# Staff Summary Report

Tempe

**Council Meeting Date:** 06/11/09 **Agenda Item Number:** 45

**SUBJECT:** Request approval of a resolution approving a Memorandum of Understanding between the Tempe Supervisors' Association and the City of Tempe July 1, 2009 – June 30, 2010 and authorizing its execution.

**DOCUMENT NAME:** 20090611hrrb02 **SUPERVISORY EMPLOYEES – MEET AND CONFER (0303-08-05)** Resolution No. 2009.63

**COMMENTS:** Resolution 2009.63 approves the execution of the Memorandum of Understanding (MOU) between the City and the Tempe Supervisor's Association (TSA) for the period July 1, 2009 – June 30, 2010.

**PREPARED BY:** Renie Broderick, Human Resources Manager (350-8407)

**REVIEWED BY:** Charlie Meyer, City Manager (350-8884)

**LEGAL REVIEW BY:** Andrew Ching, Assistant City Attorney (350-8575)

**FISCAL NOTE:** N/A

**RECOMMENDATION:** Recommend adoption of Resolution No. 2009.63

**ADDITIONAL INFO:** Authorized representatives of the City and TSA met and conferred and have agreed to the terms of an MOU to be effective for the period July 1, 2009 – June 30, 2011. Approval of this resolution authorizes the City Manger to execute the MOU as an authorized representative of the City of Tempe.

TSA has agreed in this MOU to suspend their 5% annual step increase, their market study increase and their 5% after initial probation increase. In addition, language has been added to the MOU to allow the TSA to reopen the MOU if the general population of employees is not subject to the same or greater reduction of pay or benefits.

**RESOLUTION NO. 2009.63**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, APPROVING THE MEMORANDUM OF UNDERSTANDING ("MOU") BETWEEN THE TEMPE SUPERVISORS' ASSOCIATION ("TSA") AND THE CITY OF TEMPE ("CITY") JULY 1, 2009 – JUNE 30, 2010**

**WHEREAS**, authorized representatives of the City and the TSA met and conferred and have agreed to terms of a Memorandum of Understanding ("MOU") between TSA and the City;

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:**

That the Memorandum of Understanding between Tempe Supervisors' Association and the City of Tempe for the period of July 1, 2009 to June 30, 2010, is approved and that the City Manager is hereby authorized to execute said document as the authorized representative of the City of Tempe.

**PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,** this _____ day of _____, 2009.

_____
Mayor

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

# MEMORANDUM OF UNDERSTANDING
**between**
# THE TEMPE SUPERVISORS' ASSOCIATION
**and the**
# CITY OF TEMPE

**July 1, 2009 – June 30, 2010**

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# CITY OF TEMPE
# TEMPE SUPERVISORS ASSOCIATION
## MEMORANDUM OF UNDERSTANDING
## JULY 1, 2009 – JUNE 30, 2010

## Preamble

This Memorandum of Understanding (MOU) is made and entered into between the City of Tempe, Arizona, hereinafter referred to as "City," and the Tempe Supervisors Association, hereinafter referred to as "Association," under the authority of Tempe City Code 2-400 et seq.

**WHEREAS** the Parties, through their designated representatives, met and conferred in good faith pursuant to Tempe City Code 2-400 et seq. in order to reach agreement concerning wages, hours, and working conditions of employees in the Association.

**NOW THEREFORE**, it is agreed that this MOU shall be submitted to the City Council of the City of Tempe for its consideration.

## Article 1 – Definitions

For the purposes of this MOU, the following definitions shall apply:

| | |
|---|---|
| "Unit Member" | A City employee identified in Section 2-401(a)(5) of the Tempe City Code. |
| "Work Unit" | A reference to the entire group of City employees represented by the Association. |
| "Breach" | An alleged violation of the provisions outlined in this MOU. |
| "Grievance" | A specific alleged violation of City Personnel Rules and Regulations initiated by or on behalf of an individual. The process for initiating a grievance is outlined in City Personnel Rules and Regulations; Rule 6, Section 605. |
| "Continuous Service" | Where the phrase "continuous service" is used to define employee benefits in this document, employees reinstated within one year of their resignation date are considered to have continuous service for purposes of determining those benefits. |

# Article 2 - Proviso for Existing Benefits

1. For the purpose of expediting the Meet and Confer process leading to agreement on an MOU, the Parties agree to the following Proviso which shall expire on June 30, 2010, unless renewed in writing by subsequent action of the Parties:

   A. The parties agree and Tempe City Code 2-400 et. seq. confirms that in the event of a conflict between the City of Tempe Personnel Rules and Regulations, Department General and Operations Orders, attachments thereto, other Council approved programs, and this MOU, the MOU shall apply to the conflicting issue. If there is no conflict between the above referenced documents, the parties are governed by the Personnel Rules and Regulations, Department General and Operations Orders, attachments thereto and other Council approved programs. In the event all such formerly referenced documents are silent on a particular issue, the City Manager and/or designee shall retain the right to exercise judgment on all such matters.

   B. If, during the term of this Agreement, the City anticipates a substantive change in the benefits not included in this MOU, but provided to unit members through the City of Tempe Personnel Rules and Regulations and attachments thereto, Administrative Memorandum and other Council approved programs, the City shall meet with the Association, explain the reasons for the change, discuss the potential impact of such changes prior to making such changes, and allow the Association to propose alternatives to the changes.

   C. If the City intends to provide additional benefits to Unit Members, any such additional benefits will be discussed with the Association President prior to implementation.

   D. The referencing of the Personnel Rules and Regulations and other such policies and procedures herein does not make them an extension of this MOU. Therefore, the process for an alleged breach of this MOU as contained in Tempe City Code 2-400 et. seq. or any procedure agreed to by the parties for resolving allegations of an alleged breach of this MOU, shall not be applicable under the proviso for existing benefits.

   E. Any benefit provided by outside vendors (such as health insurance), and subject to cost increases outside the City's control, may cause a re-opening of this contract for purposes of the affected benefit only. This negotiation process will exclude fact-finding.

2. Fiscal Crisis -- If, during the term of this MOU, the City of Tempe experiences loss of revenues or legal requirements, that if not resolved during the budget year would result in the layoff of employees or the serious curtailment of City services provided to the citizens of Tempe, this MOU may be reopened. This provision

shall only apply if the general population of employees is subject to the same or greater reduction of pay or benefits negotiated as a result of this re-opener provision. The following provisions shall apply to this circumstance:

A. The City shall notify the Association President in writing of the need to reopen this MOU. Such notice shall include the reasons for the reopening and the anticipated amount of citywide budget shortfall that needs to be resolved in order to alleviate the need to layoff employees or severely curtail City services provided to the citizens of Tempe.

B. The City shall supply the President with all available current budget information including, but not limited to, projected revenue shortfalls.

C. The parties shall meet and confer/negotiate in a good faith effort to reach agreement on what, if any reduction in pay and/or benefits shall occur for Unit Members in order to address the City's budget shortfall.

D. The meet and confer/negotiation process will be for a period of no more than thirty (30) calendar days. During this thirty (30) day period, the parties shall meet at least weekly unless mutually agreed otherwise.

E. If the parties are unable to reach an agreement on the issues identified for this process, the issues will be submitted directly to the City Council which shall make a final determination. The determination of the City Council shall be final and binding on the parties.

## Article 3 - Rights of the City

1. The Association recognizes that the City has statutory and Charter rights and obligations in contracting for matters relating to municipal operations. This MOU shall not limit that authority in any manner unless such limitation is expressly provided for by the specific terms of this MOU. There shall be no implied limitations on the rights of the City. In the event this MOU, the City Personnel Rules, and Regulations, other City Council approved programs, and/or the Department's General and Operations Orders are silent regarding a particular issue, the City Manager, or designees shall retain the right to exercise judgment on such matter.

2. The Parties, in partnership, pledge cooperation in increasing departmental efficiency and effectiveness. The Association agrees to cooperate with the efforts of the City to increase the diversity of the work force.

3. The City and the Department Managers have the responsibility and authority to schedule work and/or overtime in the manner most advantageous to the City; to discipline or discharge employees pursuant to the City Personnel Rules and

Regulations (all disciplinary appeals are outside the procedure for an alleged breach contained in this MOU and Tempe City Code 2-400 et. seq.); to hire, promote, reclassify, layoff and recall employees; to determine assignments and establish methods and processes by which assignments are performed; to transfer employees within the Department in a manner most advantageous to the City, determine the methods or means by which operations and services are delivered; maintain the efficiency of City government in emergencies; and manage all matters not specifically prohibited by this MOU.

4. The inherent and express rights of the City, including those herein specifically referred to, which are not expressly modified or restricted by a specific provision of this MOU, are not in any way, directly or indirectly, subject to the alleged breach procedure contained herein and in the City Ordinance.

5. The enumeration of the above rights and those in the Tempe City Code 2-400 et. seq., are illustrative only and is not to be construed as being all-inclusive.

## Article 4 - Rights of the Association

1. The Association, as the authorized representative of its Members, has the exclusive right to serve as the meet and confer representative of all employees in the Work Unit as described in this MOU.

2. The Association may designate Association Representatives and shall notify the City and department managers of such designations. Following an election or appointment of new officers of the Association, the new officers will consult with their department managers and the parties will mutually arrange any necessary scheduling or workload adjustments to allow such officers to conduct Association-related business as provided by this section.

3. During the term of this Memorandum of Understanding, Association Representatives shall be released from duty with full pay when participating in a meeting with the City and/or City representatives, including any grievance hearing or disciplinary meeting with an employee. Association Representatives will also be released from duty with full pay to participate in any committee or task force established by this MOU. Executive Board Members of the Association will be released from duty to conduct/attend up to twelve (12) Executive Board meetings and up to twelve (12) Association meetings, with a maximum duration of four (4) hours each, during each year of the MOU. Association Representatives will also be released from duty to attend up to twelve (12) Association meetings, with a maximum duration of four (4) hours each, during each year of the MOU. The City will provide an additional 300 hours per year to be utilized by Association Board Members and/or Representatives, as authorized by the Association, for the purpose of conducting Association-related

business. All time utilized must be authorized in advance by the appropriate department manager.

4. Association Members and/or Association Representatives who conduct Association business or participate in meetings covered by this Article at times other than their normal work shift shall not receive compensation and said hours are not considered time worked for the purpose of computing overtime.

5. When requested, the City shall furnish to the Association a listing of Unit Members on City payroll deduction for Association dues. The Association agrees to use this list solely for purposes of communicating with Unit Members and will not share this information with other individuals or organizations.

6. The City agrees, in conformity with Tempe City Code 2-400 et. seq., to deduct an amount specified in writing by the Unit Member and transmit such amount to the Association each pay period. Such deductions shall be made only when the Unit Member's earnings for such pay period are sufficient after other legally required deductions are made. The Association reserves the right to increase the amount withheld for all unit members pursuant to a generalized dues increase. Unit members may initiate, discontinue, or amend payroll deductions at any time.

7. The City e-mail system will not be used for Association business. However, The Association President or his/her designee may use City e-mail to distribute information to Unit Members, newsletters, and other communications. Additional exceptions may be made on a case-by-case basis with prior approval of the City Manager.

8. The City shall provide bulletin boards in each work location for the exclusive use of the Association. The bulletin boards shall be readily available to Unit Members. The Association agrees that material posted on the boards will not be derogatory toward any person or the Association, or critical of City leaders or City management and/or their policies/decisions.

9. The Association will be allowed to talk to all new supervisors solely to explain the rights and benefits of employment under the MOU. The association shall be allowed to provide new supervisory employees with information, such as an orientation packet, at the Tempe Essentials Orientation.

10. Upon request from the Association President, the City shall provide the association with City e-mail distribution lists for all unit members and association members. The City will also provide a link to the Tempe Supervisors Association web site from the City of Tempe Human Resources web page, upon request from the Association President.

# Article 5 - Rights of Unit Members

1. All unit members have the right to have the Association serve as their exclusive "meet and confer" representative for the purposes designated in Tempe City Code 2-400 Et.Seq.

2. Unit Members have the right to be represented by the Association, as defined in City Code 2-400 et. seq., in dealings with the City.

   **A.** Unit Members have the right to be represented by the Association at any meeting which could or will result in disciplinary action being taken against that Unit Member or any meeting involving work-related counseling for that Unit Member. The Unit Member will have a reasonable amount of time to obtain Association representation, no less than one (1) full weekday work day from the time of notification by management of the intent to hold such a meeting.

   **B.** For any scheduled interview, the Unit Member has the right to bring a silent witness. No waiting period applies to scheduled interviews.

   **C.** The City reserves the right to interview a Unit Member without Association representation if the matter involves immediate serious safety concerns for the Member, other employees or the public, and no Association Representative is readily available.

3. Unit Members have the right to have another Unit Member present during any meeting which could result in disciplinary action being taken by the supervisor.

4. Unit Members have the right to present their own grievance, in person or by an Association representative or other regular employee representative.

   **A.** The Association maintains the right to be present during any meeting regarding an alleged breach of the MOU. No person other than the Association President may reach a written agreement with the City that interprets or alters the rights or benefits covered under this MOU.

5. Any Unit Member covered hereunder shall, on his/her request and by appointment, be permitted to examine his/her supervisor's working file, and Department and/or Human Resources' personnel file.

   **A.** A unit member may, at his/her discretion, attach rebuttal statements to any material contained in his/her supervisor's or personnel file that may be adverse in nature.

   B. With the written permission of the Unit Member, an Association Representative may review the Unit Member's personnel file(s) when in the

presence of a Department representative and obtain copies of the contents upon request. Copying fees shall be consistent with the City's public records request fee schedule.

6. Labor-Management Committees

   **A.** There shall be a citywide Labor-Management Committee consisting of all Union/Association representatives and representatives of the City. In addition, a staff representative of the Association shall be able to attend and observe in these meetings. The purpose of the Committee is to facilitate positive labor-management relationships by providing a forum for the free discussion of mutual concerns and problems, which may include discussion of the implementation of major new City programs or substantial modifications of existing major City programs that will have a significant impact on service delivery, work schedules, or duties.

   **B.** In each Department of the City with Association membership, there shall be a Departmental Labor-Management Committee consisting of an equal number of representatives of the Association and representatives of the Department. The number of representatives and agenda of the meetings shall be mutually agreed by the Association and Department.

   **C.** The Committees shall meet monthly or bi-monthly at mutually scheduled times, and at any other mutually scheduled time.

7. Bidding on Vacancies

   **A.** When the City seeks to fill a regular permanent or a regular part-time vacancy, the City will make Unit Members aware of those vacancies through the posting of vacancies, including shift, hours, position, assignments, days off and work location, to be posted for at least two (2) weeks, unless mutually agreed otherwise, in the Department's office, on official bulletin boards, and at other mutually agreed upon locations.

   **B.** Bidding for shifts or work locations for all Unit Members shall continue by current practice. Upon the written request of the Association, the City or any Department shall negotiate with the Association to establish or revise a bidding procedure. The determination of the bidding procedure shall be by mutual agreement. Such procedure shall be in compliance with all state and federal laws.

   **C.** The issues of requirements and processes for career advancement of Unit Members shall be considered by established Labor-Management Committees.

8. Job Descriptions

   A. The City agrees to review, with Association Representatives, any substantial changes in job duties and/or any proposed changes to the "Examples of Duties" and/or the "Experience and Training Guidelines" for any job descriptions of Unit Members, at least 30 days prior to implementation.

# Article 6 – Wages

1. Step Increases

   A. During the term of this agreement (July 1, 2009 to June 30, 2010) the parties agree to suspend the following provision (article 6 section 1A): The City shall maintain step increases of 5% for all Association Members who have not reached the established maximum salary for their respective classifications. An Association Member who is eligible for a 5% step increase, and whose salary is less than 5% from the maximum of the established range, shall receive a step increase to the range maximum. These step increases will be effective the first pay period ending in July of 2008.

   B. During the term of this agreement (July 1, 2009 to June 30, 2010) the parties agree to suspend the following provision (article 6 section 1B): New employees shall receive a five percent (5%) step increase after successfully completing their initial probation; following completion of probation, new employees may receive a pro-rated step increase in July based upon the month in which probation was completed.

   C. A Unit member's base salary shall be at least 7.5% higher than the base salary of any employee that he/she directly supervises on a regular basis.

2. Market Adjustments

During the term of this agreement (July 1, 2009 to June 30, 2010) the parties agree to suspend the following provisions (article 6 sections 2A and 2B):

   A. Human Resources will conduct a survey of the salaries paid in established market cities for classifications comparable to those held by Association Members, following those cities' post-July 1 salary adjustments. Human Resources will determine the "75$^{th}$ percentile" of the salary maximums paid for each classification. The 75$^{th}$ percentile will be calculated as the average between the median and the highest paid maximum salaries in the established market cities.

   B. For the first pay period ending in January each year, the maximums of all Association Members' salary ranges will be adjusted to the calculated 75$^{th}$ percentile. All Members' actual base salaries will be adjusted by the same

percentage as the adjustment made to the maximum for their respective classifications, with the following stipulations:

(1) The total increase to an Association Member's salary during the fiscal year beginning July 1, 2008, resulting from step increases and market adjustments cannot exceed 7%, unless a larger increase is necessary to reach the minimum of the salary range for the Member's position.

(2) If an adjustment to a salary range causes the maximum of the range to fall below the existing maximum, the existing maximum will be maintained ("red-lined") until further market movement increases the maximum beyond the maintained amount.

3. Deferred Compensation

A. Unit Members who contribute into the City's deferred compensation plan shall be eligible to receive matching deferred compensation contributions from the City, as follows:

| | |
|---|---|
| Less than 7 years of service | up to $10 per pay period |
| After 7 years but less than 15 years | up to $20 per pay period |
| After 15 years of service | up to $30 per pay period |

4. Bilingual Pay

A. Association Members shall be paid $50 per month for occasional interaction and $125 per month for significant interaction, if they qualify under the City's Bilingual Pay guidelines.

## Article 7 – Hours and Overtime

1. Shift Differential

A. Association Members who qualify for Shift Differential pay, under the City's existing policies, shall receive the following Shift Differential pay:

1) Members working a shift which ends between the hours of 10:00 p.m. and 12:00 midnight will be paid a shift differential of 65 cents per hour. Unit members working a shift which includes work between the hours of 12:01 a.m. and 4:00 a.m. will be paid a shift differential of 80 cents an hour.

2) Shift differential is not paid to Unit Members on paid leave.

2. Stand-by Premium

   **A.** The policy for stand-by premium pay in the City's Personnel Rules and Regulations as of the effective date of this MOU, shall remain in effect during the duration of this MOU.

3. Overtime

   **A.** Non-exempt Unit Members who work beyond their scheduled work shifts shall be compensated for such assigned work at one and one-half (1 ½) times their regular rate after the first eight (8) minutes of assigned and worked overtime calculated to the nearest quarter hour.

   **B.** An overtime-eligible Unit Member shall be compensated for overtime hours worked either with pay or with compensatory time. Employees may accrue a maximum of 240 hours of compensatory time.

   **C.** Exempt employees (employees exempt from provisions of the FLSA) may on occasion receive informal paid leave called exempt time for time worked in excess of their established work schedules. Exempt time will not be calculated hour-for-hour. Exempt time will be discussed in Labor-Management meetings.

4. Call-back Pay

   **A.** Non-exempt Unit Members called back to work after leaving City facilities upon completion of their regular shift shall be paid at one and one-half (1½) times their regular rate of pay and shall receive a minimum of two (2) hours' call-back pay. Thirty minutes of travel time to return to work duty shall be compensated at call-back rate and is included in the two hours' minimum. Premium pay received for call-back pay is included in the calculation to determine an employee's regular rate of pay for overtime purposes.

   **B.** Non-exempt Unit Members called to consult about work after completion of their regular shift will be paid at time and one-half (1 ½) the regular rate of pay for each quarter hour (over 7 minutes), with a minimum of one hour's pay. There will be no compensation for calls less than 7 minutes, cumulative daily.

5. Working Out of Classification

   **A.** A Unit Member will be paid for temporarily working out of his/her assigned classification at the higher of the following rates: 5% above his/her regular salary or the minimum of the salary range of the higher classification. The Unit Member is entitled to such temporary detail pay for working a minimum

of 8 hours performing duties and responsibilities of a higher classification; employees providing emergency services shall be paid temporary detail pay if they work 4 hours or more in a higher-classified position.

6. Hours of Work

   **A.** The regular work week for full-time employees is forty (40) hours. By mutual agreement work schedules may be arranged in any manner consistent with departmental operations to include more than eight (8) hours in any single 24-hour day. The parties agree to discuss alternate work schedules in a departmental Labor-Management Committee meeting at the request of either party.

   **B.** Employees are entitled to be relieved from duty for an unpaid lunch break of 30 to 60 minutes and, under normal circumstances, for two paid 15-minute rest periods per shift. Employees who must remain on duty during their entire shift are paid for their one-half (1/2) hour lunch period.

   **C.** Any proposed changes to an employee's regular work schedule that are not temporary and do not involve a response to necessary public safety or emergency situations or City Council directives shall be communicated to the affected employee(s) at least 15 work days prior to implementation and, at the Association's request, shall be discussed in a Labor-Management Committee meeting. The requirements of this paragraph may be waived by mutual consent.

## Article 8 – Vacation Leave

1. Unit Members on a forty (40) hour work schedule will accrue vacation in accordance with the following schedule, to be prorated for employees working a part-time schedule. Accrual amounts are based upon continuous service as a City of Tempe employee:

| | |
|---|---|
| Up to 5 years of City service | 9.33 hours per month |
| After completion of 5 years, but less than 10 years | 11.33 hours per month |
| After completion of 10 years, but less than 15 years | 13.33 hours per month |
| After completion of 15 years, but less than 20 years | 16.67 hours per month |
| After completion of 20 years | 18 hours per month |

2. Maximum vacation accrual shall be 450 hours.

3. Unit members who have completed their fifteen-year anniversary with the City are eligible for a one-time extended four-week leave of absence (sabbatical), including two weeks of an employee's earned leave and an additional two weeks

of City-paid time. The additional two weeks of sabbatical leave may not be converted to cash-out payment or utilized in the last six months of employment.

## Article 9 – Holiday Leave

1. Paid holidays are as follows (with holidays falling on Sunday observed by the City on the following Monday and holidays falling on Saturday observed the preceding Friday):
   - New Year's
   - Martin Luther King's Birthday
   - President's Day
   - Cesar Chavez Recognition Day
   - Memorial Day
   - Independence Day
   - Labor Day
   - Veterans Day
   - Thanksgiving Day
   - Friday following Thanksgiving Day
   - Christmas Day
   - 1 Personal Leave Day of the number of hours in an employee's normal workday, which may be taken any time during the calendar year or received as 8 hours of pay in January of the following year, if unused
   - Winter Holiday Leave of four (4) hours to be used between dates in mid-December and mid-January to be specified by the City Manager; any holiday leave not utilized during that period will be forfeited.

2. Non-exempt unit members who are required by their supervisor due to operational necessity to work on a city recognized holiday shall receive one and one-half (1.5) times their regular rate of pay or one and one-half (1.5) times the hours in Compensatory Time in addition to their holiday pay for each hour worked. Election of holiday premium pay or holiday compensatory time shall be at the employee's discretion.

3. Exempt unit members required by their supervisor to work on a city recognized holiday and who cannot be given a substitute day off within the same pay period may receive one (1) day's pay, eight (8) hours, at their regular rate (not overtime) as additional compensation for the holiday worked.

4. Non-exempt and exempt employees will be given a substitute day off with pay if operationally possible when a City recognized holiday falls on a non-work day. The substitute day shall be taken during the same pay period as the holiday. If the employee's supervisor cannot approve a substitute day off during the same pay period due to operational needs, the employee will receive one (1) day's pay at his or her regular rate (not overtime) in additional compensation for the holiday.

Vacation leave, compensatory time and personal or wellness day(s) shall not be utilized in the place of a substitute holiday.

5. In the event the City celebrates one of the following holidays on a day other than the actual holiday and the actual holiday is a regularly scheduled work day for a Unit Member, that employee may choose to have either the actual day or the day celebrated by the City designated as the holiday:

   New Year's
   Cesar Chavez Recognition Day
   Independence Day (4th of July)
   Christmas Day

6. Whenever reasonably practicable, employees shall be given at least seven (7) days' notice of holiday work assignments. Exemptions from holiday assignment will be discussed and mutually agreed in departmental labor-management meetings.

## Article 10 – Medical Leave

1. Full-time regular and probationary Unit Members on an active pay status accrue eight (8) hours of medical leave each month. Regular part-time Unit Members receive a pro-rated amount of medical leave.

2. Medical leave may be used for illness or incapacity of the Unit Member, or for medical, dental, vision or mental health appointments during working hours. Medical leave may also be used for any of the above reasons for a family member, defined as spouse or domestic partner, parent (incl. in-law and step), child (incl. in-law and step), sibling (incl. in-law, half, and step), grandparent (incl. in-law), or grandchild (incl. step).

   Unit Members shall not be visited at home for the purpose of verifying medical leave. This provision does not apply to investigations of Workers' Compensation claims.

3. Maximum accrual of medical leave shall be unlimited. By the deadline established each year, the Unit Member may elect for the following year to cash out medical leave accrued that year in excess of 480 hours at a rate of 25%, or may convert medical leave in excess of 480 hours to Health & Wellness leave at a rate of 50% (up to 2 days of leave, to be utilized by the end of that calendar year), or may let the medical leave accrue above the 480 hours.

4. Unit Members retiring from the City in good standing shall receive 50% of all accrued medical leave in the form of cash or vacation leave. The Unit Member

will be reimbursed at an hourly rate equal to the Unit Member's hourly rate at time of retirement.

## Article 11 – Bereavement Leave

1. Upon the death of a family member, an employee shall receive up to five (5) working days (based on the employee's normal work schedule) of paid leave not chargeable to medical or vacation leave. Family member is defined as spouse or domestic partner; child (incl. step and in-law); parent (including step and in-law); sibling (incl. half, step and in-law), aunt or uncle; niece or nephew; grandparent (incl. in-law) or grandchild (incl. step).

2. It is not necessary to use Bereavement Leave on consecutive days.

## Article 12 – Disability Leave

1. The City shall continue to administer Compassionate Leave, allowing employees to transfer unused vacation and medical leave to another regular employee to provide the recipient with supplemental paid leave during an extended non-job related, seriously incapacitating illness or injury of the employee or a member of the employee's immediate family or for other extenuating circumstance. The value of donated leave is based on the donor's hourly rate of pay as it relates to the recipient's hourly rate of pay. A recipient who returns to work on a part-time basis may use compassionate leave intermittently until he or she is able to resume his or her regular duties.

2. Unit Members are eligible for up to 160 hours of paid Catastrophic Leave per calendar year; this amount will be prorated for part-time Unit Members. Catastrophic leave may be taken for an employee's own illness or injury or to care for an immediate family member with a serious health condition, and may be taken consecutively or intermittently.

3. Each Unit Member shall be entitled to seventeen (17) work weeks of FMLA leave during a twelve (12) calendar month period if the leave is taken for the birth or adoption of a child or to care for a sick parent (including parent-in-law or step-parent).

4. Two or more Association Representatives will participate in the Leave of Absence Committee currently established by the city to research the feasibility of making available to all Unit Members a short-term disability policy and shall make recommendations to the Labor-Management Committee.

# Article 13 – Industrial Leave

1. Unit Members are covered by the City under the Arizona State Worker's Compensation Act against injuries, illness or disease occurring in the course of City employment.

2. If a Unit Member is absent from work as a result of an injury, illness, or disease that is covered under the Arizona State Worker's Compensation Act, the absence is considered industrial accident leave. For absences of one (1) to seven (7) calendar days, Unit Members are compensated 100% of their regular base rate of pay without loss of any medical or vacation leave. For absences over seven (7) days, Unit Members are compensated 95% of their regular biweekly base rate of pay from the City for up to twelve (12) months. Beyond twelve (12) months, Unit Members are compensated in accordance with the Arizona Worker's Compensation Act. Unit Members may voluntarily supplement their Worker's Compensation benefit with accrued medical and vacation leave. The amount that may be supplemented is the difference between the Worker's Compensation benefit and the Unit Member's net take-home pay, plus voluntary payroll deductions. The amount of a Unit Member's Worker's Compensation benefit shall not exceed his/her regular base rate of pay.

# Article 14 – Health Insurance

1. During the term of this MOU, the City shall maintain all current medical, dental and vision benefits, on the same cost-allocation basis between the City and Association Members working for the City. Any projected increases in costs or changes in benefits shall result in a meet and confer process to discuss the potential impact upon Unit Members.

2. The City shall offer the Association opportunities for input in the consideration, review and planning of any prospective changes to retiree health care benefits. The Association's recommendations regarding such prospective changes shall be communicated to City Council prior to action by Council to implement changes.

3. The City shall continue to provide health insurance benefits to Unit Members' designated domestic partners.

4. The Association shall be entitled to appoint at least two Unit Members to the City's Health Insurance Evaluation Committee related to the provision and maintenance of health insurance for City employees, including the reviewing of the Request for Proposal, the evaluation of the submitted proposals and the recommendation of the preferred provider.

# Article 15 – Life Insurance

1. During the term of this MOU, the City will continue the existing off-the-job and on-the-job life and dismemberment insurance coverage. The policy shall provide a benefit for each Association Member equal to the Member's base annual salary. The City will continue to provide to each Association Member a $250,000 death benefit covering the Member's commutation to and from his/her City work location. This policy will be consistent with the City's current group insurance, and will cover the Member's commute for up to two (2) hours before his/her shift begins and two (2) hours after his/her shift concludes.

2. In the event of the death of a Unit Member while commuting to or from his/her work location, the City will continue to pay the full health insurance premium for the spouse, domestic partner and all eligible dependents in accordance with City policy.

3. Two or more Association representatives may serve on any committee formed to consider possible changes to City's life insurance policy.

# Article 16 – Light Duty

1. The purpose of the Light Duty policy is to attempt to provide assistance to Unit Members who are recovering from a medically documented mental or physical illness or injury sustained on or off the job. If such an illness or injury precludes a Unit Member from performing the essential functions of his/her job, the City will make an effort to provide work assignments consistent with the individual's skills and abilities and such that the City will derive benefit.

2. During the period a Unit Member is on light duty, the Unit Member's base rate of pay will be maintained. Unit Members shall receive overtime pay after 40 hours of work in the workweek.

3. Light duty work is intended only for Unit Members with temporary illness or injury, and may be provided only if there is a reasonable expectation that the Unit Member can resume his/her duties within the time periods established by the City.

4. Upon request, the City shall share aggregate information with the Association on the disposition of Unit Members' requests for light or modified duty and on displacement of Unit Members from their assignments due to the light duty assignment or other temporary assignment of any other employees. The parties agree to discuss these issues in the Labor/Management committee setting if requested by either party.

# Article 17 – Mediflex

1. The City will continue to contribute into the Mediflex program on the following schedule:

| Years of Service | Annual Mediflex Contribution |
|---|---|
| 3 | $190 |
| 4 | $305 |
| 5 or more | $650 |

# Article 18 – Uniforms and Equipment

1. Public Works unit members eligible for a uniform credit as of the date of ratification of this MOU will receive an annual credit of $125.00 to be used in accordance with Department policy. Eligible unit members will receive a jacket every other year. The tool allowance shall be $500.00 per year for eligible unit members.

2. Police Department unit members eligible for a uniform credit will receive $900.00 per calendar year for uniform reimbursement. Unit members required to wear a vest will receive a credit of $1,100 towards the purchase of a vest when the employee's current vest reaches expiration.

3. Unit members eligible to receive safety boot and/or jean allowances or any other clothing, cleaning or equipment allowances as of the date of ratification of this MOU will continue to receive those allowances to be used in accordance with Department policy.

4. Replacement clothing due to work-related damage shall be paid upon approval.

# Article 19 – Tuition Reimbursement

1. Unit Members will receive tuition reimbursement up to a maximum of $5,000 per fiscal year for full-time employees; tuition reimbursement includes the cost of tuition, required textbooks, supplies and related fees. The City of Tempe Tuition Reimbursement Policy guidelines outlined in the Rules and Regulations as of the date of this Agreement and Section 127 of the IRS Tax Code will govern the requirements for receiving tuition reimbursement.

2. The City will endeavor to continue to make the Education Partnership program available to Unit Members.

3. Unit Members will receive paid release time to participate in approved coursework necessary for maintaining certification(s) and training required for their positions. These required certification and training costs will be paid by the unit member's department.

## Article 20 – Procedures for Alleged Breach of MOU

1. Purpose

   A. The purpose of this grievance procedure shall be to secure, at the lowest possible administrative level, equitable resolutions to problems that may arise and are subject to review under this procedure. There shall be no other alleged breach or appeal procedure regarding the issues covered by this Memorandum of Understanding (MOU) for the Unit Members other than that contained in this article.

2. Definitions

   A. A "breach" refers to a grievance or alleged violation of the provisions outlined in this MOU.

   B. A "complainant" shall be any Unit Member or group of Unit Members or the Association.

   C. "Days" shall mean Monday through Friday, not including holidays observed by the City.

3. Procedures

   A. Alleged breach proceedings shall be kept informal at all levels of this procedure.

   B. The number of days indicated at each level of this procedure shall be considered a maximum, and every reasonable effort shall be made to expedite the process.

   C. If the City or Department fails to comply with the time limit requirements as set forth under any of the procedure levels, the alleged breach shall be considered automatically appealed to the next level of the procedure.

**D.** If the complainant fails to comply with the complainant's time limit requirements as set forth under any of the procedure levels, the alleged breach shall be considered null and void.

**E.** The time limits set forth herein may be extended, provided the extension has been mutually agreed upon by the Parties in writing.

**F.** An alleged breach shall not be considered unless the complainant initiates the alleged breach procedure no later than ten (10) days after the complainant knew, or reasonably should have known of the action that precipitated the alleged breach.

**4.** Steps

**A.** The complainant shall first discuss the alleged breach with the immediate supervisor outside the designated employee group with the objective of resolving the alleged breach. If the alleged breach is not resolved within ten (10) days, a written allegation of an alleged breach may be filed with the immediate supervisor with a copy to the Deputy Human Resources Manager. To be considered, the alleged breach must be submitted in a timely fashion and contain, at a minimum, what contractual provision(s) of this Memorandum of Understanding is alleged to have been violated, the facts constituting the alleged violation, and the relief sought.

**B.** If, after ten (10) days from the date the alleged breach is filed with the immediate supervisor the alleged breach is not resolved, an alleged breach may be filed with the Department Manager or his/her designee. No later than ten (10) days following receipt of the written alleged breach, the Department Manager or his/her designee shall hold a meeting in an attempt to resolve the alleged breach. Each party shall be entitled to bring documents and/or witnesses to the meeting in order to present evidence on their behalf. Each party shall have the right to cross-examine witnesses brought by the other party. Any non-City employee who is a witness will be paid by whichever party called them as a witness.

**C.** The Department Manager or his/her designee will have ten (10) days to render a decision. If the alleged breach is not resolved with the Department Manager's decision, the alleged breach may be submitted to the City Manager. To be considered, such alleged breach must be submitted within ten (10) days of the Department Manager's decision. Within ten (10) days of receipt of the alleged breach, the City Manager may either render a decision or require that the alleged breach be submitted to advisory arbitration. The Parties are then required to participate in the following advisory arbitration process.

5. Advisory Arbitration

   **A.** The Arbitrator will be selected from a list of seven (7) arbitrators requested from the Federal Mediation and Conciliation Service. The moving party to the arbitration shall strike the first name from the list. The parties shall alternately strike names until there is one name remaining who shall be the Arbitrator.

   **B.** The Arbitrator shall conduct the hearing as soon as possible.

   **C.** The Arbitrator's recommendation shall be in writing and shall include the recommendation, the rationale, and if appropriate, the recommended relief. The Arbitrator shall not have the authority to expand or add to the rights Unit Members or the Association has under the terms of this Memorandum of Understanding. The Arbitrator's recommendation shall be submitted to the City Manager and the Association Representatives.

   **D.** The Arbitrator's fees and costs shall be shared equally by the Parties. All other expenses shall be assumed by the Party incurring the costs, including the cost of witnesses if they are not City employees. The Parties may mutually agree to share the cost of providing a verbatim record of the proceedings.

   **E.** In the event that the City Manager does not require advisory arbitration, the Association may require advisory arbitration prior to appealing the City Manager's decision to the City Council. Such advisory arbitration shall be conducted pursuant to the provisions provided herein.

   **F.** In the event that either the City Manager or the Association requires advisory arbitration, the City Manager and the Association Representatives shall meet within ten (10) days of receipt of the advisory arbitration decision. Within ten (10) days of the meeting, the City Manager shall provide the Association with a written decision accepting, modifying or rejecting the Arbitrator's advisory decision.

6. Appeal to the Mayor and City Council

   **A.** If the Association Representatives are not satisfied with the City Manager's decision, within ten (10) days of receipt of that decision the Association Representatives may appeal to the Mayor and City Council.

7. Miscellaneous

   **A.** No reprisal or retaliation by any party shall be taken against any person who participates or is a witness in the proceeding of an alleged breach.

**B.** A complainant and the Party charged may be accompanied and represented at any hearing or meeting conducted under this procedure.

**C.** A Unit Member, acting individually, may present an alleged breach without the intervention of the Association provided that the alleged breach has been processed in accordance with this procedure. Any adjustment made shall not specifically violate the provisions of this Memorandum of Understanding.

**D.** If an alleged breach affects a group of two (2) or more Unit Members or involves an action or a decision by the City or the Department that has a Department-wide impact, the Association may submit the alleged breach on behalf of the affected Unit Member. If the Association presents an alleged breach for violations of this MOU, it will do so at the Department Manager's or his/her designee's level as provided in Section 4.B of this Article.

**E.** All documents related to an alleged breach shall be maintained as a separate file from a Unit Member's personnel file.

**F.** All alleged breaches and alleged breach responses shall be filed and processed in accordance with this Memorandum of Understanding. The Association acknowledges that this provision waives any right to take such a dispute to any other tribunal.

## Article 21 – Complete Agreement

1. The Parties agree that this is the complete and only agreement between the Parties once approved by the City Council. Each party has negotiated on all issues identified for negotiations and such negotiations have led to this agreement. No additional negotiations will be conducted on any item, whether contained herein or not, except by mutual agreement of the Parties. This Agreement replaces any and all previous agreements between the Parties.

2. This Memorandum constitutes the total and entire agreement between the Parties and no verbal statement shall supersede any of its provisions.

3. The parties acknowledge that this agreement is nullified and re-opened for negotiation if the general population of employees is not subject to the same or greater reduction of pay or benefits, or equitable fiscal off-set as determined by the Association.

# Article 22 – Term and Effect

1. This MOU shall become effective July 1, 2009 and remain in full force and effect until June 30, 2010.

2. Should any part hereof or any provisions herein be declared invalid by a court of competent jurisdiction, such invalidation of such part or portion of this Agreement shall not invalidate the remaining portions hereof and the remaining portions hereof shall remain in full force and effect for the duration of the Agreement.

With approval of the City Council, IN WITNESS HEREOF, the parties hereto have executed this MOU this _____ day of _____, 2009.

City of Tempe, a municipality:

_____
City Manager

APPROVED AS TO FORM:

_____
City Attorney

Tempe Supervisors' Association:

_____
Association Representative

ATTEST:

_____
City Clerk