



**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**CITY OF CATHEDRAL CITY**

**AND**

**CATHEDRAL CITY PROFESSIONAL FIREFIGHTERS ASSOCIATION  
(CCPFA)**

**January 1, 2015 – December 31, 2019**

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### FAMILY CARE AND MEDICAL LEAVE POLICY

Memorandum of Understanding between the City of Cathedral City and the Cathedral City Professional Firefighters Association, (CCPFA) Relating to Firefighting Employees. (January 1, 2015 to December 31, 2019).

This Memorandum of Understanding is entered into with reference to the following facts:

- A. The Cathedral City Firefighters Association is recognized under the provisions of the Meyers-Milias-Brown Act of the State of California as the majority representative of the following employees:

All sworn Firefighters, Firefighter/Paramedics and Fire Engineers of the City of Cathedral City below the rank of Captain.

- B. The Cathedral City Professional Firefighters Association (hereinafter sometimes referred to as "CCPFA"), and representatives of the City of Cathedral City (hereinafter sometimes referred to as the "City"), have met and conferred in good faith on wages, hours, and other terms and conditions of employment for the employees represented by CCPFA in the bargaining unit listed above, and have reached agreements which are set forth in this Memorandum of Understanding (hereinafter sometimes referred to as the "MOU" or "Agreement").

- C. This Memorandum of Understanding is established in accordance with the provisions of the Meyers-Milias-Brown Act (Government Code Section 3500, et seq.), effective only upon ratification by the City Council of the City of Cathedral City.

Subject to the foregoing limitations, CCPFA and the City of Cathedral City agree as follows:

ARTICLE 1  
SEVERABILITY

It is understood and agreed by the parties that this MOU is subject to all present and future applicable Federal and State laws and regulations, and the provisions hereof shall be effective and implemented only to the extent permitted by such laws and regulations. The parties hereto have bargained with regards to some provisions which are covered by the Fair Labor Standards Act, and, to the extent that the Fair Labor Standards Act permits employers and employee groups to contract for modification of the procedures otherwise utilized under the Fair Labor Standards Act, and to the extent that such modification is authorized by Federal law, the parties intend that this contract shall take precedence over the provisions of the Fair Labor Standards Act. If any part of this Agreement is in conflict or is found to be inconsistent with such applicable provisions of State or Federal law or regulation, or otherwise found to be invalid or unenforceable by any tribunal of competent jurisdiction, such part or provision shall be suspended, and the provisions of the applicable laws and regulations shall prevail; in such event, however, the remainder of this MOU shall not be affected thereby and shall remain in full force and effect.

ARTICLE 2  
STRIKES AND/OR JOB ACTIONS

CCPFA, on behalf of all of its members, agrees that neither CCPFA, nor its representatives, nor members of the CCPFA, shall engage in, cause, instigate, encourage, or condone a strike or job action of any kind during the term of this Agreement.

ARTICLE 3  
TERM

The term of this Agreement shall be from January 1, 2015 through December 31, 2019. This Agreement shall only be reopenable for the purpose to meet and confer regarding binding grievance arbitration at mid-term of the contract. Further, this agreement shall not be reopenable for any other purpose except by mutual agreement of the parties.

ARTICLE 4  
SALARY INCREASES

- 4.1 The City and CCPFA agree to the following schedule of salary increases to be effective with the start of the pay period following the designated dates:
- A. 2.5% effective following 01/01/2015
  - B. 4.5% effective following 07/01/2015
  - C. 4.0% effective following 01/01/2016
  - D. For increases following 01/01/2017 and 01/01/2018, Consumer Price Index (CPI)\* not less than 1.0% and not greater than 4.0% as published for the 12-month period concluding October 2016 and 2017, respectively.

\* CPI for all Urban Wage Earners for the Los Angeles-Riverside-Orange County area

ARTICLE 5  
WORK PERIOD AND WORK SCHEDULE

- 5.1 Work Period. The work period for firefighters, under the Fair Labor Standards Act's 7K exemption, is based on a cycle providing for consecutive work periods of twenty-four (24) days each.
- 5.2 Work Schedule. The work schedule for firefighters shall be a "48/96" schedule under which firefighters will work forty-eight (48) consecutive hours, followed by ninety-six (96) consecutive hours off from work.

ARTICLE 6  
GENERAL PROVISIONS

- 6.1 Equal Employment Opportunity. Appointments and promotions of individuals shall be made on the basis of job related standards of education, training experience, merit and ability. No appointment to or removal from a position in the City's personnel system shall be affected or influenced by any consideration of race, color, ethnic or national origin, age, sex, marital status, handicap, sexual

orientation, domestic partnership or political or religious opinion or affiliation, ancestry, or any other protected classification established by federal or California law.

- 6.2 Safety and Health. Each employee shall comply with the City's workplace safety policies, practices, rules and regulations. All employees shall follow safe practices, use personal protective equipment as required, render every possible aid to safe operations, and report all unsafe conditions or practices. Special equipment, if it is required, shall be provided by the City.
- 6.2.1 Intoxicants. Employees shall avoid consuming or using any alcohol or controlled substances at least eight (8) hours prior to reporting to work and at any time during the work day including lunch or dinner breaks; and employees shall not have in their possession any alcohol, unlawful drugs or controlled substances.
- 6.2.2 Safety Equipment. Any safety equipment required by the City or by OSHA regulations shall be provided and replaced by the City; an employee will be responsible for replacement of equipment damaged through abuse.
- 6.3 Employee Activities. During the employee's work day, he/she is expected to devote his/her full time in the performance of his/her assigned duties as a City employee. No employee shall engage in any outside employment, enterprise, or remunerated activity without the prior approval of his/her department head or appointing power. At no time shall any such outside employment or activity be conducted on City time. No employee shall engage in any employment, outside activity or enterprise which is inconsistent, incompatible, in conflict with, or interferes with his/her ability to perform the duties, functions or responsibilities of his/her position as a City employee, nor shall he/she engage in any outside activity which will directly or indirectly contribute to the lessening of his/her effectiveness as a City employee. No employee shall engage in any type of activity relating to an employee organization during such time as employee is on duty, except as expressly permitted by the City Manager or designee, State and Federal laws, MOU, or Council resolution.
- 6.4 Inconsistent Employee Activities. In making a determination as to the consistency or inconsistency of outside activities, the department head or appointing power shall consider, among other pertinent factors, whether the activity:
- a. Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the City for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course of his/her City employment as a part of his/her duties as a City employee; or
  - b. Involves conditions or factors which would be incompatible or in conflict with the duties, functions or responsibilities of the employee in his/her regular City employment; or
  - c. Involves the performance of an act in other than his/her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement of any other officer or employee or the agency by which he/she is employed; or
  - d. Involves such time demands as would render performance of his/her duties as a local agency officer or employee less efficient; or
  - e. Involves the use for private gain or advantage of City time, facilities, equipment and supplies, prestige, influence, or confidential information of one's City office or employment; or

f. Involves the solicitation of future employment with a business having business transactions with the City over which the employee has some control or influence in his/her official capacity at the time of the transaction.

6.5 Improper Use of City Equipment Prohibited. No City-owned equipment, autos, trucks, instruments, tools, supplies, machines, badges, identification cards, or other items which are the property of the City shall be used by an employee for personal use except upon prior approval of the employee's department head or appointing power or designee duly authorized to give such approval.

6.6 Political Activity. Except as necessary to meet Federal, State and local law requirements, no restrictions shall be placed on the political activities of any officer or employee of the City of Cathedral City. All employees shall comply in full with the provisions of Government Code sections 3200-3209 regarding political activity.

6.7 Criminal Conviction - Ineligibility for Employment. Except as otherwise hereinafter provided, no person convicted of a felony, or of a misdemeanor involving moral turpitude, shall be eligible for employment in the service of the City; provided, however, that the City Manager may disregard such conviction, if he/she finds and determines that mitigating circumstances exist, such as, but not limited to, evidence of rehabilitation, length of time elapsed since such conviction, the age of the person at the time of conviction, or the fact that the employee's work would be totally unaffected by the conviction.

The City Manager and his/her authorized designees are hereby authorized to have access to the "State Summary Criminal History Information" as provided for in Section 11105 of the Penal Code of the State of California, in order to enable the City Manager to fulfill his/her duties in the employment, supervision and termination of City employees.

6.8 Smoking. City employees are encouraged not to smoke as it is a proven detriment to health, safety and productivity. Smoking is not allowed in City buildings; employees must smoke out-of-doors.

6.9 Shift Trades. City and employees of CCPFA agree to comply with all requirements of FLSA section 7(p)(3) and regulation section 29 CFR section 553.31 as follows:

1. FLSA provision: 29 USC section 207(p)(3):

(p) Special detail work for fire protection and law enforcement employees; occasional or sporadic employment; substitution (3) If an individual who is employed in any capacity by a public agency which is a State, political subdivision of a State, or an interstate governmental agency, agrees, with the approval of the public agency and solely at the option of such individual, to substitute during scheduled work hours for another individual who is employed by such agency in the same capacity, the hours such employee worked as a substitute shall be excluded by the public agency in the calculation of the hours for which the employee is entitled to overtime compensation under this section.

The US Dept. of Labor regulation, 29 CFR section 553.31:

Sec. 553.31 Substitution--section 7(p) (3).

(a) Section 7(p)(3) of the FLSA provides that two individuals employed in any occupation by the same public agency may agree, solely at their option and with the approval of the public agency,

to substitute for one another during scheduled work hours in performance of work in the same capacity. The hours worked shall be excluded by the employer in the calculation of the hours for which the substituting employee would otherwise be entitled to overtime compensation under the Act. Where one employee substitutes for another, each employee will be credited as if he or she had worked his or her normal work schedule for that shift.

- (b) The provisions of section 7(p)(3) apply only if employees' decisions to substitute for one another are made freely and without coercion, direct or implied. An employer may suggest that an employee substitute or "trade time" with another employee working in the same capacity during regularly scheduled hours, but each employee must be free to refuse to perform such work without sanction and without being required to explain or justify the decision. An employee's decision to substitute will be considered to have been made at his/her sole option when it has been made (i) without fear of reprisal or promise of reward by the employer, and (ii) exclusively for the employee's own convenience.
- (c) A public agency which employs individuals who substitute or "trade time" under this subsection is not required to keep a record of the hours of the substitute work. In order to qualify under section 7(p)(3), an agreement between individuals employed by a public agency to substitute for one another at their own option must be approved by the agency. This requires that the agency be aware of the arrangement prior to the work being done, i.e., the employer must know what work is being done, by whom it is being done, and where and when it is being done. Approval is manifest when the employer is aware of the substitution and indicates approval in whatever manner is customary.

6.10 Organized Mess. All members assigned to a fire station shall participate in an organized mess for the consumption of meals while on duty. Participation shall be at a charge equal to the value of the meal irrespective of whether the employee chooses to eat the meal. Members may be exempted for medical, religious or weight reduction reasons. Otherwise, participation is mandatory.

The City shall not be responsible financially or otherwise for the cost, preparation thereof or the collection of any funds of an organized mess. The City shall not be responsible for maintaining any records or providing administration regarding this provision.

## ARTICLE 7 MANAGEMENT RIGHTS

7.1 Exclusive Control of Certain Aspects. The City of Cathedral City retains all its exclusive rights and authority under State law to act unilaterally and without the obligation to meet and confer, subject to impact bargaining, and expressly and exclusively retains its management rights, which include, but are not limited to:

- a. the exclusive right to determine the mission of its constituent departments, commissions, boards;
- b. set standards and levels of service;
- c. determine the procedures and standards of selection for employment and promotions;
- d. direct its employees;
- e. establish and enforce dress and grooming standards;

- f. determine the methods and means to relieve its employees from duty because of lack of work or other lawful reasons;
- g. maintain the efficiency of governmental operations;
- h. determine the methods, means and numbers and kinds of personnel by which government operations are to be conducted;
- i. determine to create or abolish job classifications and to determine the content and intent of job classifications, subject to impact bargaining;
- j. determine methods of financing;
- k. determine style and/or types of City-issued wearing apparel, equipment or technology to be used;
- l. determine and/or change the facilities, methods, technology, means, organizational structure and size and composition of the work force and allocate and assign work by which the City operations are to be conducted;
- m. determine and change the number of locations, relocations and types of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract for or subcontract any work or operations of the City;
- n. assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments upon reasonable notice;
- o. establish and modify productivity and performance programs and standards;
- p. discharge, suspend, demote, reprimand, withhold salary increases and benefits or otherwise discipline employees in accordance with applicable law;
- q. establish employee performance standards including, but not limited to, quality and quantity standards, and to require compliance therewith; take all necessary actions to carry out its mission in emergencies; and
- r. exercise complete control and discretion over its organization and the technology of performing its work.

7.2 Not Subject to Grievance Procedure. The exercise by the City through its Council and management representatives of its management rights as set forth above shall not in any way, directly or indirectly, be subject to the grievance procedure.

## ARTICLE 8 COMPENSATION

8.1 Salary Advancement - Full-time Employees. Except as otherwise provided in this Article, full-time employees may be considered for an increase in salary according to the following rules:

- a. Advancement to a next higher merit increase step may be made after a twelve (12) month interval from the hire date or the date of the last merit increase, whichever is most recent, for continued satisfactory service.
- b. Advancement to the next higher merit increase step shall not be automatic. Such salary increase or denial of salary increase shall require the specific recommendation, through a performance evaluation, of the employee's department head and the approval of the Human Resources Manager. When an employee is denied an increase, specific recommendations shall be provided to assist the employee to attain a satisfactory level of performance. Periodic (at least quarterly) performance evaluations, shall be provided until satisfactory performance is attained.

- c. Advancement to merit steps 6, 7 and 8 may occur after two (2) years satisfactory service in the next preceding step in the respective salary range. Any such advancement shall be granted only as a result of a written evaluation of continued meritorious and efficient service and continued improvement by the employee in the effective performance of the duties of his/ her position.
- d. For employees hired prior to January 7, 2015, a longevity increase of 7.5% of base pay shall occur after fifteen (15) years of service to the City, 5% after twenty (20) years of service, and 2.5% after twenty-five (25) years of service. Employees hired on or after January 7, 2015 are not eligible for the longevity provisions described in this section.

8.2 Salary on Promotion. Any employee who is promoted to an open position in a class with a higher salary range shall be placed on Step A in the new higher range or placed at the step which provides at least a minimum 5% salary increase for the employee, not to exceed the highest merit increase step of the new range. The employee's merit review date shall change to the effective date of the promotion for consideration in subsequent years.

When economic conditions, unusual employment conditions or exceptional qualifications of a candidate for promotion indicate that a higher merit increase step would be in the City's best interests, upon written recommendation of the department head, the City Manager may authorize payment of salary at a higher merit increase step in the salary range.

8.3 Salary on Demotion. Any employee who is demoted may be placed at a lower step, or may be placed at a step in a lower range or may be placed at step "Y" which is equal to the employee's current salary step. The employee's merit review date shall not change.

An employee receiving Step "Y" shall remain in the Step "Y" until such time as the position is assigned to a salary range in which the last step is equivalent to or higher than the Step "Y", at which time the employee shall be placed in the next highest step. Such employee shall not receive salary adjustments until such time as Step "Y" is equivalent to or less than the highest merit increase step of the salary range of the employee's position.

8.4 Salary on Reinstatement. An employee who resigned in good standing may, within one (1) year of such resignation and upon recommendation of the department head and approval of the City Manager, be reinstated in a position in the class in which the employee had previously served, subject to an available budgeted position. Upon such reinstatement, the employee shall not receive a salary higher than the step in the salary range the employee previously received prior to the employee's separation. The employee shall be given a new merit review date, as if a new hire.

8.5 Special Salary Adjustments. A department head may recommend in writing to raising an employee's salary step to a higher merit increase step prior to the eligibility times specified in this article so as to recognize meritorious service, advanced educational achievements or other extraordinary attributes related to the employee's public service. Such increased compensation is subject to the approval of the City Manager and the availability of budgeted funds. The employee's merit review date shall not change.

8.6 Overtime. A department head may require an employee to work beyond the employee's regular hours of employment. As a 24-hour employee, a regular schedule includes eight (8) 24-hour shifts during a 24-day work cycle for a total of 192 hours. Of the 192 hours, 10 hours shall be paid at the overtime rate of

pay. If an employee works in excess of 192 hours during the 24-day work cycle, such employee shall be paid the overtime rate of pay. All hours are to be considered "hours worked" with sick leave being the only exception, for the purpose of calculating overtime rate of pay, for hours in excess of a regular schedule.

- 8.7 Payment of Overtime. All overtime hours worked during the standard 14-day pay period shall be paid at straight time on the regular biweekly pay schedule. Upon completion of the 24-day work cycle, the balance of payment for overtime worked during that cycle shall be paid as "true-up" subject to sick leave provisions defined in Article 8.6.
- 8.8 Other Compensatory Time Off. The City Manager may grant compensatory time off to any City employee in unique situations where actions of the employee, over and above the call of duty, clearly merit such consideration.
- 8.9 Acting Appointments. Firefighters, who are department-certified drivers, shall be compensated five (5%) during those periods while serving working out of class as the designated Fire Engineer. The working out of class pay will not apply to those members that have not completed their probationary period.

The City may, at its discretion, appoint a qualified employee to serve as acting Captain which is vacant due to separation, extended illness or leave without pay. To be eligible for acting pay, the employee must be qualified to perform the duties in the higher classification.

Employees assigned to acting appointments will be placed on Step A of the salary range established for the position in which they are serving. If Step A does not provide the employee with additional compensation, the employee will be placed on a step that provides no less than a five percent (5%) increase in compensation, but shall not exceed the maximum salary range level established for the position in which they are serving.

- 8.10 Compensation for Layoff. An employee who is terminated from the classified service of the City as a result of a layoff shall be paid for accrued vacation and accrued overtime.

Accrued sick leave shall be restored to an employee if the employee is reemployed within one (1) year. Should an employee be reemployed in the formerly held position, the employee shall be placed at the same salary step as when the layoff occurred. No credit shall be received toward a step increase or seniority during the period of layoff.

Employees who have attained regular status at the time of layoff and who are reemployed within a period of one (1) year shall retain their assigned merit review dates. Regular employees who are reemployed after a period of one (1) year will be assigned a new merit review date.

For employees hired on or after November 25, 2012, in lieu of the ability to convert sick leave to vacation leave, the City shall provide severance pay equivalent to one (1) week base salary for every one (1) year of service with the City up to a maximum of twelve (12) weeks of severance pay. No severance will be paid to those employees offered employment resulting from government reorganization. For example, should the City choose to participate in a Fire District, Joint Powers Authority, or offer services by any other means whereby the City facilitates the continued employment of existing employees, no severance will be paid.

- 8.11 Compensation during Suspension. An employee who is suspended with pay under the disciplinary procedures of Article 12 shall be paid that salary the employee was entitled to prior to the suspension. An employee who is suspended without pay under the disciplinary procedures of Article 12 shall not be paid for those specific days of suspension. Additionally, an employee suspended without pay shall not accrue sick leave, vacation, seniority or other benefits during a suspension of more than nine (9) shifts, except that health and life insurance benefits will be maintained.
- 8.12 Salary on Voluntary Demotion. At the discretion of the City Manager, any employee who elects to take a voluntary demotion may be placed at a lower step, or may be placed at a step in a lower range or may be placed at Step "Y" which is equal to the employee's current salary step. The employee's merit review date shall not change.
- An employee receiving Step "Y" shall remain in the Step "Y" until such time as the position is assigned to a salary range in which the highest merit increase step is equivalent to or higher than the Step "Y" at which time the employee shall be placed in the next higher merit increase step. Such employee shall not receive salary adjustments until such time as Step "Y" is equivalent to or less than the highest step of the salary range of the employee's position.
- 8.13 Bilingual Pay. Employees who have the ability to fluently converse in a second language may be designated as a bilingual employee required to use their skills as a part of their City employment. This designation must be made by the Fire Chief or designee and approved by the City Manager or designee in writing. Designated employees shall receive a lump sum payment in the amount of \$208.00 on or before July 1 of each year. In addition, such employees shall receive bilingual compensation of \$0.50 per hour unless or until said compensation is voluntarily eliminated by the employee. The basis for qualifying for such bonus compensation and the procedures for the granting of the same shall be in accordance with administrative regulations. Eligible employees must successfully pass an initial certification and an annual recertification test to receive such designation on or about July of each year.
- 8.14 Compensation for Vehicle Use. An employee shall be compensated for use of the employee's personal vehicle on City business under rules set forth by the City Manager and at the rate set by City Council resolution.
- 8.15 Restitution. An employee may be required in a manner approved by the City Manager under the provisions of Section 8.15 to provide restitution to the City for willful, reckless, wanton or malicious destruction of City property.
- 8.16 Correcting Errors in Salary Rate and Other Provisions. Should an employee be advanced to a higher step in the salary range for his/her class than that for which he/she was recommended, or receive additional salary than that authorized, or accrue leaves or receive other benefits through error, such error shall be corrected immediately following its discovery. Reimbursement to the City by the employee of the overpayment caused by said error shall be made by one of the following methods or a combination thereof:
- a. Application of accrued equivalent time off for overtime service;
  - b. Application of equivalent time off for overtime service earned during the time immediately following the date of the discovery of said error;

- c. Application of the increase in the employee's salary following his/her next merit or longevity merit salary increase; or
- d. Any other method mutually agreed to.

Determination of which one or combination of the above methods of reimbursement should be used shall be made by the department head subject to the approval of the City Manager. Should the employee terminate before full reimbursement to the City has been made the money required to complete reimbursement shall be deducted from his/her last paycheck, if authorized by law. However, the City shall not collect for any period earlier than an overpayment for the preceding twelve (12) months from discovery. Other salary overpayments shall be reimbursable under the procedures and guidelines set forth in this Section.

8.17 Paramedic Assignment Differential.

Any engineer who is fully qualified and licensed as a paramedic shall be paid 5% of the applicable engineer pay range to which the employee is entitled when actually assigned to serve as a paramedic.

8.18 D.M.V. Instructor Differential. Any firefighter, firefighter/paramedic or engineer who is certified by the California Department of Motor Vehicles to provide class A and/or B driver's license instruction and is directed to provide such instruction to other City employees shall receive a five percent (5%) stipend during the period of time he or she is assigned to provide such instruction.

ARTICLE 9  
RECRUITMENT AND SELECTION

9.1 Physical Requirements. The City Manager may require that all applicants and employees be in such physical and mental condition as reasonably necessary to perform the essential duties of their job, with or without reasonable accommodation, and may require a medical or psychological evaluation at City's expense at any time on a showing of good cause. No employee shall hold any position in a classification in which he/she cannot physically or mentally perform all the essential duties of the job adequately or without creating unreasonable risk of injury to himself/herself or others with or without reasonable accommodation. Within the limitations indicated, the City's policy shall be to make such efforts as are consistent with the provisions of this Agreement to place physically or mentally disabled employees in such positions as are available in the City service for which they are qualified to perform the essential functions, with or without reasonable accommodation, and will not create unreasonable risk to the health and safety of themselves and others.

9.2 Separation. An employee in the classified service may be separated from employment with the City through retirement, mental or physical inability to perform the duties of the job, resignation, probationary failure, death, dismissal or layoff. An employee wishing to resign shall file with the employee's supervisor a written resignation stating the effective date. Such resignation shall be presented at least two (2) weeks before leaving the service. The resignation shall be immediately reported to the Human Resources Manager. The other forms of separation described above are explained elsewhere in this MOU. Prior to separation, an employee must return all City items issued to him/ her in order to receive final compensation, failing which the City may withhold from final compensation, to the extent permitted by law, the reasonable value of unreturned property.

ARTICLE 10  
PROBATION

- 10.1 Firefighting Employees. The first eighteen (18) months or 4200 working hours, whichever is greater, after a classified service full-time employee has been appointed shall be a probationary period. For Fire Engineer, an employee serves a probationary period of one (1) year or 2400 working hours, whichever is greater.
- 10.2 Probation on Promotion or Reinstatement. Except as otherwise provided, on accepting a reinstatement or an appointment to a different classification, an employee serves a new probationary period -based on provisions of Article 10.1 for his/her job classification. Promotions or reinstatements will not be permanent until the successful completion of this probationary period.
- 10.3 Objective of Probationary Period. The work and conduct of probationary employees shall be subject to close scrutiny and evaluation. The probationary period shall be regarded as a part of the training and examination process and shall be used for securing the most effective adjustment of a new employee to a position. Individuals employed under City public employment programs, specially funded programs or contracts shall be subject to the probationary provisions of these Rules should they be appointed to a position in the classified service. A probationary employee may be released at any time at the discretion of the City.
- 10.4 Satisfactory Completion of Probation Period. If a probationary employee's probation period has been satisfactory, and advancement to regular status is warranted, the department head shall so recommend on a Personnel Action Form together with a performance evaluation submitted to the Human Resources Manager. The City Manager, upon receipt of these documents, may authorize the end of the employee's probationary period by the execution of a Personnel Action Form. The employee shall only then be advanced to regular status upon completion of the probationary period.
- 10.5 Unsuccessful Probation Period. If a probationary employee's initial probation period has not been satisfactory, it shall be so stated in a Personnel Action Form. The City Manager, by signing the Personnel Action Form, may authorize the dismissal of the employee. A probationary employee may be dismissed at any time without cause and without the right of appeal or grievance unless otherwise required by law. Notification of dismissal shall be in writing and shall be given to the probationary employee prior to the dismissal unless otherwise required by law.
- 10.6 Unsuccessful Reinstatement of Promotion Probation. If an employee's performance following reinstatement or promotion has not been satisfactory, it shall be so stated in a performance evaluation. In cases involving reinstatement, the City Manager, upon receipt of a performance evaluation, may authorize the dismissal of the employee under the provisions of Section 11. In cases including unsuccessful probation, the employee shall be returned to his/her prior position provided the position is vacant. If no vacancy exists in the employee's prior position, the employee will be returned to the first available vacant position for which he/she is qualified.
- 10.7 Probation Following Layoff. Employees laid off while on probation must serve a new probationary period following reemployment. (See Article 10.2.)

- 10.8 Voluntary Probation. By mutual written agreement between the City and the employee, approved by CCPFA in writing, a new or additional probationary period may be established for any employee. Such agreement shall not be effective without CCPFA approval.

ARTICLE 11  
EMPLOYEE LAYOFF PROCEDURES

- 11.1 Purpose of Layoffs. For reasons of economy, of efficiency, or in the interest or mandate of the public, reductions or curtailments of the City services may be required. Whenever, in the judgment of the City Council, it becomes necessary, the City Council may abolish any position or employment and the employee holding such position or employment may be laid off.
- 11.2 Abolishment of Position(s). When layoffs are to occur, the City Manager shall prepare a list of those positions to be abolished in each department. For each affected department, the City Manager shall assemble a list of those employees within the classification designated for a position abolishment. Such list shall be forwarded to the appropriate department head. The department head shall prepare a list establishing the order of employee layoffs within a classification.
- 11.3 Notification of Layoff. When a layoff is to occur, the City will notify the employee and the designated bargaining unit representative at least thirty (30) calendar days prior to the effective date of layoff. It is understood that, during this period, bargaining unit representatives may submit recommendations regarding layoff alternatives, such as reductions in hours, freezing merit pay increases or other similar programs which will result in a reduction of the City's labor costs.

The notice provided to the bargaining unit representative shall contain reason(s) for the reduction, the specific job classifications and numbers within each classification that shall be reduced, and opportunities for placement of affected employees.

The bargaining unit representative shall respond to the City within fifteen (15) days following notice.

- 11.4 Order of Layoff.
- 11.4.1 Temporary, interim and probationary employees within the unit shall be laid off prior to the layoff of any regular employee within the unit.
- 11.4.2 There shall be "bumping rights" within the CCFMA and CCPFA membership such that an individual in a higher ranking position, if meeting bona fide occupational qualifications (BFOQ) for that class, may "bump" into a lower rank if layoffs occur, per seniority order on the reemployment list. The individual must have held a position in the lower rank within the Cathedral City Fire Department. If any member is bumped into a lower position and had not completed probation, then that member must complete probation for that rank; however, the employee is still considered a regular/permanent employee for the purposes of bumping rights. (For example, a Firefighter/Paramedic promotes to Engineer and completes three months of the 12-month probation. He is then promoted to Fire Captain, but subsequently bumps back to Engineer as a result of layoff. That employee would need to complete the remaining nine months of probation for Engineer.)

11.4.3 For those members of the Association who are laid off, the City shall be obliged to return them to the classification from which they were laid off, per seniority order on the reemployment list, if an opening in that classification should occur within one (1) year of the effective date of the layoff. Any reinstated employee shall serve an initial probationary period as specified in Section 10.2.

11.4.4 Seniority in a member's "bumped" class shall consist of time in rank from their previous class, plus time in class from their last previously held classification. (Example: five (5) years as an Engineer plus five (5) years as Captain equals ten (10) years of seniority brought to the "bumped" class.) The member "bumping" back must meet the BFOQ for the class into which he/she is bumping.

11.4.5 Any member who is "bumped" down will have the first right to "bump back" to the original position they were "bumped" from, regardless of any current promotional lists established. The member "bumping back" must meet the BFOQ for the class to which he/she is bumping.

11.5 Layoff Appeal. A regular employee shall have the right to request review on appeal. Such request must be made in writing to the City manager within five (5) City Hall business days after receipt of a layoff notice. The City Manager shall prepare and deliver a decision on the appeal within five (5) City Hall business days after receipt of the appeal.

The scope of the appeal shall not include such issues as the need for layoff, the reasons for layoff, the extent of layoff, the classifications selected for layoff, or the exercise of other City prerogatives involved in layoff. The issues of such appeal shall be limited only to whether or not there was substantial compliance with the procedures for layoffs and the established order of departmental layoff within a classification.

The City Manager's decision shall be final.

## ARTICLE 12 CONDUCT AND DISCIPLINE

12.1 Standards of Conduct. It is expected that all City employees shall render the best possible service and reflect credit on the City, and therefore high standards of conduct are essential.

12.2 Improper Employee Conduct. Improper conduct may be caused for disciplinary action up to and including termination of employment. The term "improper conduct" means not only any improper action by an employee in the employee's official capacity, but also conduct by an employee not connected with the employee's official duties that affects the employee's ability to perform official duties, and any improper use of the position as an employee for personal advantage. In addition, improper conduct includes, but is not limited to, the following:

12.2.1 Violation of any Federal, State, or local law directly impacting the employee's fitness for employment.

12.2.2 Using, possessing, dealing, distributing, or being under the influence of alcoholic beverages, prescribed medication which impairs the employee's ability to perform his/her work, unprescribed medication, narcotics or unlawful drugs, or controlled substances while on duty

or at work locations, or reporting to work or operating City vehicles, equipment or performing his/her duties under the influence of alcohol or any unlawful or unprescribed drug or controlled substance.

- 12.2.3 Unauthorized sleeping while on duty.
- 12.2.4 Disorderly conduct: fighting, threatening, attempting to inflict bodily injury on another; engaging in dangerous horseplay.
- 12.2.5 Failure or refusal to comply with a lawful order or to accept a reasonable and proper assignment from an authorized supervisor or City management official.
- 12.2.6 Inefficiency, incompetence, carelessness, or negligence in performance of duties.
- 12.2.7 Sexual harassment or other unlawful harassment of another employee.
- 12.2.8 Chronic or excessive absenteeism or inconsistent attendance.
- 12.2.9 Rude or discourteous treatment of other employees or the public.
- 12.2.10 Dishonesty.
- 12.2.11 Political activity in violation of the law.
- 12.2.12 Gambling or promotion of gambling on City premises or while on duty.
- 12.2.13 Endangering the safety or causing injury to any employee including himself/herself or the public.
- 12.2.14 Unauthorized disclosure of confidential information as defined by law or by written directive of the City or respective department.
- 12.2.15 Using the position for financial gain; using the position to solicit work for private business or personal acquaintance or solicitation of work for private business or personal acquaintance while on duty or in uniform.
- 12.2.16 Failure to perform duties; insubordination.
- 12.2.17 Inattention to duty, tardiness, carelessness or negligence in the care and handling of City property.
- 12.2.18 Loss or misuse of City funds.
- 12.2.19 Covering up or attempting to conceal defective work, removing or destroying same without permission.
- 12.2.20 Improper or unauthorized use of City vehicles or equipment or misappropriation of supplies.
- 12.2.21 Damage to public property or waste of public supplies through misconduct or negligence.
- 12.2.22 Misuse of sick leave, including using sick leave under false pretenses.
- 12.2.23 Furnishing false information to secure appointment, or falsification of time cards or other records and reports.
- 12.2.24 Absence from duty without authorized leave, failure to report after leave of absence has expired or after such leave of absence has been disapproved, revoked, or canceled.
- 12.2.25 Violation of the provisions of these rules and regulations, departmental rules and policies, or any written policies that may be prescribed by the City.
- 12.2.26 Acceptance by an employee of any bribe, gratuity, kickback, or other item of value when such is given by or on behalf of a donor with a motivation of receiving preferential treatment.
- 12.2.27 Outside work that creates a conflict of interest with City work, or detracts from the efficiency of the employee in the effective performance of City functions.
- 12.2.28 Failure to obtain or maintain necessary qualification, certificate, or license, which is required as a condition of employment.
- 12.2.29 Possession of an unsafe driving record for those employees required to operate City vehicles.
- 12.2.30 Conduct which discredits the City or City personnel.
- 12.2.31 Or other just cause.

12.3 Disciplinary Action. The purpose of disciplinary action is to correct deficiencies in employee performance, to seek improvement to meet appropriate standards, and/or to correct for violation of City policies. The disciplinary process outlined below has been established to provide general guidelines for a fair method for disciplining employees.

Discipline may be initiated for various reasons, including, but not limited to, violations of City work rules, insubordination or poor job performance. The severity of the action depends on the nature of the offense and an employee's record, and may range from verbal counseling to immediate dismissal.

12.3.1 The normal progressive discipline procedure consists of:

12.3.1.1 Verbal Counseling: An opportunity to communicate in a non-disciplinary fashion that a problem is perceived and that the supervisor is available to help solve it. (Not appealable)

12.3.1.2 Verbal Reprimand: To communicate to the employee that a repeat action may result in more serious disciplinary action. A written record of a verbal reprimand is not considered a written reprimand. (Not appealable)

12.3.1.3 Written Reprimand: A written communication to the employee that the same or related offense has been committed. A copy of this warning is given to the employee and one copy is filed in the employee's personnel file. Employee may submit a written response within thirty (30) calendar days per the Firefighters Procedural Bill of Rights. The employee's response will be attached to the written reprimand

12.3.1.4 Suspension: Temporary removal of an employee from his/her duties without pay for cause. Employees may be suspended on the spot by their immediate supervisor when there is a clear threat to the safety of other employees or the public. (Managers must notify the Human Resources Manager when instituting an on-the-spot suspension as soon as it is practical.)

12.3.1.5 Demotion: This step involves either the reduction in pay step or reduction in class.

12.3.1.6 Dismissal: The final step in the disciplinary process.

12.3.2 Although one or more of these steps may be taken in connection with a particular employee, no formal order or system is necessary. The City reserves the right to deviate from this policy when it feels that circumstances are so severe that such a deviation is warranted. The City Manager or designee is vested with the authority to determine the appropriate course of action.

12.3.3 Further steps in the discipline process involving suspension, demotion or dismissal should not be taken without consulting the department head and the Human Resources Manager.

12.3.4 Those employees covered by the Firefighters Procedural Bill of Rights will be treated accordingly.

12.3.5 Suspension, Demotion, Dismissal. Subject to the Hearings and Appeals Procedures specified in Section 12.4.2, the City may:

12.3.5.1 Impose a suspension without pay upon an employee when, in his/her judgment, such action will best serve the interests of the City. Such suspension shall, however, not exceed a period of thirty (30) working days except that if the suspension is imposed because of an employee's trial by a court of law, the suspension may extend to such time as that court has rendered its decision.

12.3.5.1.1 Brief Suspension without Pay. When, in the opinion of the department head, circumstances warrant, a suspension of thirty-six (36) working hours or less may be imposed informally, without complying with the formal procedures commonly referred to as "Skelly Procedures." Prior to the imposition of such discipline, the department head shall explain appropriate department standards and policies, employee performance expected in the future, and consequences for failure to correct performance or behavior. A written record of the discipline, including a full, accurate and factual statement of the reason therefore, shall be sent to the Human Resources Manager to be placed in the employee's personnel folder. Within thirty (30) calendar days after the date the discipline is imposed, the employee may respond in writing and have such response placed in the employee's personnel folder. The employee may appeal the suspension to the City Manager or designee within ten (10) City Hall business days of the notice of suspension. The City Manager will render a decision within thirty (30) calendar days and said decision shall be final.

12.3.5.1.2 Longer Suspension without Pay. When the employee's conduct has been continuous or repeated, and lesser penalties are inadequate or have proved ineffective, the department head may impose suspension without pay in excess of thirty-six (36) hours. Such longer term suspension shall occur only after the notice procedures specified in Section 12.3.5.1.1 and shall be subject to appeal in accordance with Section 12.4.2.

12.3.5.2 Demote a regular employee to a position in a lower class with an appropriate reduction in pay or a reduction in pay step, for reasons including, but not limited to, unsatisfactory performance.

12.3.5.3 Dismiss for cause any regular employee.

12.3.5.4 Only discipline involving suspension, demotion, or dismissal is subject to an appeal (except those employees covered by the Public Safety Officers Procedural Bill of Rights).

## 12.4 Hearings, Appeals and Grievances.

### 12.4.1 Pre-Discipline Meeting Procedures.

12.4.1.1 Prior to undertaking any of the personnel actions set forth in Section 12.3 at or greater than the level of reprimand, the department head, or designee shall first provide the employee with a written specification of reasons for the proposed action and all

documents relied on to support the action being taken. The statement shall either be delivered personally to the employee or sent by Certified Mail, Return Receipt Requested, and shall notify the employee of his/her right to request a meeting with the department head. The employee may, accordingly, request a meeting to determine if there is cause for the proposed personnel action. A request for a meeting must be in writing and must be delivered to the department head on or before five (5) City Hall business days after the employee's receipt of notice of intended action.

12.4.1.2 Upon receipt of the Request for Meeting, the department head shall notify the employee of the time and place for a meeting to be held not later than ten (10) working days after receipt of the request therefore. The employee shall be entitled to be present at such meeting together with an attorney and/or designated representative. The meeting is to be conducted by the department head or designee and shall provide the employee with the opportunity to refute, explain, or otherwise address the proposed statement of charges. All decisions of the department head or designee shall be rendered within ten (10) working days after conclusion of the meeting, and shall be final unless timely appealed by the employee as provided in the section entitled, "Appeals Procedures."

#### 12.4.2 Appeals Procedures.

12.4.2.1 Any regular employee subjected to any disciplinary action set forth herein (suspension, demotion, or dismissal) may appeal any decision of the department head or designee by filing a written Notice of Appeal with the City Manager or designee within five (5) working days after his/her receipt of the decision. The employee's appeal shall be heard by an impartial hearing officer selected in a manner mutually agreeable to the City Manager and the employee; if no agreement is reached the hearing officer shall be selected from a list of advisory arbitrators from the California State Mediation Conciliation Service or from a list agreed to between the City Manager and the employee. The hearing officer shall be selected from such a list of an odd number of names by alternate striking until only one name appears.

12.4.2.2 The employee may be represented by his/her Association/Union representative, any other regular employee of the City, or his/her attorney.

12.4.2.3 The Hearing Officer shall issue subpoenas to compel the attendance of witnesses, if such be necessary at the request of either party.

12.4.2.4 The hearing shall be recorded by a certified shorthand reporter. Expenses for such recording services shall be borne equally by the City and the Association when the Association supports the merits of the cause in writing; provided, however, that each party shall be responsible for any specialized or extraordinary services they might individually request.

12.4.2.5 The expenses for the hearing officer shall be borne equally by the City and the Association when the Association supports the merits of the cause in writing, and each party shall be responsible for expenses they incur.

12.4.2.6 After the close of the hearing the Hearing Officer shall prepare written findings of fact and conclusions of law based on the evidence presented at the hearing, and shall present his/her findings to the City Manager and the employee within thirty (30) calendar days. In rendering a recommendation, the Hearing Officer shall be limited to

the express terms of this document and shall not have the power to modify, amend, or delete any terms or provisions of this document. Failure of either party to insist upon compliance with any provision of this document at any given time or times under any given set or sets of circumstances shall not operate to waive or modify such provision, or in any manner whatsoever to render it unenforceable, as to any other time or times or as to any other occurrence or occurrences, whether the circumstances are, or are not, the same.

- 12.4.2.7 At the hearing, both the appealing employee and the City shall have the right to be heard and to present evidence.
- 12.4.2.8 Oral evidence shall be taken only on oath or affirmation.
- 12.4.2.9 Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issue even though the matter was not covered in the direct examination, to impeach any witness regardless of which party first called him/her to testify, and to rebut the evidence against him/her. If the respondent does not testify in his/her own behalf, he/she may be called and examined as if under cross-examination.
- 12.4.2.10 The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules that might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.
- 12.4.2.11 The City Manager or designee may, if he/she deems appropriate, review the Hearing Officer's recommendation but shall not be bound thereby. If the City Manager makes a decision not to follow the Hearing Officer's recommendation, the City Manager shall notify the employee in writing of that decision, and the employee shall have the right to schedule a meeting with the City Manager to persuade the City Manager to follow the Hearing Officer's recommendations. The employee must submit a written request to meet with the City Manager within five (5) working days of receipt of the Hearing Officer's recommendation. The City Manager shall render a decision in writing within ten (10) working days of the meeting or ten (10) working days of the opportunity to meet. The City Manager's decision shall be final and binding, subject only to review by the courts under the procedures set forth in Code of Civil Procedure Section 1094.5 (writ of mandate), subject to the 90 day limit for filing such petitions pursuant to section 1094.6 of Civil Code.

If any provision of Sections 12.4.1 and 12.4.2 are inconsistent with the employee rights set forth in the Firefighter Procedural Bill of Rights, the rights set forth in the Firefighter Procedural Bill of Right shall prevail.

ARTICLE 13  
ATTENDANCE AND LEAVES

- 13.1 Attendance at Work; Absence without Leave. Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays, and leaves. All departments shall keep daily attendance records of employees, which shall be reported to the Administrative Services Director or his/her designee in the form and on the dates they shall specify.
- 13.2 Hours of Work. Daily hours of work (or shifts) for employees within the department shall be assigned by the department head as required to meet the operational requirements of said department. Any foreseeable absence or deviation from regularly scheduled working hours desired by an employee shall be cleared in advance through the department head, and such absences shall be noted on the employee's time sheet.
- 13.3 Leave of Absence. The City Manager, with the concurrence of the affected department head, may grant a regular employee a leave of absence for a period not to exceed one year. No such leave shall be granted except upon written request of the employee setting forth the reason for the request. Approval shall be in writing.

Upon expiration of an approved leave, the employee shall be reinstated in the position held at the time leave was granted, subject to the conditions of the leave or as provided by State and/or Federal laws. Failure on the part of an employee on leave to report promptly at its expiration shall be cause for dismissal. The depositing in the U.S. mail of a certified letter, addressed to the employee's last known place of address shall be reasonable notice of dismissal for failure to return to work.

Such a leave shall generally be without pay, provided that the City Manager shall have discretion to grant pay for the first 15 consecutive work days. Any employee on an approved leave of absence shall receive no vacation and no sick leave after fifteen (15) consecutive work days. City contributions to retirement, health and medical plans shall be suspended until the employee is reinstated. An employee who is on leave of absence shall be responsible for reimbursing the City for any payroll deductions that the employee has authorized. An employee reinstated after a leave of absence shall receive the same step in the salary range the employee received when the leave of absence began. Time spent on such leave shall not count towards service for increases within the salary range or benefit accruals. The employee's merit review date shall be set forward in time one month for each thirty (30) consecutive calendar days taken. The employee shall retain accumulated vacation credits, sick leave credits, and other similar credits; however, such credits or seniority shall not accrue to a person granted such leave during the period of absence. When an employee is granted a leave of absence without pay, the City shall discontinue payment of medical, health and other similar insurance premiums for the employee and dependents. At the time the employee requests a leave of absence, the employee may pre-pay the insurance premiums by depositing funds with the Finance Department prior to the expiration of coverage, provided that such a continuation of coverage is authorized by the City's contract for medical insurance.

Any employee who separates from employment for reasons other than layoff may request reinstatement within one (1) year of separation and be entitled to consideration for any position for which he or she is qualified. Consideration does not assure reemployment for any particular vacancy, but does assure

eligibility for consideration. Any reinstated employee shall serve an initial probationary period as specified in Section 10.2.

- 13.4 Military Duty. Military leave of absence shall be granted in accordance with the provisions of State and Federal law. All employees entitled to military leave shall give the department head an opportunity, within the limits of military regulations, to determine when such leave shall be taken. Compensation for such purposes shall not exceed thirty (30) days in any one (1) fiscal year.
- 13.5 Vacation Leave. Fire Department Vacation Policy has been developed and agreed to by CCFMA, CCPFA and Fire Department Administration as part of the Fire Department Policy Manual and is attached for reference (effective 04.16.07).

13.5.1 Vacations. All employees shall accrue vacation credits according to the following schedule:

	<u>Hrs/Pay Period</u>	<u>Hrs/Year</u>
Less than 2 years employment	5.54	144
2 years up to 6 years	6.92	180
6 years up to 10 years	8.31	216
10 years or more	9.69	252

13.5.2 Vacation Accumulation. Employees are encouraged to use their accrued vacation time annually. Earned vacation credits shall be accumulated. Employees may, however, carry over unused vacation credits to succeeding calendar years. Except upon written approval by the City Manager, accumulated vacation credits shall not exceed the employee's two (2) year maximum rate of accrual. Accumulated vacation time in excess of the two year accrual maximum, and is not carried by approval, will be cashed out in November of each year.

Upon a four (4) week prior written request, one (1) time per calendar year, each employee may receive pay for all of the employee's accrued, but unused vacation time; provided, however, that a minimum of at least once per calendar year, forty-eight (48) hours of vacation time is taken off in a block which guarantees a minimum of one work week off. Such time may be used in conjunction with holidays.

For the purpose of this Section one day of vacation equals twenty-four (24) hours.

- 13.5.3 Holidays or Illness within Vacation Period. Holidays falling within the vacation period shall not be considered as part of the employee's vacation and shall not be charged against vacation credits. Illness during a vacation period shall not be considered as sick leave, unless confirmed by a physician's statement and approved by the Human Resources Manager.
- 13.5.4 Vacation Credits When Employment Terminates. Upon termination of employment, an employee shall be paid for unused vacation credits.
- 13.5.5 Effect of Absence on Vacation Crediting. Absence due to sick leave or other approved leaves of absences will not affect computations for vacation credits unless such absences exceed one (1) month, in which case the time of any unpaid absence shall be excluded from computation.

13.5.6 Additional Vacation Days. In addition to the annual vacation sign-up procedure, any employee covered by this Agreement may request at any time, upon 72 hours' notice, additional days off for vacation leave. Employees may request days which are otherwise available and shall be responsible for obtaining a qualified replacement based on current department policy.

13.6 Holidays. The following holidays-in-lieu are observed by the City:

- a. January 1 (New Year's Day)
- b. Third Monday in January (Martin Luther King, Jr. Day)
- c. Third Monday in February (Washington's Birthday)
- d. Last Monday in May (Memorial Day)
- e. July 4 (Independence Day)
- f. First Monday in September (Labor Day)
- g. September 9 (Admission Day)
- h. November 11 (Veterans Day)
- i. Fourth Thursday in November (Thanksgiving Day)
- j. Friday following Thanksgiving Day
- k. December 25 (Christmas Day)
- l. In addition, employees shall be credited with 1 floating holiday ordinarily the employee's birthday. The floating holiday may be taken on the employee's birthday with consent of the department head or anytime thereafter within six (6) months.
- m. Any day declared to be a holiday by proclamation of the Mayor.

13.6.1 Holidays on Weekend Days. Holidays falling on Sunday will be observed on the following Monday. Holidays falling on Saturday shall be observed on the preceding Friday.

13.6.2 Holidays - Extra Pay - Generally. In lieu of taking the holidays listed in Section 13.6 above, holiday hours shall be paid at a rate of 5.54 hours per pay period.

13.7 Jury Duty. An employee summoned to and serving on jury duty shall submit evidence of the Summons to the department head. The employee may be absent from duty with pay for time required to be away from the employee's regularly scheduled work hours. An employee who is released by the court from jury duty on any regularly scheduled work day shall return to work to complete any remaining portion of regularly scheduled work hours unless otherwise excused by the department head. The employee shall be entitled to retain juror fees as reimbursement for expenses associated with jury duty.

13.8 Bereavement Leave. Bereavement leave with pay, not to exceed seventy-two (72) hours per calendar year shall be granted. Leave shall be based on demonstrated need and shall be limited to death within the immediate family. All hours for additional bereavement shall be deducted from sick leave, if any, on the basis of 12 hours per 24-hour shift. Subsequent business related issues shall be deducted from vacation or time off without pay. The immediate family is defined as the employee's mother, father, brother, sister, spouse/registered domestic partner, children, step parents, step children, grandparents, and legal guardians, or any in-law bearing one of those relationships to the employee's spouse or registered domestic partner. The employee may be asked to provide validation of the family relationship.

13.9 Family Medical Leave. Family-related medical leave shall be granted in accordance with Federal and State law, and resulting administrative provisions developed by the City. The City's current Family/Medical Leave policy is attached to this Agreement.

13.10 Sick Leave. An employee may use accrued sick leave for illness of the employee or physical incapacity of the employee due to non-work related illness or non-work related injury, or for physical examinations, including eyes, dentist appointments or other commonly accepted health related matters.

All regular full-time employees shall be credited with 5.54 hours per pay period or major fraction thereof. An employee who is absent because of illness may be required to file a written statement describing the employee's illness or reason for the absence which then must have the approval of the City Manager before the employee is eligible to receive sick leave pay. If an absence because of illness or disability extends beyond two (2) consecutive scheduled work days or the employee has used more than four (4) sick days in a calendar year, the employee may be required to submit a physician's written certification (release to return to work) to the department head before the employee is eligible to receive sick leave pay.

Observed holidays occurring during sick leave shall not be charged against an employee's accrued sick leave.

An employee may be required to take physical examinations at periodic intervals while on sick leave from a physician designated and paid for by the City.

In the event that an employee uses all the sick leave he/she has accrued, he/she then shall have the vacation days he/she has accrued deducted for each day he/she is absent due to illness. Vacation days shall continue to be deducted until the employee either returns to work or all of accrued vacation days are used. The employee may apply to receive a leave of absence without pay if the employee does not have any accrued vacation or sick days.

For the purpose of this Section one day of sick leave equals twelve (12) hours.

13.11 Sick Leave; Limit on Accrual; Payoff.

a) Tier 1 Employees (hired prior to November 25, 2012): Any unused portion of accumulated sick leave may be carried over into the next calendar year; provided however, an employee's accumulated sick leave may not exceed 1440 hours unused sick leave; further accumulation shall not be allowed. However, to encourage attendance at work and discourage the frivolous use of excess sick leave, employees with continuous employment of five (5) years or more shall receive a payment in cash of 25% of unused sick leave when they resign or retire.

Employees with continuous employment over nine (9) years shall receive in cash 50% of the unused sick leave when they resign or retire. This compensation in cash shall be at straight time rate.

Upon four (4) weeks advance notice, one (1) time in any fiscal year, an employee is entitled upon request to payment for accumulated sick leave in excess of three hundred eighty (380) hours; payment shall be at base salary rate.

b) Employees hired on or after November 25, 2012: Any unused portion of accumulated sick leave shall remain in the employee's sick leave bank without limit and without the ability to cash out or otherwise convert to vacation or other leave bank(s). All accrued and unused sick leave may be converted to CalPERS service credit upon retirement.

13.12 Sick Leave Conversion. Tier 1 employees with at least three (3) years of employment with the City may at their option convert accrued sick leave in excess of one hundred eighty (180) hours (one hundred twenty (120) hours for employees assigned to a 40 hour work week) to be vacation hours in accordance with the following schedule:

Employees with more than three (3) years but less than seven (7) years of employment with the City	Four (4) hours of sick leave to one (1) hour of vacation
--	--

Employees with more than seven (7) years of employment with the City	Two (2) hours of sick leave to one (1) hour of vacation
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13.13 Effect of Absence on Sick Leave. Absence due to sick leave or other approved leave of absence will not affect computations of sick leave unless such absence exceeds one (1) month, in which case that month or more, shall be excluded from computation.

13.14 Family Illness Leave. If any employee requests leave to be absent from duty because of illness in the employee's immediate family, which requires the employee's attendance, the City Manager may approve use of the employee's unused accrued sick leave not to exceed the equivalent of one half of the employee's annual sick leave accrual amount. The immediate family is defined as mother, father, brother, sister, spouse, registered domestic partner, children, step parents, step children, grandparents, in laws and legal guardians. Where the employee and reason for leave qualify, the employee will be eligible for leave under FMLA and the California Family Rights Act (CFRA) and be subject to all of the rights and obligations under both FMLA and CFRA.

13.15 Unauthorized Leave. Any employee who is absent from work without approved leave shall be subject to discipline, or may be deemed to have automatically resigned if the absence is for two (2) or more consecutive scheduled work shifts.

13.16 Catastrophic Leave Donation. Circumstances may arise where an employee or the employee's immediate family may suffer an unforeseen event, which may have a catastrophic effect on the employee and/or the employee's family. Under such a circumstance the employee may request leave donation from fellow employees under the following procedures:

13.16.1 Employee's Own Personal Extended Illness. An employee who is suffering from a serious illness or a serious accident may have sick leave donated to cover the cost for the City-provided health insurance upon expiration of family medical leave. This leave donation shall only cover the cost of any insurance plan offered by the City and shall not be used for salary.

13.16.2 Serious Illness or Injury of a Member of the Employee's Immediate Family. An employee whose immediate family member is suffering from a serious illness or injury may have leave donated to provide him/her time off from work to care for that family member.

13.16.3 Leave Donation Eligibility Procedures.

- 13.16.3.1 The employee seeking leave donation must have exhausted all available leave, sick leave, vacation leave and compensatory leave.
- 13.16.3.2 The employee must submit a request for leave donation to the Personnel Department for review and approval of the Assistant City Manager and the City Manager. The employee will be required to provide medical documentation for the need of this leave donation.

13.16.4 Leave Donation Procedure.

- 13.16.4.1 The donation of leave is voluntary and is irrevocable once donated.
- 13.16.4.2 Employees wishing to donate leave will submit to the Personnel Department an authorization for transfer of leave form.
- 13.16.4.3 Employees may donate accrued sick leave in excess of 144 hours with a maximum donation of twelve (12) hours of sick leave.
- 13.16.4.4 Employee may donate a maximum of 24 hours of vacation leave.
- 13.16.4.5 The donated leave will be put in to a "Catastrophic Leave" account and can only be used to care for the immediate family member or to pay for the cost of insurance offered by the City for those persons suffering from a personal illness for which the leave was donated.
- 13.16.4.6 Donated leave will be credited to the "Catastrophic Leave" account on an hour-for-hour basis (i.e., 10 hours donated becomes 10 hours of sick leave at the receiving employee's rate of pay). In no case shall the total amount of donated leave exceed twelve (12) hours of sick leave and twenty-four (24) hours vacation leave per donor.
- 13.16.4.7 Any time remaining in the employees "Catastrophic Leave" account upon return to work will be transferred to a "Catastrophic Leave Bank" for use by other employees who qualify under the provisions of this Article. The Catastrophic Leave Bank" will have a cap of 320 hours. Any remaining leave in excess of 320 hours will be converted to a cash value and placed in a fund for an employee program to be determined at a later date. Human Resources will provide a quarterly report to CCPFA with number of hours in the bank.
- 13.16.4.8 In no case will an employee be able to convert the donated leave to cash or be paid for any remaining balance of donated leave.
- 13.16.4.9 All donations will be maintained as confidential information.

ARTICLE 14  
GRIEVANCE PROCEDURES

- 14.1 Matters Subject to Grievance Procedures. A grievance is a complaint by an employee that the employee has been adversely affected due to a misinterpretation or misapplication of this MOU. Any such complaint may be reviewed in accordance with this Article.
- 14.2 Informal Grievance Procedure. The employee shall initiate the grievance process by an informal meeting and discussion with his or her supervisor. Every effort shall be made to resolve a grievance

through discussion between the employee, and/or the employee's designated representative, and the employee's immediate supervisor. If, after such discussion, the employee does not feel that the grievance has been satisfactorily resolved, the employee shall have the right to discuss the matter with the supervisor's superior, if any, within the department organization. Otherwise, the employee shall have the right to discuss the matter with the department head.

- 14.3 Formal Grievance Procedure. If the employee is not in agreement with the decision rendered in the informal grievance procedure, an employee shall have the right to present a formal grievance in writing to the department head within ten (10) City Hall business days after the occurrence of the incident giving rise to the grievance. The department head shall meet with the employee and/or the employee's designated representative within five working days after the department head's receipt of the written grievance. The department head shall review the grievance and render a decision in writing and return it to the employee and/or the employee's designated representative within five working days after meeting with the employee.
- 14.4 Appeal to the City Manager. If the employee does not agree with the decision reached by the department head, the employee may present an appeal in writing to the City Manager within ten (10) City Hall business days after the employee's receipt of the department head's decision. The appeal shall be signed and delivered to the City Clerk who shall set a meeting within ten (10) working days with the City Manager and the employee and/or the employee's representative to discuss the grievance. Within seven working days the City Manager shall deliver a copy of the decision to the employee and/or the employee's representative and the department head. The decision of the City Manager shall be final, and shall not be appealable to the City Council.
- 14.5 Extension of Time Limitations. All time limitations mentioned in the Grievance Procedure may be extended by mutual written agreement between the City and the employee. Failure to act within any time limit set forth in the grievance procedure shall result in the grievance being advanced to the next step in the process.

## ARTICLE 15 EMPLOYEE REPORTS AND RECORDS

- 15.1 Personnel File. The Human Resources Manager shall maintain a personnel file for each employee of the City. Employees have the right to inspect the contents of their respective personnel files during a scheduled appointment.
- 15.2 Disclosure of Information. No information shall be disclosed from the personnel file of an employee other than the employee's job title, work location, work phone number, salary verification (with written employee authorization only) and departmental assignment, to any person other than the City Manager, City Attorney or their designated representatives. An employee may request or authorize the disclosure of other information from his or her file by written authorization. Nothing herein shall preclude the use of any information in an employee's personnel file in any phase of a disciplinary or probationary action. The City shall not be prevented from releasing other information under subpoena nor under the Public Records Act when a proper request therefore is submitted, if the City Attorney advises that the requested information must be released.

ARTICLE 16  
EDUCATIONAL INCENTIVE

- 16.1 The City shall adopt procedures under which an employee shall qualify for educational assistance in an amount not to exceed \$500 in any one (1) fiscal year; reimbursement shall be based upon the City reimbursing to the employee 50% of reasonably incurred costs of education, including tuition, fees, and books. However, for any employee pursuing an AA or BA degree in fire science, reimbursement shall be at the rate of 80% up to a maximum of \$800 in any one (1) fiscal year. The procedures to be adopted shall not require advance approval by the City of any specific undergraduate course. Education covered by this provision must be in a licensed public or private school or college, or a recognized training program leading to job or professional certification (except for paramedic recertification), and shall include both academic and professional certification programs. Reimbursement shall be made only for pursuit of one (1) degree. Post-graduate programs (Master's degree programs or higher) are not covered without a determination that the program has some reasonable relationship to the job performed by the employee, or to preparation for a promotional opportunity within the City's employment. No reimbursement shall be made for education beyond a Master's degree. Reimbursement shall be made at the conclusion of a course, upon presentation of evidence of satisfactory completion thereof (grade "C" or better), department head review and Assistant City Manager approval.
- 16.2 Paramedic Recertification. Upon presentation to the Fire Chief or designee of a paramedic certification, the City shall pay to the employee a flat 48 hours for coursework (as State required) at the rate of time and one-half at top step (step 5) of 56-hour work week of Firefighter/Paramedic salary range as full reimbursement for paramedic certification. The employee has the responsibility of attending all required certification courses and paying the required fees. There will not be any compensation for attending certification courses during non-work times except for the pay specified above. This benefit applies once every two (2) years.
- 16.3 Certificate and Degree Incentive. Any unit member receiving a Firefighter II or Fire Officer Certificate from the State of California will be provided with a Certificate Pay differential for each separate Certificate held equal to five percent (5%) of base salary.

Unit members who possess a California Community College Associate Degree, an equivalent AS/AA degree or a Bachelor's Degree (BA/BS) from an accredited post-secondary institution whereas the degree is appropriate to the Fire Service and/or Public Administration and have completed at least two (2) of the courses required for a Company Officer certification and have served at least two (2) years of City employment shall be compensated five percent (5%) of base salary.

ARTICLE 17  
FRINGE BENEFITS

- 17.1 Enrollment in Group Insurance Plans. Effective, January 1, 2013, the City shall provide a cafeteria-type benefit program. The City shall bear the cost of the employee's choice of employee-only medical insurance. The City shall bear the cost of medical insurance for an employee with one dependent and employee with more than one dependent coverage so long as an employee's dependents are eligible under the terms of the policy or policies authorized from time to time by the City Council (to the same extent as the City bears the cost of coverage for the employee). The City's cost for medical insurance

for employee plus dependent(s) shall be capped at the second most expensive medical coverage available equitable to the CalPERS PEMCHA plans available for the region that includes Cathedral City. In the event an employee selects the most expensive coverage, he or she shall be responsible for paying the difference between the cost of the most expensive coverage and the cost of the second most expensive coverage.

The City shall offer dental, vision, short-term disability and other coverage that the employee may voluntarily purchase through payroll deduction. An employee may choose a medical plan less expensive than the second-highest plan (or highest plan for employee-only) and use the remaining balance (benefit credit) to pay for dental, vision and/or short-term disability. Any unused funds shall remain with the City.

17.2. Public Employees' Retirement System. All full-time firefighting employees of the City are automatically covered by the City's contract with the Public Employees Retirement System. Membership shall commence immediately upon employment.

- a) Tier One Employees: The City provides the 3% @ 55 retirement benefit formula with single highest year compensation consideration for all unit members hired prior to November 25, 2012.
- b) "Classic" Employees Hired on or after November 25, 2012: The City provides the 2% @ 55 retirement benefit formula with three-year average compensation consideration for all unit members hired as new PERS members between November 25, 2012 and December 31, 2012; or as "classic" employees from November 25, 2012 forward or until changed by law. (Classic – those employees meeting eligibility criteria set forth by AB 340 to "transfer" PERS membership from one PERS entity to another PERS entity.)
- c) Employees Hired as New CalPERS Members: The California Public Employees' Pension Reform Act of 2013 (PEPRA) establishes a new retirement plan for employees hired on or after January 1, 2013. All employees hired on or after that date shall be subject to the provisions of PEPRA.

17.2.1 CalPERS Member Contributions. Commencing January 6, 2013, all members of the Cathedral City Professional Firefighters Association shall pay their full CalPERS member contribution, plus any additional PERS contribution as may be negotiated.

17.3 Uniform and Equipment Allowances. Employees covered by this agreement shall receive one hundred and twenty dollars (\$120) per month to be paid biweekly at a rate of \$55.38.

If the department requires an additional uniform, i.e. a dress uniform, the department will provide the initial issue. Per existing policy, a loan may be made available for employee purchase of Class A uniform.

Newly hired Firefighters will be provided the initial issue of uniforms consisting of two complete sets (shirts and pants) by the department and the employee will not be eligible to be paid uniform allowance until successful completion of probation, at which time the employee will be given two additional complete sets (shirt and pants), including department uniform jacket.

A black leather station-wear safety boot will be provided in the future as required safety equipment by the department.

- 17.4 Deferred Compensation. All employees covered by this Agreement shall be eligible to participate in the City's deferred compensation program, upon request. The City shall match up to \$46.16 per pay period or \$1,200 per year for an equal employee contribution.
- 17.5 Short Term and Long Term Disability. All employees covered by this Agreement shall be included in the City's long-term disability program providing partial coverage for disabling injuries and illnesses non-industrial in nature (not covered by workers' compensation). Employees may use their benefit credit or purchase short-term disability insurance offered by the City as an optional benefit. (See Article 17.1.)
- 17.6 Training. Training required for the EMT-1A certification will be provided when personnel are on duty.
- 17.7 Group Health Plan Continuation upon Retirement. Employees covered by this Agreement retiring from City employment who are taking a qualified retirement under the PERS system may elect within 120 days after separation to participate in such group health insurance policies as are provided by the City under the following conditions:
  - a) Employees hired prior to November 25, 2012: All unit members shall be eligible for a City-paid contribution equivalent to the current amount given to active unit members.
  - b) Employees Hired on or after November 25, 2012: The percentage of employer contribution payable for retirement health benefits shall be based on criteria negotiated between the City and the Association according to the following table:

Credit Years of Service with Cathedral City	Percentage of Employer Contribution
10	50%
11	55%
12	60%
13	65%
14	70%
15	75%
16	80%
17	85%
18	90%
19	95%
20 or more	100%

- c) As permitted by law, the City's health insurance policy shall become secondary to any applicable federal or state government health programs as soon as the retired employee becomes eligible for such program or at age 65, whichever comes first.

d) If the employee's/retiree's survivor is entitled to a monthly benefit and continued coverage under the Public Employees' Medical and Hospital Care Act, as administered by CalPERS, the enrollment shall be continuous.

17.8 PERS 1959 Plan Survivor Benefits. Under the City's PERS contract for Fire Department employees, PERS 1959 Plan survivor benefits are provided at level 4.

17.9 Wellness Benefit – 4%. The City shall provide a physical fitness program for all employees covered by this Agreement. The physical fitness program consists of a yearly health screening and an approved physical fitness evaluation. Employees covered by this Agreement who meet the physical standards and are approved by the City in the fitness evaluation will receive a four (4%) salary differential above base pay. The salary differential will begin on the first day of the pay period following submission of a qualifying fitness program report to the Human Resource Division. Employees must re-qualify on a yearly basis to continue to receive a fitness program salary differential. Employees who do not re-qualify will no longer receive the salary differential, but may reapply to re-qualify at the next annual qualification period. The program shall be subject to the procedures developed and in place with the Cathedral City Police Management and Fire Management Associations.

#### ARTICLE 18 AGREEMENT ALL INCLUSIVE

The parties hereto acknowledge that they have engaged in extended negotiations of any and all issues either party has desired to have included in this MOU. The parties recognize that, in the give and take of bargaining, some items sought by the employer have not been agreed upon, and some items sought by the employee association have not been agreed upon. This Agreement constitutes a compromise upon which each party agrees. The parties agree that this MOU is all-inclusive and that no other agreements, undertakings or understandings have been made outside of the specific terms of this Agreement relating to wages, hours or terms or conditions of employment of the employees covered by this Agreement, with the exception of duly negotiated and mutually agreed upon Letter(s) of Agreement. Except by mutual agreement, this MOU is not subject to reopening for any purpose. All of the agreements of the parties are evidenced herein. The absence of reference to any topic shall be deemed as proof that no agreement was reached thereon, and any claim based thereon shall be null and void and of no effect. Each party has had every opportunity during the course of these negotiations to bring up any new or additional topics it desired to have considered as part of this Agreement, and, for the duration of this Agreement, no additional topics shall be added thereto, except upon specific mutual agreement of the parties evidenced in writing.

Pursuant to Government Code Section 3505.1, this MOU has been jointly prepared by the representatives of the City of Cathedral City and of CCPFA who agree that it shall be presented to the City Council of the City of Cathedral City for its consideration. We recognize that this MOU is not binding unless and until it has been approved by the City Council of the City of Cathedral City.

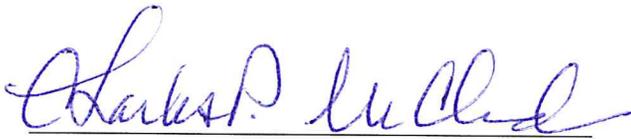
APPROVED BY THE CITY COUNCIL *MINUTE ORDER # 6340*

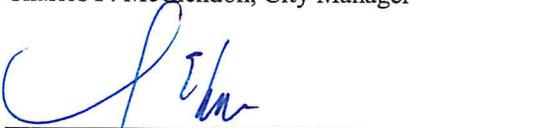
Executed this 12 day of January, 2015.

ATTEST:

  
Gary Howell, City Clerk

CITY OF CATHEDRAL CITY

  
Charles P. McClendon, City Manager

  
Tami E. Scott, Administrative Services Director

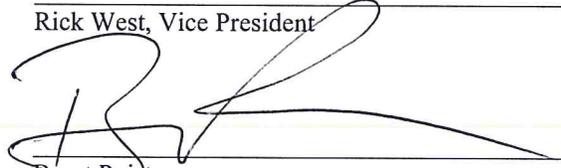
  
Sylvia A. Zelnys, Human Resources Manager

  
M. Eugenia Torres, Human Resources Coordinator

CATHEDRAL CITY PROFESSIONAL  
FIREFIGHTERS' ASSOCIATION  
IAFF Local 3654

  
Corey Goddard, President

  
Rick West, Vice President

  
Brent Poist



# City of Cathedral City

## Family Care and Medical Leave Policy

### I. STATEMENT OF POLICY

To the extent not already provided for under current leave policies and provisions, the City of Cathedral City will provide family and medical care leave for eligible employees as required by state and federal law. The following provisions set forth certain of the rights and obligations with respect to such leave. Rights and obligations which are not specifically set forth below are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 (“FMLA”), Pregnancy Disability Leave (PDL) and the regulations of the California Family Rights Act (“CFRA”). Unless otherwise provided by this article, “Leave” under this article shall mean leave pursuant to the FMLA, PDL, and CFRA.

### II. DEFINITIONS

- A. “12-Month Period” – means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- B. “Child” – means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster or stepchild.
- C. “Parent” – means the biological parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- D. “Spouse” – means a husband or wife as defined or recognized under California State law for purposes of marriage.
- E. “Domestic partner,” – as defined by Family Code §§ 297 and 299.2, shall have the same meaning as “Spouse” for purposes of CFRA Leave.
- F. “Serious health condition” – means an illness, injury impairment, or physical or mental condition that involves:
  - 1. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery there from); or
  - 2. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
    - a) A period of incapacity (i.e., inability to work, or perform other regular daily activities ) due to a serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves:

- i) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
  - ii) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
- b) Any period of incapacity due to pregnancy or for prenatal care. (This entitles the employee to FMLA leave, but not CFRA leave. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.)
  - c) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
    - i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
    - ii. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
    - iii. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc). Absences for such incapacity qualify for leave even if the absence lasts only one day.
  - d) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider.
  - e) Any period of absence to receive multiple treatments (including any period of recovery there from) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

G. "Health Care Provider" means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
2. Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, who directly treats or supervises treatment of a serious health condition;
3. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State Law;
4. Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California state law;
5. Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

6. Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.
- H. "Active Duty" means a duty under a call to order of active, retired, reserves, or national guard members of the United States Armed Forces by law or any other provision of law during a war or national emergency declared by the President or Congress.
- I. "Contingency Operation" – means a military operation that (1) is designated by the Secretary of Defense as an operation in which members of the United States Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force; or (2) results in the call to order of active duty members of the United States Armed Forces by law or any other provision of law during a war or national emergency declared by the President or Congress.
- J. "Covered Service member" – means a member of the United States Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, in otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness.
- K. "Outpatient Status" means the status of a member of the United States Armed Forces assigned to: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- L. "Next of Kin" – means the nearest blood relative of an injured service member.
- M. "Serious Injury or Illness" means an injury or illness incurred by a member of the Armed Forces in the line of duty on active duty that may render the member medically unfit to perform the duties of the member's office, grade, rank, or rating.

### III. REASON FOR LEAVE

Leave is only permitted for the following reasons:

- A. The birth of a child or to care for a newborn of an employee;
- B. The placement of a child with an employee in connection with the adoption or foster care of a child;
- C. Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
- D. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position.

- E. Leave for a “qualifying exigency” may be taken arising out of the fact that an employee’s spouse, son, daughter, or parent is on active military duty or has been notified of an impending call or order to active duty in support of a contingency operation involving the United States Armed Forces; or
- F. Leave to care for a spouse, son, daughter, parent, or “next of kin” service member of the United States Armed Forces who has a serious injury or illness incurred in the line of duty while on active military duty (this leave can run up to 26 weeks of unpaid leave during an employer’s 12-month period).

**IV. EMPLOYEES ELIGIBLE FOR LEAVE**

An employee is eligible for leave if the employee:

- A. Has been employed for at least 12 months; and
- B. Has been employed for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

**V. AMOUNT OF LEAVE**

Eligible employees are entitled to a total of 12 workweeks (or 26 weeks to care for an injured service member) of leave during any 12-month period.

**A. Minimum Duration of Leave**

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

**B. Spouses Both Employed By The City of Cathedral City**

In any case in which a husband and wife both employed the City of Cathedral City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees’ child (i.e., bonding leave).

In any case in which a husband and wife both employed by the City of Cathedral City are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 26 workweeks during any 12-month period if leave is taken to care for an injured service member. Except as noted above, this limitation does not apply to any other type of leave under this policy.

**VI. EMPLOYEE BENEFITS WHILE ON LEAVE**

Leave under this policy may be paid or unpaid. While on leave, employees will continue to be covered by the City of Cathedral City's group health insurance to the same extent that coverage is provided while the employee is on the job.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City of Cathedral City shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City of Cathedral City shall have the right to recover premiums through deduction from any sums due the city of Cathedral City (e.g. unpaid wages, vacation pay, etc.).

**VII. SUBSTITUTION OF PAID ACCRUED LEAVES**

While on leave under this policy, as set forth herein, an employee may elect to concurrently use paid accrued leave. Similarly, the City of Cathedral City may require an employee to concurrently use paid accrued leave after requesting FMLA and/or CFRA leave, and may also require an employee to use family and medical care leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying.

**A. Employee's Right To Use Paid Accrued Leaves Concurrently With Family Leave**

Where an employee has earned or accrued paid vacation, compensatory time, or personal or sick leave, that paid leave may be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled to use sick leave concurrently with leave under this policy if:

1. The leave is for the employee's own serious health condition; or
2. The leave is needed to care for a parent, spouse, child, or domestic partner with a serious health condition, and would be permitted as sick leave under the City of Cathedral City's sick leave policy.

**B. City of Cathedral City's Right to Require An Employee To Use Paid Leave When Using FMLA/CFRA Leave**

1. Employees are not required to use accrued compensatory time earned in lieu of overtime earned pursuant to the Fair Labor Standards Act; and
2. Employees will only be required to use sick leave concurrently with FMLA/CFRA leave if the leave is for the employee's own serious health condition.

**C. City of Cathedral City's Right To Require An Employee To Exhaust FMLA/CFRA Leave Concurrently With Other Leaves**

If an employee takes a leave of absence for any reason which is FMLA/CFRA-qualifying, the City of Cathedral City may designate that non-FMLA/CFRA leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement. The only exception is for peace officers and firefighters who are on leave pursuant to Labor Code § 4850.

D. City of Cathedral City's and Employee's Rights If An Employee Requests Accrued Leave Without Mentioning Either the FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA-qualifying purpose, the City of Cathedral City may not ask the employee if the leave is for a FMLA/CFRA-qualifying purpose. However, if the City of Cathedral City denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA-qualifying purpose, the City of Cathedral City may inquire further into the reason for the absence. If the reason is FMLA/CFRA-qualifying, the City of Cathedral City may require the employee to use accrued leave as described above.

**VIII. MEDICAL CERTIFICATION**

Employees who request leave for their own serious health condition or to care for a child, parent or spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the City of Cathedral City.

If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position.

Employees who request leave to care for an injured service member who is a child, spouse, parent, or "next of kin" of the employee must provide written certification from a health care provider regarding the injured service member's serious injury or illness.

A. Time To Provide A Certification

When an employee's leave is foreseeable and at least 30 days notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the City of Cathedral City within the time frame requested by the City of Cathedral City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

B. Consequences For Failure To Provide An Adequate Or Timely Certification

If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency.

However, if an employee fails to provide a medical certification within the time frame established by this policy, the City of Cathedral City may delay the taking of FMLA/CFRA leave until the required certification is provided.

C. Recertification

If the City of Cathedral City has reason to doubt the validity of a certification, the City of Cathedral City may require a medical opinion of a second health care provider chosen and paid for by the City of Cathedral City. If the second opinion is different from the first, the City of Cathedral City may require the opinion of a third provider jointly approved by the City of Cathedral City and the employee, but paid for by the City of Cathedral City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

D. Intermittent Leave Or Leave On A Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition {"serious health condition"}, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

**IX. EMPLOYEE NOTICE OF LEAVE**

Although the City of Cathedral City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 day's notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. Such notice may be orally given. If the City of Cathedral City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City of Cathedral City may delay the granting of the leave until it can, in its discretion, adequately cover the position with a substitute.

**X. REINSTATEMENT UPON RETURN FROM LEAVE**

A. Right To Reinstatement

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City of Cathedral City, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

B. Employee's Obligation To Periodically Report On His/Her Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

C. Fitness-for-Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her, job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

D. Reinstatement of "Key Employees"

The City of Cathedral City may deny reinstatement to a "key" employee (i.e., an employee who is amongst the highest paid 10 percent of all employed by the City of Cathedral City within 75 miles of the work site) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the City of Cathedral City, and the employee is notified of the City of Cathedral City's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

**XI. REQUIRMENTS**

Provide your Department Head and Human Resources with sufficient time of your need to take FMLA.