

# **AGREEMENT**

**BETWEEN**

**CERES PROFESSIONAL FIREFIGHTERS  
LOCAL 3636**

**and**

**THE CITY OF CERES**

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AND  
THE CITY OF CERES**

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## **AGREEMENT**

This AGREEMENT made and entered into this twenty-fifth day of August, 2014, by and between the CITY OF CERES, hereinafter referred to as the CITY, and the CERES PROFESSIONAL FIREFIGHTERS LOCAL 3636, hereinafter referred to as the ASSOCIATION.

### **ARTICLE I**

#### **RECOGNITION**

##### **Section 1.1**

The City recognizes the Association as the sole and exclusive bargaining agent for the purposes of establishing wages, hours and conditions of employment for all regular and probationary full-time employees employed as Firefighters, Fire Engineers and Fire Captains. Full-time as defined herein shall be those employees regularly scheduled to work more than 32 hours per week, or employees scheduled to work 8-24 hour shifts within a 24 day work period. Specifically excluded are seasonal, casual, irregular part-time (20 hours or less per week), volunteers, and other employees represented by recognized bargaining units within the city.

##### **Section 1.2**

The classification or job titles used herein are descriptive only. Their use is neither an indication nor guarantee that the classification or title will continue to be used by the City. The City also retains the right to assign positions to this bargaining unit which may have a community of interest in position responsibilities and assignments.

### **ARTICLE II**

#### **LABOR MANAGEMENT COMMITTEE (LMC)**

##### **Section 2.1**

The parties agree that there shall be a Joint Labor/Management Committee established for purposes of facilitating discussions concerning matters of mutual concern.

- a. The committee shall consist of six (6) members. The Fire Chief or designee shall appoint three (3) members and the President of the Union shall appoint three (3) members. Employee representatives shall be permitted release time to attend these meetings and may designate an alternate for each member authorized to act in the absence of a member. The Fire Chief or designee and the President of the union may remove members he/she appointed at any time. Vacancies shall be filled by the appointing party.
- b. The Committee shall meet on a quarterly basis, or more frequently by mutual agreement. The Committee shall discuss issues of mutual interest to the parties.
- c. Meetings shall be at a mutually agreed upon time and location. Quarterly meeting shall be in the months of January, April, July and October.
- d. At least seven (7) days prior to any meetings of the Committee, each of the parties shall

deliver to the other party a Notice of the matters to be discussed at the said meeting and the matters referred to in the said Notices shall form the agenda for the said meeting. Additions to the agenda may be made by either party with written Notice at least one business day in advance of the meeting.

- e. Joint minutes shall be kept of each meeting with responsibility for keeping minutes alternating between members designated by each of the parties. Final, agreed upon copies of the minutes shall be typed and promptly distributed to all members of the Committee.
- f. Within the first year of this agreement, the Labor Management Committee will agree on a severe weather policy.

### **ARTICLE III**

#### **ASSOCIATION SECURITY**

##### **Section 3.1**

The City agrees not to interfere with the right of its employees to become members of the Association. There shall be no discrimination, interference, restraint, or coercion by the City or any of its agents against any employee because of membership in the Association. The Association shall be limited to activities during normal City business hours while on duty pertaining directly to the employer-employee relationship. Internal employee organization business such as soliciting membership, campaigning for office, and organizational meetings and elections shall not interfere with the efficiency, safety and security of the City operations and shall be done only with prior approval from management.

Employees covered by this Agreement shall have the right to become members and remain or not remain members in good standing of the Association throughout the term of this Agreement.

### **ARTICLE IV**

#### **DUES DEDUCTION**

##### **Section 4.1**

Upon receipt of a signed authorization form from an employee, the City agrees that it will deduct each month uniformly required monthly Association dues, initiation fees, and lawful assessments. The City will make all deductions before final payment to an employee who terminates employment. Amounts so deducted will be forwarded to the Association with the names of the employees from whose pay the dues, initiation fees, and lawful assessments have been deducted.

The Association shall defend, indemnify and hold the City harmless from any and all liability resulting from any claims, demands, lawsuits, or any other action arising from compliance with this dues deduction provision.

## **ARTICLE V**

### **MANAGEMENT RIGHTS**

#### **Section 5.1**

It is understood and agreed that the City possesses the sole right and authority to operate and direct the employees of the City and its various departments in all aspects, including, but not limited to, all rights and authority exercised by the City prior to the execution of this Agreement, except as modified in this Agreement. These rights include, but are not limited to:

- a. The right to determine its mission, policies, and to set forth all standards of service offered to the Public;
- b. To plan, direct, control, and determine the operations or services to be conducted by employees of the City;
- c. To determine the methods, means, number of personnel needed to carry out the department's mission;
- d. To direct the working forces;
- e. To hire and assign or to transfer employees within the department;
- f. To promote, suspend, discipline or discharge;
- g. To lay-off or relieve employees due to lack of work or funds or for other legitimate reasons;
- h. To make, publish and enforce rules and regulations;
- i. To introduce new or improved methods, equipment or facilities;
- j. To contract out for goods and services;
- k. To take any and all actions as may be necessary to carry out the mission of the City in situations of civil emergency as may be declared by the Mayor, the City Manager or Acting City Manager, the Police Chief, or acting Police Chief; provided that no right enumerated herein shall be exercised or enforced in a manner contrary to or inconsistent with the provisions of this Agreement.

#### **Section 5.2**

The City Council has the sole authority to determine the purpose and mission of the City and the amount of budget to be adopted thereto.

#### **Section 5.3**

If in the sole discretion of the Mayor, City Manager, or other duly designated individual, it is determined that extreme civil emergency conditions exist, including but not limited to, riots, civil disorders, tornado conditions, floods, or other similar catastrophes, the provisions of this Agreement may be suspended by the Mayor or the City Manager during the time of the declared emergency, provided that wage rates and monetary fringe benefits shall not be suspended.

## ARTICLE VI

### PROBATION, APPOINTMENTS, REDUCTION IN FORCE

#### Section 6.1 Probation Upon Hire

- a. All initial appointments shall be tentative and subject to a probationary period of not less than twelve (12) months full-time paid service commencing on the first day of actual service. The probationary period is automatically extended by the length of any authorized leave(s) of absence (paid or unpaid) of eight (8) shifts or more.
- b. During the probationary period, or any extension thereof, the employment of a probationary employee may be terminated by the City Manager without any showing of cause, notice of hearing, or appeal.
- c. Notice of the failure to meet probation shall be served on the terminated employee by the department head or designee in the absence of the department head prior to the expiration of the probationary period, or any extension thereof. Such notice shall be in writing and shall be deemed served when given personally to the employee. The probationary period shall be deemed to have expired at 1700 hours on the last day of the probationary period, or any extension thereof.
- d. Upon completion of the probationary period, or any extension thereof, the employee shall be deemed to be a regular employee and shall be vested with all rights applicable to such regular employees.

#### Section 6.2 Probation Upon Promotion

- a. A person receiving a promotional or transfer appointment to a classification in the competitive service within the Fire Emergency Services Division shall serve a probationary period of six (6) months, commencing on the first day of service under such appointment. The probationary period is automatically extended by the length of any authorized leave(s) of absence (paid or unpaid) of eight (8) shifts or more.
- b. During the probationary period, or any extension thereof, the employee may be terminated from employment in the promotional appointed position by the Department Head without any showing of cause, notice of hearing or appeal. Notice of such action shall be served upon the employee by the Department Head or his/her designee in the absence of the Department Head prior to the expiration of the probationary period, or an extension thereof. Such notice shall be given in writing and shall be deemed served when given personally to the employee. The probationary period shall be deemed to have expired at 1700 hours on the last date of the probationary period, or any extension thereof.
- c. If any employee who has received a promotional appointment is terminated during the promotional probationary period, such employee shall be reinstated to the position from which the employee was promoted, at the range and step previously held, if a vacancy then exists in such position, unless charges are filed and the employee is discharged in the manner as prescribed in this agreement. If there is no vacancy in such position at the time of termination, the employee may request to be placed on a re-employment list.

#### Section 6.3 Right To Former Position

Upon promotion, transfer, or selection to another position in the City, the affected employee shall retain the right to the former position for thirty (30) calendar days. The employee may

return to the former position within the thirty (30) days at the option of either the City or affected employee.

#### **Section 6.4 Preference Points For Employees**

Employees covered by this agreement competing for open, competitive positions within the City shall be given two and one half percentage (2.5%) preference points on the overall final score provided:

- a. They have passed all elements of the testing process with the required score; and
- b. They are regular full-time city employees who are not currently on probation; have not received less than a satisfactory job rating in the year prior to applying for the position; and have maintained a sick leave attendance record in their current position, which is not worse than the average city-wide sick leave usage for the prior year (exclusive of use of sick leave for family and medical care leave, pregnancy disability leave or other statutory leave protected by law).

#### **Section 6.5 Reduction In Force**

In a reduction in force action due to slackness of work or insufficient funds, the last employee hired within the affected department shall be the first laid off; provided, however, that the remaining employees are qualified to perform the available work. In rehiring, the last employee laid off shall be the first employee rehired. An employee may, at the discretion of the City, be demoted in lieu of layoff to a position formerly held for which the employee had attained regular status.

Employees laid-off from employment in accordance with Ceres Personnel Rule XVI. Layoff Policies and Procedure shall be maintained upon the City's re-employment list for three (3) consecutive years, while employees who are demoted, shall have five (5) consecutive years in which to be reinstated to a previously held position.

#### **Section 6.6 Seniority**

- a. The City and the Union will agree to a starting seniority list prior to the implementation of this section. Once the seniority list is agreed upon, it shall become the master seniority list and any future movement on the list shall abide by this section.
- b. The City will annually provide a current seniority list to the Union and to all Battalion Chiefs. Errors in such seniority lists shall be reported in writing to the Deputy Fire Chief, who shall cause such lists to be corrected if erroneous.
- c. The seniority of an employee shall be determined by the employee's date of permanent appointment as an employee of the fire division. In the event that two (2) or more employees have the same date of permanent appointment, seniority shall be determined by the employee's final numerical position from the testing process from which they were appointed. If employee seniority requires further differentiation due to equivalent scores, employee's order of seniority shall be determined by the date and time of application for the position.
- d. Members of this unit who are laid off by the City, and who are subsequently reappointed within three (3) years, shall retain seniority calculated from the original date of appointment, and adjusted for the time not employed by the City.
- e. Members of this unit who are laid off by the City, and who are subsequently reappointed after more than three (3) years, shall have their seniority calculated from the date of

reappointment.

- f. Rank seniority shall be determined by the date the employee was promoted to that rank. In the event that two (2) or more employees have the same date of permanent appointment, their seniority shall be determined by their final numerical position from the testing process from which they were appointed. If employee seniority requires further differentiation due to equivalent scores, employees' order of seniority shall be determined by the date and time of application for the position,
- g. Employee shift or station movement will occur in accordance with the Department shift bid process unless the City has a business reason for selecting someone else. When the City has a business reason for selecting someone outside the shift bid process, seniority will be taken into account prior to any movement.
- h. Employee shift or station movement shall not be used as a form of discipline.

## **ARTICLE VII**

### **WAGES, JOB CLASSIFICATIONS, PERFORMANCE EVALUATIONS, AND SALARY ADMINISTRATION**

#### **Section 7.1 Salary Adjustments**

Effective July 1, 2014, the two (2) percent reduction in base salary that had been in place in the previous agreement shall cease and be restored to the employees of this unit (Attachment A).

#### **Section 7.2 Performance Evaluations**

Performance evaluations shall be given to employees on a periodic basis recording the employee's performance. While on probation, performance reports shall be prepared as management deems necessary. All performance evaluations shall be retained in the personnel file of each employee.

#### **Section 7.3 Salary Administration**

Salary Administration is provided by salary schedule, salary ranges, salary steps and time intervals for salary review. Each class in the city's classification plan shall be assigned a salary schedule and range established in the salary administration plan. All persons employed by the City shall be compensated in accordance with the salary administration plan currently in effect at the time of appointment.

#### **Section 7.4 Salary Steps**

The Salary Administration of the City shall be as follows:

- a. Step (1) The first salary step is the minimum rate and will normally be the hiring rate. Appointment may be made to other than the normal entering salary step upon recommendation of the Department Head and upon the approval of the City Manager.
- b. Step (2) The second salary step: Six (6) months of satisfactory service at the first salary step (1) shall make an employee eligible.
- c. Step (3) The third salary step: Six (6) months of satisfactory service at the second salary step (2) normally shall make an employee eligible.

- d. Step (4) The fourth salary step: Twelve (12) months of satisfactory service at the third salary step (3) and the recommendation of the Department Head with the approval of the City Manager, shall be required for advancement to this step.
- e. Step (5) The fifth salary step: Twelve (12) months of satisfactory service at the fourth salary step (4) and the recommendation of the Department Head with the approval of the City Manager, shall be required for advancement to this step.
- f. Step (6) The sixth salary step: Twelve (12) months of satisfactory service at the fifth step, or for those currently at fifth step as of this contract date, upon their anniversary date and shall be upon the recommendation of the Department Head with the approval of the City Manager.

#### **Section 7.5 Service Defined**

Service for purposes of salary administration shall include periods of actual performance of regular, full-time duties; periods of any paid leave of absence; periods for which worker's compensation is paid; and military leave without pay. The following periods of time shall be disregarded and not counted; all leaves of absence without pay and lay offs in excess of 31 days; all periods of service performed with a service rating equivalent to less than standard or satisfactory.

#### **Section 7.6 Salary Upon Merit Advancement; Promotion; Demotion**

- a. Upon recommendation of the department head and the approval of the City Manager, an employee may be granted a merit salary advancement prior to the normal time intervals established in Section 7.4. Salary advancement shall be effective on the first day immediately following the date the merit advancement was approved.
- b. Salary adjustments resulting from an employee's promotion or demotion shall become effective on the first day coinciding with or following the employee's promotion or demotion.

#### **Section 7.7 Computation of Salary Earned**

- a. Salary rates for authorized positions covered by this agreement assigned to a 40 hour work schedule are set forth in the schedule of salary ranges approved and adopted by the City and the Association.
- b. In the conversion table included in the salary administration plan, hourly rates are based on 2,080 hours per year for positions assigned to 40 hour work schedules. Hourly rates for positions assigned to 24-day work periods ("56 hour" shift) are based on 2,920 hours per year.

#### **Section 7.8 Out of Class Pay**

Whenever any employee has been assigned to work in a higher classification other than his/her regular classification, such employee shall receive a five percent (5%) out of class incentive.

- a. Firefighters acting at the rank of Fire Engineer shall be paid a five percent (5%) out of class incentive.
- b. Firefighters or Fire Engineers acting at the rank of Fire Captain shall be paid a five percent (5%) out of class incentive.

- c. Fire Captains acting at the rank of Battalion Chief or as the person placed in charge of the Fire Prevention Division shall be paid a 5% out of class incentive.

**Section 7.9 Hours of Employment**

For employees assigned to a fifty-six (56) hour work schedule, the following shall apply:

- a. A "Shift" will be defined as a twenty-four (24) hour period beginning at 0700.
- b. A "Tour" shall be defined as two (2) consecutive shifts.
- c. Shifts shall be divided into three (3) platoons. These platoons shall be referred to as "A Shift," "B Shift," and "C Shift."
- d. Employees on shift duty shall work on the basis of twenty-four (24) hours on duty. This shall average a total of fifty-six (56) hours per week. The fifty-six (56) hour week shall be scheduled as follows:

XXOOOOXXOOOOXXOOOO

X=Consecutive hours on duty  
O=Consecutive hours off duty

This schedule shall repeat itself for each of the A, B, and C Shifts.

**ARTICLE VIII**

**OVERTIME / COMPENSATORY TIME OFF (CTO)**

**Section 8.1 Overtime**

The City has adopted the Section 7(k) partial overtime exemption for employees employed in fire protection activities, effective January 24, 2010. Employees assigned to 24-hour workday period shall be compensated at time and one half the employee's regular rate of pay for all hours in excess of 182 hours in the employee's normal 24-day work period. Overtime will be paid for all assigned shift relief and authorized time worked over a regularly assigned shift. Such overtime pay shall be received in 30 minute segments.

**Section 8.2 On-Call Chief Duties**

Non-probationary full time Captains who take on-call duties shall be paid a minimum of four (4) hours overtime at time and one half for each twelve (12) hours of on-call duty. The Captain shall also be paid a minimum of two (2) hours overtime for each call they respond to, but not to exceed twelve (12) hours of total overtime in a twelve (12) hour period.

**Section 8.3 Compensatory Time Off (CTO)**

Employees shall have the option to be compensated by Compensatory Time Off (CTO) for any portion of overtime worked at a time and one half (1.5) rate, subject to a CTO accrual limit of seventy two (72) hours for a suppression employees and a CTO accrual limit of forty (40) hours for a forty (40) hour employees. Unless employees specifically designate CTO compensation for overtime worked, employees will receive monetary compensation for such overtime. CTO shall be taken off under the same procedures that govern vacation time off.

#### **Section 8.4 Hire Back**

It shall be the employee's responsibility to submit a leave request to his/her Chief Officer when requesting time off. Sick leave, bereavement leave or other emergency leave requests may be submitted by the Chief Officer. It shall be the responsibility of the on duty Chief Officer or his/her designee to fill all approved overtime, regardless of reason for the overtime, at their earliest convenience, based upon the following procedure, and to maintain the overtime eligibility list as follows:

- a. An overtime eligibility list shall be maintained by Fire Department management and be updated in accordance with this MOU as overtime is filled.
- b. Overtime is granted to employees based on their position on the Intellitime overtime list. Priority is granted to the name(s) higher, or towards the top of the list.
- c. Any overtime that is less than twelve (12) hours shall cause no movement on the overtime eligibility list.
- d. In the event that an employee needs less than five (5) hours of shift coverage that will require overtime to be granted, the employee may fill the shift themselves using whatever methods they choose. Once the shift coverage has been secured the employee shall notify the on duty Chief Officer and submit an Intellitime time off request.
- e. When approved overtime requires coverage, the on duty Chief Officer or his/her designee shall send out a HipLink message and/or other mutually agreed upon form of communication alerting all similarly classified eligible persons of the overtime location, date and phone number to call in to.
- f. Within the first hour, the similarly classified person(s) highest on the overtime eligibility list to call in shall be granted the overtime.
- g. If non-urgent, approved overtime has not been filled after 1 hour, a second HipLink message and/or other mutually agreed upon form of communication shall be sent out to all qualified persons for the position at the earliest convenience of the on duty Chief Officer or his/her designee. The first qualified person to call in after the 1<sup>st</sup> hour shall be granted the overtime.
- h. After six (6) hours has elapsed, the overtime may be granted to the first qualified person to respond regardless of rank.
- i. Shifts granted to any person of twelve (12) hours or more shall require that person be placed to the bottom of his/her respective overtime list, regardless of the classification worked.
- j. Once the overtime has been filled, a HipLink message and/or other mutually agreed upon form of communication shall be sent out to all eligible persons with notification that the overtime has been filled and who was awarded the overtime.
- k. Each shift shall be filled individually. In the event multiple overtime shifts are in need of being filled and they are less than five (5) shifts total the shifts shall be filled giving priority to the employee(s) highest on the overtime list, not in order of date.

- l. In the case of an extended absence of five (5) or more shifts, the employee's Chief Officer or his/her designee will provide the eligible Firefighter, Engineer or Captains with a shift coverage sheet (hard copy or email). The shift coverage sheet shall include the dates, times and location of the needed coverage. The shifts shall be assigned according to the current Intellitime overtime eligibility list. The shifts shall be assigned beginning with the first eligible similarly classified employee, working down to the last eligible similarly classified employee, continuously rotating through the list until all shifts are filled. If all shifts are not filled by this end of this process then the remaining shifts shall be made available to all certified and qualified employees following the same procedure.
- m. In the case of an emergency hire back with less than two (2) hours notice, the on duty Chief Officer or his/her designee shall send out a HipLink message and/or other mutually agreed upon form of communication to all qualified eligible persons and fill the open position on a first come basis.
- n. If a shift is rescinded from the employee scheduled to work overtime of twelve (12) hours or more, that employee shall automatically be moved to the top of his/her overtime list regardless of their original position on their overtime list.
- o. Once the overtime has been approved and covered, the on duty Chief Officer or his/her designee shall make the appropriate adjustments into the Intellitime system within one hour, except where delayed by emergency circumstances such as an emergency call.
- p. All efforts will be made to fill full shifts (24 hours) prior to splitting shifts into twelve (12) hours for coverage.

## **ARTICLE IX**

### **PAYROLL INFORMATION**

#### **Section 9.1 Pay Periods**

The pay periods for all employees shall be bi-weekly. When the regular payday coincides with a holiday, paychecks shall be issued on the workday immediately preceding the holiday. Employees leaving the City's service will normally be paid on the regular payday following the date of termination.

#### **Section 9.2 Salary Upon Leaving City Service**

Employees leaving city service shall be paid salary accumulated to the effective date of the termination only, and shall be paid for earned compensatory time prorated holidays, and if eligible, accumulated vacation. Employees shall be paid for holidays on a prorated basis at the time of separation. Upon separation from employment, compensatory time off shall be cashed out at the higher of the employee's final regular rate of pay, or the employee's average regular rate of pay, during the last three years of employment.

#### **Section 9.3 Statement of Earnings**

Each employee shall be given a statement with the City's name and address, which itemizes the employee's gross amount earned, hourly rate, hours worked, and all deductions. The statement shall also provide the employee with the unused number vacation hours, and unused compensating time off hours.

## ARTICLE X

### UNIFORMS AND PROTECTIVE CLOTHING

#### Section 10.1 Uniform Allowance

- a. The City agrees to pay each regularly employed, uniformed Firefighter, Fire Engineer, and Fire Captain, covered by this agreement, a uniform allowance of \$1,150 per year. The uniform allowance remains suspended unless otherwise negotiated. This MOU provision replaces the June 30, 2014 implemented terms and conditions which would have returned the uniform allowance in Fiscal Year 2015-16.
- b. Employees of this unit will be compensated for any owed uniform allowance in the fiscal year as paid out over 26 pay periods in 1/26 increments of the total uniform allowance. Employees leaving or beginning City service during the fiscal year will only receive the uniform allowance for those pay periods employed in the fiscal year.
- c. The City agrees to provide recruit firefighters at the time of appointment, the following:
  - one (1) department approved ball cap style hat
  - two (2) class B shirts
  - three (3) T-Shirts
  - three (3) class B uniform pants
  - one (1) black leather uniform belt
  - one (1) pair authorized station boots
  - one (1) authorized job shirt (collared sweatshirt)
  - one (1) class B Jacket approved by the division commander
- d. Employees shall, for the term of this agreement, provide for all costs for uniform care including alterations, cleaning, repair, purchase and replacement of duty uniform clothing, and uniform-related accessories. Uniforms damaged in the line of duty may be replaced by the department upon proper application through departmental procedures. All uniform and uniform-related items worn are to be approved and recognized by the department as proper duty uniform pieces.
- e. It is understood by both parties to this Agreement that employees, for the term of this Agreement, are responsible to purchase such additional uniforms or other authorized non-specified items which relate to the employee's current position.
- f. After completion of the probationary period, each new hire will be provided a full Class A uniform. Such uniform shall be consistent with the current Class A uniform standards approved by the department head or designee.
- g. Current non probationary employees shall be provided with a Class A uniform hat approved by the department head or designee.
- h. The uniform allowance shall be prorated for all new recruit firefighters and for employees leaving the City's service.

#### Section 10.2 Protective Safety Clothing

The City shall furnish all forms of protective clothing such as, but not limited to, hard hats, goggles, safety glasses (not prescription lenses) ear guards or plugs, safety toe guards, eye wash stations at all labs, or any other form of protective clothing or equipment that may be required as a condition of employment by the City and/or State, Federal, or local safety laws, standards, rules, and regulations, and shall be applicable to all work covered by this Agreement.

## **ARTICLE XI**

### **COURT DUTY**

#### **Section 11.1 Time off for Jury or Court Duty**

- a. Employees who are called or required to serve as a trial juror, or as a witness under subpoena who is not a party to a court action, shall be granted leave for such purpose upon notification and appropriate verification of the period of required absence submitted to his/her supervisor. The employee shall be paid regular salary for the time served as a juror or witness under subpoena as above, provided the jury or witness fees paid to the employee are deposited with the City.
- b. Any employee who is called or required to serve as a trial juror, or as a witness under subpoena who is not a party to a court action, shall be considered to be on the payroll at the start of their assigned (24 hour) shift. They will not be required to submit time off requests to cover any portion of an assigned (24 hour) shift to serve as a trial juror, or as a witness under subpoena. The employee shall be paid regular salary for the leave time, provided the jury or witness fees paid to the employee are deposited with the City.
- c. Any employee who is who is called or required to serve as a trial juror, or as a witness under subpoena who is not a party to a court action, will not be required to submit time off requests to cover any portion of an assigned (24 hour) shift for travel time to and from their station assignment. The employee shall be paid regular salary for the leave time, provided the jury or witness fees paid to the employee are deposited with the City.
- d. Any employee who, on their day(s) off are required to appear as a witness for the City shall receive a minimum of four (4) hours at a time and one-half pay.

#### **Section 11.2 Pay for Court Duty**

Hours paid for court duty will be counted as hours worked for the purpose of computing vacation pay, health and welfare and pension contributions.

## **ARTICLE XII**

### **LEAVES OF ABSENCE**

#### **Section 12.1 Sick Leave Intent**

- a. The intent of this Section is to provide a continuity of full salary to those employees who are unable because of illness or injury to perform the duties of their positions. Sick leave shall be allowed and used in case of sickness medical treatment, or up to two shifts of sick leave in case of an illness in immediate family. Immediate family are those family members as defined in adopted personnel rules. Sick leave use for immediate family members beyond the two shifts shall be subject to the special leave provisions as adopted in current state and federal law.
- b. An employee eligible for sick leave with pay may be granted leave with pay by the Department Head or designee, to be charged against such eligibility, in order to care for a member of the employee's immediate family who is ill or injured and requires attendance, in accordance with California Labor Code Section 233, the Family Medical Leave Act and the California Family Rights Act.

## **Section 12.2 Sick Leave Defined**

Sick leave is defined as the necessary absence from duty of an employee because of illness, from either non-work or work-related injury, or exposure to contagious disease suffered by the employee, or the serious disability of the employee while on a scheduled vacation, or absence authorized for medical or dental care. Sick leave may also be granted to an employee confronted with illness or injury in the immediate family which requires the employee's attendance on such family member.

## **Section 12.3 Sick Leave Accrual**

- a. Each full-time, employee on a 2,920 hour work year (56 hour schedule) shall be entitled to accumulate sick leave with pay at the rate of one (1) day per month, (equal to 5.1538 hours per pay period, and equal to twelve (12) days per twelve (12) month period of City service), beginning with the first pay period of employment, provided the employee has been in pay status for fifty percent (50%) or more of the first month or any month thereafter. Employees may use accrued sick leave after thirty (30) calendar days of employment.

Sick leave shall be accrued at the rate of eight (8) hours per month (3.69 hours per pay period) for full-time employees on a 2,080 hour work year. Unused sick leave shall be accumulative in an unlimited amount. No paid sick leave shall be granted in excess of the employee's sick leave credit.

- b. Any employee assigned to a 56-hour schedule who has not taken more than 50 hours of sick leave (excluding sick leave used concurrently with protected leave) during the twelve (12) month period beginning the first pay period in July and ending the last pay period in June of each year shall be entitled to convert up to 33 hours of unused sick leave to pay or leave with pay providing that at no time does the employees' sick leave balance fall below 268 hours.

## **Section 12.4 Sick Leave Compensation**

To receive compensation while on sick leave, the employee shall notify his immediate supervisor or the designated senior representative available, prior to or not later than the beginning of each shift in that department. The Department Head or designee shall waive the above requirement if, in his opinion, an emergency or other exceptional circumstance so warrants. Computation of sick leave shall not include regular days off provided these are not in conflict with the established work schedule within each department.

## **Section 12.5 Earned Vacation as Sick Leave**

When a regular employee, absent from duty because of illness, has used all sick leave, upon written request to and approval from the Department Head or designee, the employee may use all or part of vacation as may have been earned from the employee's anniversary date to the date of request, as though such time were sick leave.

## **Section 12.6 Physician's Statement Required**

- a. In the event a Department Head or supervisor has reason to believe an employee is abusing sick leave benefits, the Department Head or supervisor may require the employee to furnish a certificate or statement from a regular licensed and practicing physician, indicating the nature and duration of the incapacity, or other adequate evidence if the employee was not examined by a physician.
- b. Sick leave with pay may be authorized by the Department Head subject to verification of

the employee's eligibility.

### **Section 12.7 Separation from City Service Upon Retirement**

All eligibility for sick leave pay shall be paid upon retirement of the employee from the City's service at fifty percent (50%) of the accrued sick leave.

### **Section 12.8 Illness During Vacation Leave**

An employee who becomes incapacitated for work due to illness or injury, or a member of the employee's immediate family as referred to in this Agreement, for more than three (3) consecutive calendar days while on paid vacation may substitute sick leave or CTO credits under the conditions as stated in Section 12.7 above for vacation provided the request for sick leave substitution is accompanied by a doctor's statement or other evidence satisfactory to the Department Head or designee verifying the incapacity. The order of such leave designation is at the discretion of the employee.

### **Section 12.9 Maternity Leave**

Maternity leaves shall be granted consistent with State and Federal law and court decisions.

### **Section 12.10 Military Leave**

Military leave shall be granted consistent with State and Federal law and court decisions.

### **Section 12.11 Bereavement Leave**

- a. When death occurs to a member of an employee's immediate family; bereavement leave shall be granted at full pay and shall not be charged against the employee's accrued vacation or sick leave. Request for bereavement leave with pay up to two (2) regularly scheduled work shifts (two (2) work days for forty-hour per week employee, and forty-eight (48) hours for fifty-six hour per week employees), shall be granted. The time granted shall provide a 56 hour employee with bereavement leave not less than six (6) consecutive calendar days. The immediate family shall include the spouse, registered domestic partner, mother, step-mother, father, step-father, grandparents, step-grandparents and grandchildren, son, daughter, brother, sister, step children or foster child of the employee or employee's spouse or registered domestic partner.
- b. In the event of the death of a person not immediately related to an employee, as defined above, the employee's department head may grant up to two (2) regularly scheduled work shifts (two (2) work days for forty-hour per week employee, and forty-eight (48) hours for fifty-six hour per week employees) of leave to be charged against the employee's sick leave. If in the event the employee does not have sufficient amount of sick leave to cover the charged shifts, the employee's vacation or CTO leave may be used. The time granted shall provide a 56 hour employee with leave not less than six (6) consecutive calendar days.

### **Section 12.12 Leave Without Pay**

An employee desiring leave without pay for other than a statutorily-protected purpose shall make written request to the Department Head giving a full explanation of the reason for the request. The Department Head may grant such requests for a period not to exceed nine (9) months.

Vacation and sick leave shall not accrue during any period of leave without pay. Employees

on leave without pay shall not be paid for or accrue holidays observed during the period of leave without pay.

Employees on leave without pay are responsible for and may elect to pay insurance premiums by the first of the month in which coverage is requested on insurance plans for coverage they wish to continue. Nonpayment of premium by the employee will discontinue coverage by the City while on leave without pay.

### **Section 12.13 Relief from Duty**

- a. An employee may be required to be relieved of duty and placed on administrative leave for a period not to exceed two (2) regularly scheduled shifts, if, in the opinion of the department head, the employee is incapacitated for work due to non-work related illness or injury. If said incapacity may reasonably be expected to extend beyond two (2) regularly scheduled shifts, the department head may require the employee to submit to a fitness for duty examination by a physician designated or approved by the City Manager.
- b. If the fitness for duty report of the physician shows the employee to be in an unfit condition to work, the department shall have the right, subject to an interactive process discussion and approval by the City Manager, to compel or grant such employee a sufficient leave of absence, not to exceed one year of leave without pay, so as to enable the employee to properly perform the regularly assigned duties of the position currently held by the employee. All expenses in connection with the physical examination are to be borne by the City.
- c. The intent of this provision is to address reasonable accommodation on an individual basis and is not intended to implement a drug testing program or affect sick leave.

### **Section 12.14 Attendance at Training**

Employees may be granted special permission, without loss of pay, to attend professional or technical institutes or conferences, or other meetings as may contribute to the effectiveness of their service to the City. Such special permission is subject to the approval of the Department Head. Employees granted said special permission shall be considered to be on duty status.

## **ARTICLE XIII**

### **ASSIGNMENT AND INCENTIVE PAY**

#### **Section 13.1 Educational Incentive**

- a. Employees who have, or obtain during their City employment an AA degree shall receive 2.5% educational incentive pay.
- b. Employees who have, or obtain during their City employment, BA degree shall receive 5.0% educational incentive pay.
- c. The incentive pay in a. and b. above is not accumulative.
- d. Educational incentive guidelines and procedures will be developed in cooperation with the Association and authorized managers in the Public Safety Department.

- e. Employees who have nine (9) fire officer courses and between 30 and 60 college units shall receive 2.5% educational incentive.
- f. Employees who have nine (9) fire officer courses and between 61 and 90 college units shall receive 5% educational incentive.
- g. Employees who have a fire officer certificate and less than 90 college units shall receive 5% educational incentive.
- h. Employees who have a fire officer certificate and more than 90 college units shall receive 7.5% educational incentive.
- i. Employees who have completed the Haz Mat Technician course and maintain their certification, according to the guidelines established in 29 CFR 1910.120 and CCR Title 8, Section 5192, shall receive \$75 per month.
- j. Employees who have completed the Haz Mat Specialist course and maintain their certification shall receive \$100 per month according to the guidelines established in 29 CFR 1910.120 and CCR Title 8, Section 5192.
- k. Annual certification will be verified by the Director of Public Safety or designee according to department procedures.
- l. The incentive pay in (a) through (h) above is not accumulative, and the pay in (i) and (j) above are not accumulative.

**Section 13.2 Bilingual Incentive**

- a. Employees who obtain a second language certification shall receive a 2.5% per month bilingual incentive.
- b. The language, guidelines for obtaining certification, and use of the employee's bilingual skills will be based upon community need and approval of department managers.

**Section 13.3 Training Officer Assignment**

- a. Training Officer(s) is an assignment at the discretion of the Director of Public Safety or designee. An individual assigned as a Training Officer shall receive assignment pay of 2.5% of his/her current hourly compensation. The assignment pay shall end when the assignment of Training Officer is removed.
- b. The Training Officer is an assignment of a captain, engineer or firefighter and shall not be considered a promotion.

**ARTICLE XIV**

**WORKER'S COMPENSATION**

**Section 14.1 Use of Accrued Leave**

Those employees who are absent from duty because of a temporary disability which is defined as industrial under the Worker's Compensation Act may use sick leave or vacation for pay; provided, however, that the amounts paid by the City, when added to the temporary disability benefits, shall not exceed the employee's regular rate of pay.

## **Section 14.2 Accrual of Benefits**

Employees who are placed on worker's compensation temporary disability shall have hospital, medical, vision, and dental benefits, sick leave, vacation and holiday benefits in accordance with legal requirements.

## **Section 14.3 Disability Retirement**

When it appears an employee cannot return to normal duties because of an industrial injury, and the City determines that a comparable position or modified duties are not available, and accommodations cannot be made, disability retirement may be requested by the City unless the employee applies for or consents to retirement as of an earlier date. Should retirement be granted, accrued benefits, vacation and sick leave will be compensated at the current regular rate of pay and under the terms stated in this Agreement. The Retirement Board which administers the retirement system is the final authority on the granting of retirement, and the City has no control over the granting or disallowance of any retirement request.

# **ARTICLE XV**

## **HOLIDAYS AND VACATION BENEFITS**

### **Section 15.1 Paid Holidays**

- a. Employees of this unit shall receive pay for holidays in lieu of time off. Holiday pay will be for 12 holidays, at 11.2 hours per holiday, for 134.4 total annual holiday hours. Holiday pay shall be calculated at time and one-quarter (1.25) of an employee's current hourly rate. Holiday pay is suspended, except as noted below in this section.
- b. Upon ratification by the CPFA and approval of the City Council, employees of this unit will be compensated for any owed holiday in lieu pay in the fiscal year as paid out over 26 pay periods in 1/26 increments of the total holiday in lieu pay. Employees leaving or beginning City service during the fiscal year, will only receive the owed holiday in lieu pay for those pay periods employed in the fiscal year. This term is not retroactive to July 1, 2014 and will be prorated to the beginning of the first pay period after the effective date of the agreement.
- c. Upon ratification by the CPFA and approval of the City Council, two (2) of the twelve (12) holidays will be restored, at 11.2 hours per holiday, for 22.4 total annual holiday hours. Effective July 1, 2015, an additional four (4) of the twelve (12) holidays will be restored for a total of six (6) of the twelve (12) holidays, at 11.2 hours per holiday, for 67.2 total annual holiday hours.

### **Section 15.2 Religious Holidays**

Employees may request time off to attend religious services or other religious activities on Good Friday or on other recognized religious holidays during the year. Such time off shall be charged to the employee's accumulated vacation leave. If the employee has no accumulated vacation leave, such time off shall be without pay.

### **Section 15.3 Vacation Accrual**

- a. The terms of vacation accrual and eligibility will be as stated in the City's personnel rules, Section 10.5.a. and b.

- b. Full-time employees assigned to a 2,920 hour work year shall accrue vacation as follows:

<u>Years of Continuous Service</u>	<u>Annual Accrual**</u>
1-4 years	5 shifts at 4.615 hours per pay period
5-10 years	7 shifts at 6.4615 hours per pay period
11-19 years	10 shifts at 9.23 hours per pay period
20-24 years	12 shifts at 11.07 hours per pay period
25 + years	14 shifts at 12.923 hours per pay period

\*\* Accruals will be reduced by Union Leave Bank donations described in Section 15.10 of this Agreement.

#### **Section 15.4 Maximum Vacation Benefit Accumulated**

- a. For positions assigned to 2,080 hour work year, the maximum vacation accumulation shall be 480 hours.
- b. For positions assigned to 2,920 hour work year (56 hour work week) the maximum vacation accumulation shall be 672 hours. Vacation accrual will stop when an employee's accumulated vacation balance reaches 672 hours, except that no more than twice in a fiscal year, an employee who reaches the 672 hour cap will be automatically paid out forty-eight (48) vacation hours to reduce their vacation balance. Vacation accrual will resume once the vacation balance has been reduced.
- c. Pay out of accumulated vacation hours at separation of service limited to only the employee's current accumulated vacation and shall not exceed 672 hours.

#### **Section 15.5 Years of Service Defined**

For the purposes of this section, years of service shall mean years of unbroken, (less than 90 days) seniority with the City. Service shall in no event be calculated from a date prior to the time the employee actually commenced working as a regular, full-time employee for the City.

#### **Section 15.6 Vacation Pay Upon Leaving City Service**

An employee, who on the most recent anniversary date, has qualified for a vacation but who leaves employment with the City prior to taking such vacation shall be entitled to pay in lieu thereof. Such pay shall be limited to the provisions of Section 15.4c.

#### **Section 15.7 Pro-Rated Vacation Benefits**

An employee who, during an anniversary year, is on leave-of-absence without pay for a period exceeding thirty (30) consecutive days shall fail to qualify for full vacation benefits but shall be entitled to pro-rated vacation benefits for time in paid status. A non-probationary employee whose employment is terminated prior to the completion of the anniversary year shall be entitled to pro-rated vacation.

#### **Section 15.8 Vacation Scheduling**

Vacation scheduling will be conducted in accordance with departmental policy and give consideration to overall seniority. Employees will be allowed to schedule as many days as they choose prior to passing the listed to the next employee. Once a list is passed on, it shall circulate in accordance with seniority without any alteration of rotation or any right for senior employees to "bump" less senior employees' choices of vacation.

### **Section 15.9 Shift Exchange**

Employees may voluntarily exchange work shift or any portion of a shift. Employees exchanging shift time shall be of equal rank. The City is not responsible for shift exchange arrangements made between employees. Outstanding shift exchange paybacks are the responsibility of the individual employee. All shift changes are subject to management approval.

### **Section 15.10 Union Leave Bank**

A Union Leave bank shall be created to allow employees to donate accrued vacation leave for the use of Union personnel to conduct Union business. The use of Union Leave bank time shall be at the discretion of the Union President or his/her designee, subject to supervisory approval for time off.

Within thirty (30) days of the agreement, employees will be permitted to make a one-time, voluntary donation of vacation to the Union Leave bank. Thereafter, twice every year in January and July, each employee's vacation accrual will be reduced by 1.56 hours. This amount may be adjusted by the Union President or his/her designee up to once per fiscal year.

The Union Leave bank may hold up to a maximum of two hundred and fifty (250) hours.

Leave in the Union Leave Bank will have no cash value. Union Leave may be used only for time off for Union business.

## **ARTICLE XVI**

### **RETIREMENT**

#### **Section 16.1 Contribution**

- a. Except for "new members" as defined below in Section 16.2(b), the City agrees to pay 100% of the employee's contribution to the Stanislaus County Retirement System. Said member's contribution shall be vested in the name of the employee as permitted under the rules and regulations of the 1937 Act Stanislaus County Retirement System.
- b. Nothing herein obligates the City or the employees of the bargaining unit to accept or implement the recommended retiree health and welfare program during the term of this Agreement.

#### **Section 16.2 Benefits**

- a. Effective January 1, 2005, the City provided enhanced retirement benefits pursuant to the formula outlined in Government Code section 31664.1, commonly known as 3% at 50, calculated on the single highest year of compensation.
- b. Unit members hired on and after January 1, 2013 and designated as "new members" to StanCERA who are safety employees shall be enrolled in the 2.7% @57 retirement formula as required by law under the California Public Employees' Pension Reform Act ("PEPRA" – AB 340/SB 197). As required under PEPRA, "new members" shall:
  1. Individually pay an initial Member contribution rate of 50% of the normal

cost rate for the Defined Benefit Plan in which said "new member" is enrolled, rounded to the nearest quarter of 1%, or the current contribution rate of similarly situated employees, whichever is greater; and

2. Have "final compensation" measured by the highest average annual pensionable compensation earned by the member during a period of at least 36 consecutive months.

Any provision in this Agreement which contradicts any provision of PEPRA shall be deemed null and void, with the contrary PEPRA provision(s) being given full force and effect.

### **Section 16.3 Retiree Health Benefits**

- a. During open enrollment, employees may elect to contribute 40 hours of a combination of sick and/or vacation leave to their individual deferred compensation account.
- b. Employees may contribute to their deferred compensation plan any accrued vacation or CTO in whole or in part upon retirement or leaving the City service. Upon retirement, accrued sick time may be contributed up to the maximum amount of 50% of the unused sick leave at the current salary rate the employee is receiving from the City.

### **Section 16.4 Helmet and Badge at Separation of Service**

After ten (10) years of service and upon voluntary separation from the City, employees shall be allowed to retain their duty helmet and department badge(s) at no cost to the employee.

## **ARTICLE XVII**

### **HEALTH AND WELFARE**

#### **Section 17.1 Cafeteria Plan**

- a. The City agrees to a qualified Section 125 cafeteria benefit plan during the term of this Agreement. Such plan shall include health, vision, dental, life and AD&D coverage. Each cafeteria plan covers a period of January 1 through December 31 of each year and is referred to as the selection or cafeteria year.
- b. As used in this Article, core benefits are defined as health, dental, and vision care plans which are available for employees in this unit.
- c. The City shall provide a monthly allowance for each employee covered and eligible for core benefits as defined in b. above for the selection of benefits offered in the cafeteria plan.
- d. The allowance shall be paid as follows:
  1. Effective July 1, 2010 and for the duration of this agreement, the maximum cafeteria allowance shall be \$1,218.00 per month.
- e. In the event an employee does not utilize the full dollar allowance per month for benefits, such employee shall receive 90% of the cash allowance remaining paid in 24 bi-weekly taxable payments issued with an employee's regular compensation paycheck during the plan year. Employees agree that 10% is for payment of payroll related taxes, retirement and administrative costs to process cash payments in lieu of benefits.

- f. Cafeteria selections are made in writing and in the form designated by the City on an annual basis during open enrollment each year for the next cafeteria year. Selections will be binding for that selection year. Modification to selections, per IRS regulations governing Section 125 plans, will be allowed only for extremely limited circumstances; i.e., loss of coverage from another source.
- g. Benefits selected under the cafeteria plan shall cease at the end of the month of termination from City employment for any reason. All coverage, except as required to be offered or extended under federal and state law, shall end. There is no responsibility on the part of the City to pay, either in money or premiums, any remaining City or employee obligations chosen through the cafeteria plan beyond the month of termination of an employee's employment. Cash payment of the allowance will be paid only through the end of the month in which an employee's employment is terminated. Such cash payment will be included in an employee's final paycheck received from the City and per the terms of paragraph e. above. Any outstanding premiums required to continue benefits through the end of the month of an employee's termination of City employment will be withheld from the final pay received from the City.

**Section 17.2 Term Life**

- a. The City shall provide each employee covered by this agreement with a City-paid term life insurance policy equal to one-time annual base salary not to exceed \$50,000 policy value.
- b. The City reserves the right to provide this life insurance through a self-insured plan or under a group insurance policy or policies issued by an insurance company or companies selected by the City.

**ARTICLE XVIII**

**PHYSICAL FITNESS**

**Section 18.1 Physical Training**

It is agreed that employees in this unit continue to be required to maintain the minimum physical conditioning as established by the department.

**ARTICLE XIX**

**ASSOCIATION REPRESENTATION**

**Section 19.1 Visits Authorized**

The authorized representatives of the Association shall be free to visit the City's places of business during working hours. There shall be no interference with the proper conduct of the business of the City.

**Section 19.2 Selection and Notification of Association Representatives**

The Association may select employee(s) to act as Association Representatives. Written notification shall be given to the Personnel Director of such assignments. The Association agrees that the representative's duties shall be performed as expeditiously as possible, and the City agrees to allow reasonable amounts of time for the performance of their duties.

### **Section 19.3 Association Activities**

The City shall not discriminate against, nor discharge any Association Representative for authorized activity in, or representation of, the Association.

## **ARTICLE XX**

### **GRIEVANCE AND GRIEVANCE PROCEDURE**

#### **Section 20.1 Definition**

A grievance is defined as an employee-initiated allegation that a term or condition of employment established by a negotiated agreement, the personnel rules, or other written city or departmental policy or procedure has been violated; provided, however, that such term or condition of employment is not subject to the discretion of the City or is not a subject outside the scope of representation as defined in Section 2500 et seq. of the Government Code or the City Employer-Employee Relations Ordinance.

#### **Section 20.2 Grievances Not Considered**

The grievance procedure shall not apply if it is a matter which would require the modification of a policy established by the City Council, a negotiated agreement, or other adopted work agreement, or the grievance is reviewable under some other administrative procedure such as:

- a. Applications for changes in title, job classifications or salary;
- b. Appeals from formal disciplinary proceeding;
- c. Appeals arising out of Merit Plan examinations;
- d. Appeals from work performance evaluations.
- e. Complaints of discrimination, harassment or retaliation based on a protected classification.

#### **Section 20.3 Special Provisions of the Grievance Procedure**

The following procedures shall apply:

- a. **Presentation of Grievance:** The employee shall follow the sequence and the procedure outlined in Section 20.4 of this Agreement in presenting a grievance or set of grievances.
- b. **Timely Presentation:** The employee shall discuss the grievance with the employee's immediate supervisor in a timely manner after the act or omission causing the grievance. A timely manner is defined as a period of not more than five (5) working days unless circumstances prohibit otherwise.
- c. **Prescribed Form:** The written grievance shall be submitted with the grievant's name, department/division, date of act or omission, the specific act or acts complained of and being grieved, the inequity or damage suffered, and the relief sought.
- d. **Employee Representative:** The employee may choose an individual to provide representation at any step in the procedure. No person hearing a grievance need

recognize more than one representative for any employee at any one time, unless the hearing individual so desires.

- e. **Handled During Weekday, Daily Work Hours:** Whenever possible, grievances will be handled between the working hours of 8:00 A.M. to 5:00 P.M., Monday through Friday. Exceptions may be granted for compelling reasons.
- f. **Extension of Time:** The time limits within which action must be taken or a decision made as specified in this procedure may be extended by mutual written consent of the parties involved, not to exceed five (5) working days. A statement of the duration of such extension of time must be signed by both parties involved at the step to be extended.
- g. **Consolidation of Grievances:** If the grievance involves a group of employees or if a number of employees file separate grievances on the same matter, the grievances may be handled as a single grievance.
- h. **Settlement:** Any grievance shall be considered settled at the completion of any step if all parties are satisfied or if neither party presents the matter to a higher authority within the prescribed time.
- i. **Reprisal:** The grievance procedure is intended to assure a grieving employee the right to present a grievance without fear of disciplinary action or reprisal by a supervisor, superior, or department head, provided provisions of this grievance procedure are properly observed.

#### **Section 20.4 Grievance Procedure Steps**

The following procedure shall be followed by an employee submitting a grievance pursuant to policy:

- a. **Discussion with Supervisor:** The employee shall informally discuss the grievance with the immediate supervisor. Within two (2) working days, the supervisor shall verbally give the decision to the employee.
- b. **Written Grievance to Next Higher Level:** If the employee and supervisor cannot reach an agreement as to a solution of the grievance, or the employee has not received a decision within the two working days limit, the employee may, within five (5) working days present the grievance in writing to the supervisor. The supervisor shall provide comments, if any, on the written grievance and present the grievance, within two (2) working days, to the next level of management designated by the department/division. The grievance shall be heard and a written decision to the employee shall be provided within five (5) working days after receiving the grievance.
- c. **Grievance to Department Head:** If the employee and the next level of designated management fail to reach an agreement as to a solution of the grievance, or the employee has not received a written decision within the five (5) working days limit, the employee may, within five (5) working days, present the written grievance to the department head. The department head shall hear the grievance and give a written decision to the employee within five (5) working days after receiving the grievance.
- d. **Grievance to City Manager:** If the employee and department head cannot reach an agreement as to a solution of the grievance or the employee has not received a decision within five (5) working days limit, the employee may within five (5) working days present the grievance in writing to the City Manager. The City Manager shall, within five (5) working days, hear the matter in whatever manner he chooses. Within five (5) working days the City Manager shall render a final decision in writing to the grievant, and, if

applicable, to the grievant's representative. The decision of the City Manager shall be final.

- e. In cases where one or more of the above levels of supervision do not exist, the employee will submit the grievance to the next highest level of supervision. The amount of time to submit a grievance shall be consistent with the appropriate level of supervision.

## **ARTICLE XXI**

### **DISCIPLINARY ACTION AND APPEAL PROCESS**

#### **Section 21.1**

Prior to the suspension, demotion, reduction in pay, or discharge of a regular employee for disciplinary purposes, the procedures set forth below shall be complied with.

#### **Section 21.2 Cause for Disciplinary Action**

The following items are examples of activities which may result in disciplinary action up to and including termination:

- a. Omission or willful misrepresentation of material fact or other fraud in securing employment, promotion, or appointment.
- b. Substandard performance of work duties and responsibilities
- c. Inexcusable neglect of duties;
- d. Insubordination.
- e. Improper use of drugs on duty, including drunkenness on duty; use of illicit drugs while on duty; intentional improper use of prescription medication while on duty which can affect performance and judgment; when proper performance on duty is incapacitated as a result of prior drug or alcohol use;;
- f. Unexcused absence from duty, including, but not limited to foreseen unexcused tardiness and participation in unlawful strikes or other job actions, such as sick-ins;
- g. Conviction of a felony involving moral turpitude where the conviction will impair the employee's ability to perform regular job duties. A plea or verdict of guilty, or a conviction following a plea of nolo contendere to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this subsection;
- h. Discourteous treatment of the public or other employees;
- i. Willful disobedience;
- j. Misuse of city property or funds, including misappropriation or misuse of City funds, negligent or willful damage to City property, equipment or vehicle, or the waste of City supplies or equipment; or (otherwise using or taking City equipment for personal use without prior approval.)
- k. Inconsistent, incompatible, or conflicting employment, activity, or enterprise;

- l. Violation of an established departmental or City rule or policy;
- m. Other failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the employee's department or employment;
- n. Violation of the City's Policy Against Harassment, Discrimination, and Retaliation.
- o. Excessive absenteeism;
- p. Violation of safety rules and regulations;
- r. Theft;
- s. Intentional dishonesty, including but not limited to intentionally making any false statement, omission or misrepresentation of material fact.
- t. Intentional falsifying City records, including but not limited to altering, falsifying, and tampering with time records, or recording time on another employee's time record.
- v. Working overtime without authorization in accordance with Department requirements.
- w. Failure to maintain any license, certificate or credential required for an employee's position in compliance with Department requirements.
- x. Violation of the City's or the Department's confidentiality policies, or disclosure of confidential information to any unauthorized person or entity.
- y. Failure to report to his or her supervisor any contact with criminal authorities (such as the police) where the employee is identified as a suspect, which may affect employment the District.

These causes are descriptive and meant as examples and not as all inclusive. Other circumstances may arise which might give rise to disciplinary action.

### **Section 21.3 Written Notice of Proposed Disciplinary Action**

In cases involving disciplinary transfer, suspension, demotion, reduction in pay, or discharge of a regular employee, written notice of the proposed disciplinary action shall be given to the employee before final disciplinary action is taken. Such notice shall include a statement of the reason(s) for the proposed action, the charge(s) being considered, as well as the discipline being considered.

### **Section 21.4 Employee Review**

At the time written notice of proposed disciplinary action is provided under Section 21.3, the employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based, and the employee shall be supplied with a copy of the documents at the time of presentation of the written notice.

### **Section 21.5 Employee Response**

- a. Within ten (10) calendar days after the employee has received the notice of proposed disciplinary action pursuant to Section 21.3 above, the employee shall have the right to respond orally or in writing at the employee's option, to the Department Head concerning the proposed action. Failure to so respond shall be deemed an intentional waiver of the

employee's right to submit an oral or written response to the proposed disciplinary action before the action is taken.

- b. If the employee or his/her designated representative requests the right to respond orally to the proposed discipline within ten (10) calendar days after the employee has received the notice of proposed disciplinary action pursuant to Section 21.3 above, imposition of proposed discipline shall be deferred until after the oral response is received by the Department Head or designee. If the employee elects to respond in writing, imposition of discipline shall be deferred until receipt and review by the Department Head or designee of the written response.
- c. Where an oral response has been elected, the Department Head or designee has the responsibility to conduct a predisciplinary conference. The Department Head or designee is responsible for coordinating the scheduling of the conference, including: (1) the date, time and place; and (2) forwarding of notices of such information to all interested parties within ten (10) calendar days of the employee's request. The Department Head or designee shall be responsible for receiving the employee's and/or his/her representative's response to the proposed discipline. The conference shall be conducted informally and shall be limited to the presentation of information by and through the employee and/or his/her representatives in response to the charges and allegations set forth in the notice of proposed discipline.

#### **Section 21.6 Notice of Disciplinary Action**

The Department Head or designee, after giving consideration to the employee's response, as detailed in Section 21.5 above, and the facts of the case, may affirm, modify, or suspend the proposed disciplinary action. Within 30 days after conclusion of the predisciplinary conference, the Department Head or designees shall notify the employee in writing of the nature and extent of the discipline, if any, and the time of commencement thereof. The notice shall also contain a statement of charges which shall set forth the acts or omissions with which the employee is charged in order that the employee will be able to prepare his/her defense. Also, the notice shall specify the City and or Department rules, regulations, policies and procedures which the employee is alleged to have violated. The notice of discipline shall also advise the employee of his/her right to request an appeal hearing by filing a Notice of Appeal as provided under section 21.8 below. The Notice of Appeal must be filed within fifteen (15) calendar days after service upon the employee of the Notice of Discipline. Failure to request an appeal hearing within the fifteen (15) calendar day period will constitute waiver of the employee's right of appeal.

#### **Section 21.7 Relief of Duty**

Notwithstanding the provision herein, the Department Head may approve the temporary assignment of an employee to a status of leave with pay pending conduct or completion of such investigations or opportunity to respond as may be required to determine if disciplinary action is to be taken.

#### **Section 21.8 Appeal**

- a. Suspensions of Two (2) Shifts or Less, Written Reprimands, Disciplinary Transfers and Lesser Discipline

It is agreed upon with this Agreement that employees relinquish the right to an appeals board hearing for discipline imposed which is considered a transfer, a written reprimand, suspension of two shifts or less, or lesser discipline by normal progressive discipline standards. Written reprimands, disciplinary transfers, or less may be appealed to the Department Head or designee, and subject to an informal hearing which complies with the APA informal hearing standards. The Department Head or designee's decision on

the appeal shall be final.

b. Suspensions of More Than Two (2) Shifts, Demotion, Reduction in Pay

Suspension of more than two (2) shifts, demotion and reduction in pay are subject to appeal in to an "Appeals Board." The City Manager or his designee will convene a three member appeal board to hear the appeal and render an advisory decision in written form. The board shall consist of one department head or mid-manager, one first line supervisor and one regular employee not in a supervisory position. All board members shall be from departments not affected by the appeal.

The appeal hearing shall be attended by the following persons:

- The employee, and if the employee elects to have representation at the hearing, one representative chosen by the employee.
- An attorney or representative designated by the City.
- Other city personnel requested by the City or the employee, subject to the approval of the City Manager

The appeal procedure before the three-member appeal board will be presided over for procedural purposes by an Administrative Law Judge (ALJ) on staff of the State Office of Administrative Hearings, and will conform to APA procedures. The ALJ will conduct the hearing in such a manner as to ensure that each side to the dispute has a fair opportunity to present their case. The hearing officer shall make all decisions relating to the admissibility of evidence and all other procedural aspects of the hearing. The hearing officer shall also be charged with the duty and responsibility of determining all of the facts related to the matter and shall, at the conclusion of the hearing, prepare the written decision regarding the appeal in accordance with the decision of the appeal board.

The three member appeals board will provide the advisory decision to the City Manager. The City Manager's decision shall be final and binding.

c. Discharge

The employee may, within ten (10) calendar days of service of the final discharge decision of the Department Head, or his designee, appeal the decision. The appeal must be in writing and the state specifically the reason(s) upon which the appeal is based and the restitution being sought. If the employee fails to appeal within the specified time, or subsequently withdraws his/her appeal, the disciplinary action taken by the Department Head, or designee, shall be final. The appeal shall be filed with the City Manager.

Upon filing the request for an appeal, the employee shall state whether he/she wishes to process the appeal under the current provisions of the Personnel Rule, Section 13.8 to the Appeals Board, or whether he/she wishes to process the appeal by the Arbitration provision provided herein. The Arbitration procedure may be used only when the Department Head, or designee, decision upholds the proposed discharge of the employee.

1. Submission of Discharge Appeal to Arbitration

In lieu of appealing a discharge before the Appeal Board, an employee may elect to appeal the discharge to Arbitration by an outside arbitrator.

## 2. Selection of Arbitrator

If the employee elects to have the disciplinary proceeding heard by an arbitrator, the arbitrator may be selected by mutual agreement between the City Manager, or his designee, and the employee or his/her representative. However, should the parties fail to mutually agree on an arbitrator they shall make a joint request of the State Conciliation Service for a list of nine (9) qualified arbitrators. The arbitrator shall be selected from the list by the parties alternately striking names with the first strike determined by the employee or his/her representative, until only one name remains, and that person shall serve as arbitrator.

The City Manager, or his designee, shall forthwith transmit the order and appeal to the arbitrator for hearing. The arbitrator shall, within a reasonable time of the filing of appeal and the selection of the arbitrator, commence the hearing thereof, and the City Manager, or his designee, shall notify the interested parties of the time and place of hearing at least ten (10) calendar days in advance thereof.

## 3. Arbitration Issues

The parties shall exchange summaries of evidence, and a list of witnesses to be used by each side, which shall be submitted not less than seven (7) calendar days prior to the arbitration hearing.

## 4. Arbitration Expenses Shared

The cost of employing the arbitrator and the court reporter, excluding the transcript, shall be borne equally by the City and Association. All other costs such as, but not limited to, attorney fees shall be borne only by the party incurring that cost.

## 5. Arbitrators Decisions Due

Unless the parties agree otherwise, the arbitrator shall render the decision in writing within 60 days following the close of the hearing. A copy of the written decision shall contain findings of fact which may be stated in the language of the pleadings or be referenced thereto. If requested by either party the decision shall be accompanied by findings of fact and conclusion of law.

The arbitrator shall determine whether to sustain, reject, or modify the discharge action against the employee. A copy of the written decision shall be transmitted to the Department Head and the City Manager or his designee. The City Manager, or designee, shall cause to be served a copy of the decision upon the employee. Service by mail at the employees last known address shall be sufficient for the purposes of this section. A copy of the decision shall be placed in the employees personal history file. The decision of the arbitrator shall be final and binding on both parties.

### **Section 21.9 Releasing Information**

No information will be released relative to the disciplinary action against municipal employees without prior approval of the City Manager and in accordance with applicable state law.

## **ARTICLE XXII**

### **NO CESSATION OF WORK**

#### **Section 22.1**

It is agreed between the City and the Association that there shall be no lock-outs of any kind or for any cause on the part of the City, and that there will be no strikes or any other cessation of work of any kind on the part of the Association on account of any controversy whatever during the term of this Agreement.

## **ARTICLE XXIII**

### **TERMINATION AND LEGALITY CLAUSES**

#### **Section 23.1**

If any provision of this Agreement is subsequently declared by legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable statutes, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement and the parties shall meet as soon as possible to agree on a substitute provision. However, if parties are unable to agree within thirty (30) days following commencement of the initial meeting then the matter shall be postponed until contract negotiations are reopened.

## **ARTICLE XXIV**

### **TERM OF AGREEMENT**

#### **Section 24.1 Term of Agreement**

- a. This Agreement shall become effective August 25, 2014, and shall continue in full force and effect through June 30, 2016. Thereafter, it shall automatically renew itself and continue in full force and effect from year to year unless written notice of election to terminate or modify any provision of this Agreement is given by one party, and received by the other not later than sixty (60) days prior to the expiration date of any succeeding year. Notwithstanding such notice to terminate or to modify this Agreement, the parties hereto agree:
  1. To meet and confer in good faith with the other through their authorized agents for the purpose of negotiating a new Agreement or an Agreement containing the proposed modifications;
  2. To continue in full force and effect without resorting to strikes or walk-outs, all the terms and conditions of the existing Agreement for a period of sixty days after such Agreement expires.

#### **Section 24.2 Reopen of Negotiations During Term of Agreement**

For fiscal year 2015-16, the parties shall meet and confer concerning the potential return of remaining concessions which were implemented effective July 1, 2010. During these negotiations or any subsequent negotiations in which the concessions are still in effect, the parties will begin negotiations from pre-concession bargaining positions. It is the goal of the parties to eliminate the remaining concessions as soon as the City Council determines it is fiscally prudent.

FOR THE CITY:  
CITY OF CERES  
Dated: August \_\_\_\_, 2014

FOR THE CERES PROFESSIONAL  
FIREFIGHTERS LOCAL 3636  
Dated: August \_\_\_\_, 2014



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Gage Dungey, Liebert Cassidy Whitmore



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Dr. David H. Swim  
Goyette & Associates



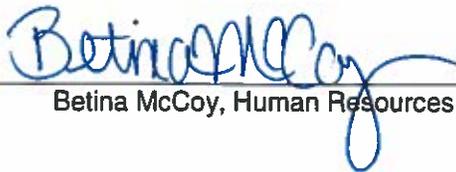
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Toby Wells, City Manager



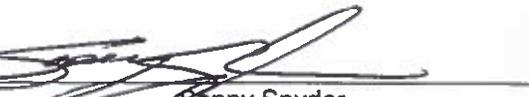
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Eric Holly, President  
Ceres Professional Firefighters Local 3636



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Betina McCoy, Human Resources



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Bonny Snyder  
Ceres Professional Firefighters Local 3636



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Billy Finley  
Ceres Professional Firefighters Local 3636

Attachment A

CERES PROFESSIONAL FIREFIGHTERS' ASSOCIATION:

CLASS TITLE	GRADE	MONTHLY SALARY STEPS					
		A	B	C	D	E	F
Firefighter	34F	3,757	3,944	4,110	4,315	4,530	4,756
Fire Engineer	36F	4,143	4,350	4,568	4,796	5,036	5,288
Fire Captain	44F	5,080	5,334	5,601	5,881	6,175	6,484