6) Other Sick Leave Donation:
- a) The City will allow emergency donation of sick leave in excess of forty-hours per year, by unit members to cover illness or injury.
 - b) Process to request donated sick leave is defined in Article 6.5.a and 6.5.b.
 - c) Donations must be transferred and credited in full hour increments.
 - d) Donations must be submitted on the City-approved form.
 - e) Under the Assignment-of-Income Doctrine, if a donor specifies the recipient of the donated leave, the value of the leave becomes a taxable event for the donating employee. The City will process payment and record taxes in a manner which complies with the Internal Revenue Code to all donations made outside of the Employer Bonafide Leave Sharing Program.

ARTICLE 7: LIFE INSURANCE

- 1) Life Insurance: 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 two thousand and eighty (2080) hours, rounded to the nearest thousand dollars.

ARTICLE 8: UNIFORM ALLOWANCE

- 1) Upon successful completion (graduation) of the Academy or start date, the individual will

receive a payment of \$675. 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 three hundred and fifty (\$1,350) 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 EMPEA agrees to provide documentation substantiating that the annual cost of uniform and duty clothing maintenance meets or exceeds the proposed allowance (Reference APPENDIX II). 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 \$1,350 annually for an MOU employee who was employed for an entire fiscal year.

ARTICLE 9: HOLIDAY BENEFITS

- 1) Holidays/Personal Leave: The City agrees to compensate unit employees for the following holidays.

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

- 2) Unit employees who work on a holiday listed in Article 9.1 above will be paid, in addition to pay for actual hours worked on the holiday, ten (10) hours of holiday pay for that day at the employee's regular rate of pay. Unit employees who do not work on holidays listed in paragraph A above will be paid ten (10) hours holiday pay for that day at the employee's regular rate of pay.
- 3) Service Award Leave (Personal Hours)
 - a) Members shall receive Service Award Leave as currently described in the Employee Recognition and Reward Policy.

ARTICLE 10 – SICK LEAVE CONVERSION UPON RETIREMENT

- 1) A unit member who has accumulated a minimum of one thousand (1,000) hours of accrued and unused sick leave at the time of retirement, whether regular or medical retirement, shall be eligible for pay of an amount of compensation equal to forty percent (40%)
- 2) A unit member who has accumulated a minimum of one thousand four hundred (1,400) hours of accrued and unused sick leave at the time of retirement, whether regular or medical, shall be eligible for pay of an amount of compensation equal to sixty percent (60%) of their base hourly rate for all hours.

ARTICLE 11 – TEMPORARY LIMITED OR MODIFIED DUTY

- 1) The City may provide temporary limited or modified duty assignments for Members who are unable to perform the essential functions of their position, with or without reasonable accommodation, due to a temporary injury or illness sustained while off-duty.
- 2) Employees requesting temporary limited or modified duty assignments because of off-duty injuries or illnesses shall submit a written request to the Chief for approval or denial. All requests for temporary limited or modified duty assignments will be reviewed and considered for approval or denial in accordance with applicable federal and state law including, but not limited to, the Americans with Disabilities Act (ADA).
- 3) Upon request by the Chief, employees requesting or approved for temporary limited or modified duty assignment due to an off-duty injury or illness will be required to submit a certification or written update from the employee's treating physician documenting work restrictions and estimated period.
- 4) Temporary limited or modified duty assignments are generally limited to 60 calendar days but may be extended for subsequent periods, subject to review and approval by the Chief.

ARTICLE 12 – INDUSTRIAL INJURY

- 1) All Unit Members are covered by Workers' Compensation Insurance beginning with the first day of employment. Workers' Compensation provides State prescribed medical and hospitalization expense benefits, as well as partial compensation in lieu of salary for lost time for workers injured on the job.
- 2) Industrial leave is not accrued but is available through the State Industrial Commission in conjunction with State law and City policy.
- 3) 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.

- 4) While on approved industrial injury leave; sick, vacation, compensatory, or any other paid leave will not be charged.
- 5) Family and Medical Leave Act (FMLA) leave will not run concurrent with leave paid as Industrial Leave.
- 6) 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.

ARTICLE 13 - HOURS OF WORK

- 1) The daily work hours and weekly shift schedules of Police Unit personnel shall be determined by the Chief and shall comprise of forty (40) hours within a seven (7) day work week. This shall not be a guarantee of any minimum number of hours.
- 2) Duty hours of Unit personnel will be established by the Chief of Police.
- 3) There shall be a minimum of eight (8) hours off between scheduled shifts.
- 4) Calculation of Hours Worked. Hours worked shall not include paid annual leave (vacation), holiday pay, compensatory time, sick leave, and/or any other non-compensable-worked hours (including non-disciplinary administrative leave time).
- 5) Change in Shift Assignment
 - a) Involuntary changes in shifts, days off or job assignments shall not be for arbitrary reasons. Additionally, employees may change shifts and days off prior to the next scheduled posting of shift assignments and rotation.
 - b) An employee must be notified of a change in a normally scheduled shift or advanced training or schooling one full pay period (two weeks) before the change is to take place, except in cases of emergency or unless waived by the unit member.

ARTICLE 14 - EXTRA DUTY ASSIGNMENTS

- 1) The Police Department shall maintain a list in order of seniority within the Police Department for all sworn officers willing to perform extra duty security work at private events or traffic control. After an initial sign-up period of two weeks, new names shall be added to the bottom of the list in order of signing up, without regard to seniority.

- 2) When available, the Police Department shall offer extra work opportunities only to those Employees on the list and only in order of their appearance on the list. Offers of extra duty work shall be made in sequential order through the list, with new opportunities being offered first to the Employee following the one who accepted the last offer. When the list is exhausted, offers shall return to the top of the list. The intention of this paragraph is to equalize opportunities for extra duty work among all Employees on the list.
- 3) Prior to being placed on the extra duty assignment list a Police Officer or Sergeant must have completed at least 8 months of his/her initial probationary period of 12 months and upon review by the Chief, based on experience and nature of off-duty work, on a case-by-case basis.
- 4) In order to keep this list current; the Police Department shall strike from the list any Employee who refuses three (3) consecutive offers of extra-duty work. Refusal to work a pre-arranged leave, including vacation, jury duty, and funeral leave, City overtime assignment, or other Department- scheduled function will not be counted as refusal.
- 5) A unit member who works a City-sponsored event, Council Meeting or project and is paid through the City's payroll system will be compensated at time and one-half of regular rate of pay for all time worked over 40 hours in the week with a two (2) hour minimum for each occurrence. In the event the unit member has not worked 40 hours during the week, the unit member shall be paid at the regular rate of pay.

ARTICLE 15 - OFF-DUTY EMPLOYMENT

- 1) The Department agrees to maintain a list of unit members who are interested in working in-City, off-duty work for use in making job referrals, provided that the unit member has received prior approval to engage in off-duty employment from the immediate non-unit supervisor. Members can perform up to a maximum of 22 hours of off-duty employment per workweek with authorization. At no time shall unit members work an off-duty assignment 8 hours prior to their scheduled shift, unless pre-approved by the Chief of Police.
- 2) Off-duty employment shall be governed by the rules and regulations of the El Mirage Police Department. Unit members agree to work with management to establish off-duty employment opportunities.

ARTICLE 16 - INTERNAL INVESTIGATION POLICY

- 1) The findings of an investigation and any hearing officer findings used as the basis for a disciplinary action (demotion, suspension, or termination) for an Employee's violation of City, or Department, work rules, or regulations, must be included in the Employee's personnel file, and must be made available to that employee.

ARTICLE 17 - POLYGRAPH EXAMINATION POLICY

- 1) The Association and the City both recognize the need for Police Employees to maintain a higher on-duty and off-duty standard of performance and conduct to assure a continued and uninterrupted preservation of peace, well-being and safety of the citizens and employees of the City and to maintain public confidence in the integrity of its law enforcement personnel. The Association and City agree that the use of polygraph examinations in the internal investigative process of investigating alleged misconduct may be a legitimate investigative tool.
- 2) The Police Chief may request a polygraph of an Employee if a serious allegation is made against the Employee. Serious allegations include, but are not limited to, a criminal act, abuse of authority, harassment with malicious intent, and reflection of an Employee's integrity. The employee may not refuse this request. In the absence of the Police Chief, or acting/interim Police Chief, the use of a polygraph examination may only be authorized by the City Manager.
- 3) The Association and the City agree that the result of a polygraph examination will not stand as the sole and only evidence against, or for, an Employee in a disciplinary proceeding involving the dismissal, demotion, or suspension of an Employee, but will be used as a tool to supplement all other evidence and information obtained during the course of an Administrative Investigation into the Employee's conduct.
- 4) The polygraph questions will be narrowly focused on the issue(s) under investigation. The Employee and his representative, or attorney, may review the questions prior to administration of the polygraph. Employees may submit to a second polygraph examination from a polygraph examiner within seven days if the initial results are inconclusive or deceptive. The Employee then has the option of obtaining the second polygraph examination from a licensed private sector polygraph examiner. In the event that the City introduces evidence of the results of a polygraph examination of an Employee into a disciplinary proceeding, the Employee shall be entitled to introduce the results of the second polygraph examination obtained under this Article.
- 5) Nothing contained in this agreement shall be construed as creating any privilege or prohibition against the admissibility of initial and second polygraph results in administrative proceedings reviewing the dismissal, demotion, or suspension of an Employee.

ARTICLE 18 - SENIORITY AND PROBATION

- 1) Seniority will be given due consideration in all areas of member-based selection options using established departmental procedures to include choice of vacation schedules, compensatory time off and work schedules (shift bid/assignments). An employee with a current performance rating of less than 2.0 or actively on a Performance Improvement Plan (PIP) may be assigned to a shift by the Chief. Seniority is defined as the first day of full time, compensated, employment while having an AZPOST certification as a Peace Officer with the El Mirage Police Department. Original seniority date is subject to continuous compensated employment by the El Mirage Police Department. Sergeants seniority date shall be based on their first full day, following promotion, as compensated Sergeants. In the event a Sergeant is demoted, for any reason, they shall retain their original member seniority date.

ARTICLE 19 - GRIEVANCE PROCEDURE

- 1) The City and Association agree that the procedure provided in this agreement shall be the administrative process required for grievances under this MOU. Grievances on issues outside the terms of this agreement may not be grieved under the provisions of this agreement.
- 2) Informal Resolution
 - a) It is the responsibility of Unit employees who believe that they have a bona fide complaint concerning violations of this MOU to promptly inform and discuss it with their immediate supervisor in order to, in good faith, endeavor to clarify the matter expeditiously and informally at the employee's immediate supervisor level.
 - b) If such informal discussion does not resolve the problem to the Unit employee's satisfaction, and if the complaint constitutes a grievance as herein defined, the Unit employee may file a formal grievance in accordance with the following procedure. Failure to complete and file a grievance form shall automatically terminate the complaint.
- 3) Definition of Grievance
 - a) A "grievance" is a written allegation by a Unit 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 requested. Failure to identify the specific provisions of the Memorandum and the specific remedy shall automatically terminate the grievance.
 - b) A "unit" grievance is a written allegation by the Association, submitted as herein specified, charging violation(s) of the specific express terms of the Memorandum that involve the entire unit and not merely the complaints of one or more employees and not of an operational nature and not merely a specific application of this Memorandum to one or more employees.
- 4) Procedure. In processing a formal grievance, the following procedure shall apply:
 - a) Step 1: The Unit employee shall reduce his grievance to writing by signing and completing all parts of the grievance form provided by the City and submit it to the Chief within fourteen (14) calendar days of the event giving rise to the grievance. Either party may then request that a meeting be held concerning the grievance, or they may mutually agree that no meeting be held. The Chief 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 representative, if any.
 - b) Step 2: If the response of the first level of review does not result in a resolution of the grievance, the grievant may appeal the grievance by signing and completing the form and presenting it to the City Manager within seven (7) calendar days of the grievant or his

representative's receipt of the level one 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 second level of review shall submit his response to the grievance to the grievant and the grievant representative, if any.

- c) Step 3: If the response to the second level of review does not result in resolution of the grievance, the grievant or his representative may submit the grievance to a Labor/Management Committee for review and recommendation within seven (7) calendar days of the receipt of the level three response. The Committee shall consist of up to two (2) representatives of the Association who were on the negotiating committee and up to two (2) representatives of the City Manager who were on the negotiating committee. Within fourteen (14) calendar days of having received the appeal, the Labor/Management Committee will meet to review the grievance, unless the date is mutually extended. Within fourteen (14) calendar days from the date of the committee meeting, the Labor/Management representatives will submit a recommended disposition on the matter to the City Manager.
 - d) Step 4: Either party may request that a meeting be held with the City Manager upon transmittal of the Committee report or may mutually agree that no meeting be held. The City Manager shall review the written report and render a written decision within twenty-one (21) calendar days from the date of receipt of the report or from the date of the meeting, whichever is later.
- 5) The City Manager decision is the final step in the MOU appeal process. The MOU Grievance process in no way limits EMPEA or its individual members from such relief that may be granted from any Court of law having jurisdiction over the matter.
 - 6) Failure of the Chief or the City Manager to comply with time limits specified in Step 1 and Step 2 will entitle the grievant to appeal to the next level of review. Failure of the grievant to comply with said time limits in this procedure shall constitute abandonment of the grievance. The parties may extend time limits by mutual written agreement in advance.

ARTICLE 20 - PROHIBITION OF STRIKES AND LOCKOUTS

- 1) The Association and the Unit employees covered by this Memorandum recognize and agree that rendering of Police services to the community cannot under any circumstances or conditions be withheld, interrupted, or discontinued, and to do so would endanger the health, safety and welfare of the citizens of the City of El Mirage.
- 2) The Association pledges to maintain unimpaired municipal services as directed by the City. Neither the Association, nor any Unit employee, for any reason, will authorize, institute, aid, condone or engage in a slowdown, work stoppage, strike or any other interference with the work and statutory functions and obligations of the City or the Police Department. During the term of this Memorandum neither the City nor its agents for any reason shall authorize, institute, aid or promote any lockout of Unit employees covered by this Memorandum.

- 3) Should any Unit employee during the term of this Memorandum, and until such time that it is expressly and legally rescinded, breach the obligations of Section B of this Article, the City Manager shall immediately notify the Association that a prohibited action is in progress.
- 4) The Association shall forthwith, through its executive officers and other authorized representatives, disavow said strike or other prohibited action, and shall notify in writing all Association members and representatives of their obligation and responsibility to remain at work during any interruption which may be caused or initiated by others. Copies of such notification shall be delivered to the office of the City Manager. In addition, the Association shall order all Unit employees violating this Article to immediately return to work and cease the strike or prohibited activity. Such order shall be delivered both orally and in writing to all Unit employees violating this Article with copies of the written order to be delivered to the office of the City Manager.
- 5) Penalties or sanctions the City may assess against Unit employees who violate this Article shall include, but not be limited to:
 - a) Discipline up to and including discharge.
 - b) Loss of all compensation and benefits, including seniority, during the period of such prohibited activity.
- 6) Nothing contained herein shall preclude the City or the Association from obtaining judicial restraint or from seeking damage from each other in the event of a violation of this Article.
- 7) There shall be no lockout by the City unless required protecting and preserving the public peace, health, or safety of the City and its residents or required by the City to enforce any violation of this Ordinance, or Memorandum of Understanding, or any applicable laws.

ARTICLE 21 – TERM AND EFFECT

- 1) This agreement shall be effective as of the 1st day of July 1, 2021 and shall remain in full force and effect until the 30th day of June 2025 or until such time as it is superseded by a new agreement or addendum between the parties, whichever occurs later.

ARTICLE 22 – FISCAL CRISIS

- 1) The parties to this MOU acknowledge that in the event of a fiscal crisis the City may request the employee organization to modify this MOU for the purpose of including alternatives to temporary reductions in force or the permanent elimination of positions in City employment.
- 2) The term “fiscal crisis” will mean an event followed by a declaration of emergency by the City and may include loss of state revenues, reduction in City sales tax revenues or an emergency increase in expenditures not included in the regular City budget.

- 3) The City will provide the Association with a request to reopen the MOU specifying the specific actions requested. The Association will have ten (10) days to accept or reject the request. If the employee organization accepts the request, the process will 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 state law, the City Code, and/or ordinances.

ARTICLE 23 – SAVINGS CLAUSE

- 1) If any article or section of this MOU should be held invalid by operation of laws 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 the MOU will not be affected thereby; and upon issuance of such final decree, the parties, upon request of either of them will meet and confer to endeavor to agree on a substitute provision, or that such a substitute provision is not indicated.

IN WITNESS WHEREOF, the parties have set their hand this _____ day of _____, 2021.

CITY OF EL MIRAGE:

EL MIRAGE POLICE EMPLOYEE ASSOCIATION:

BY: J. Crystal Dyches, City Manager

BY: Doug Jones, EMPEA President

APPROVED AS TO FORM:

Justin Pierce, City Attorney

Witness

ATTEST:

Sharon Antes, City Clerk

APPENDIX I

Amended Step Pay Plan for Police Officers and Sergeants effective FY 22.

Police Officer	
Pay Step	Pay Rate
Probationary	\$ 26.08
Officer 1	\$ 27.38
Officer 2	\$ 28.75
Officer 3	\$ 30.19
Officer 4	\$ 31.70
Officer 5	\$ 33.28
Officer 6	\$ 34.95
Officer 7	\$ 36.70
Officer 8	\$ 38.53

Police Sergeant	
Pay Step	
Probationary Evaluation Period	\$ 41.32
Sergeant 1	\$ 43.39
Sergeant 2	\$ 45.56
Sergeant 3	\$ 47.84
Sergeant 4	\$ 50.23

APPENDIX II - ESTIMATED UNIFORM COSTS PROVIDED FROM EMPEA

The items listed below are typical start up and replacement items that El Mirage Police Employees purchase on a semi-annual basis based on the need to carry out the mission of the police department and the needs of the employee. These items wear out quickly and are frequently exposed to high temperatures, bodily fluids, and other bio-hazard materials. The items listed below are based on pricing from FX Tactical Uniforms, Peoria, AZ. These items include, but are not limited to the following:

1. Nylon Belt	\$45.05
2. Belt Keepers	\$12.00
3. Magazine Pouch	\$32.00
4. Pepper Spray holder	\$26.00
5. 5.11 Polo Shirts (Class C) 2-SS, 2-LS	\$169.96
6. 5.11 Apex Patrol Pant (Class C) - 4	\$319.96
7. Baseball Cap (Required for Range) – 2	\$60.00
8. External Ballistic Vest Carrier	\$295.00
9. Boots – Danner Arcadia	\$360.00
10. Traffic Safety Vest	\$60.00
Sub Total:	\$1379.97
Peoria, AZ sales Tax – 8.1%:	\$111.77
TOTAL:	\$1,491.74