



MEMORANDUM OF UNDERSTANDING

**CITY OF ESCONDIDO
ESCONDIDO CITY EMPLOYEES' ASSOCIATION
SUPERVISORY BARGAINING UNIT**

July 1, 2020 - June 30, 2021

**ADOPTED BY CITY COUNCIL ON
JULY 15, 2020**

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2020 – 2021
MEMORANDUM OF UNDERSTANDING
ESCONDIDO CITY EMPLOYEES' ASSOCIATION
SUPERVISORY BARGAINING UNIT

ARTICLE I **IMPASSE RESOLUTION**

It is the purpose of this memorandum to promote and provide for harmonious relations, cooperation and understanding between the City and the employees covered by this memorandum; to provide a document setting forth the understanding of the parties reached by meeting and conferring in good faith on wages, hours, and other terms and conditions of employment of the employees covered under this memorandum. Except as specifically amended by this memorandum, the City's Personnel Rules and Regulations remain in full force and effect.

ARTICLE II **RATIFICATION PROCEDURE**

This is the joint recommendation on salaries, benefits, and working conditions of the bargaining representatives of the City of Escondido and the Escondido City Employees' Association Supervisory Unit. When ratified by the members of the Escondido City Employees' Association Supervisory Unit, and approved by the Escondido City Council, this document shall be the Memorandum of Understanding between the City and the Unit for the term set forth herein.

ARTICLE III **TERM**

This Memorandum is a statement of the terms and conditions of employment for the Escondido City Employees' Association Supervisory Unit, including salaries, benefits, and hours of work for the period July 1, **2020** through and inclusive of June 30, **2021**. None of the terms are retroactive; all changes take effect on the agreed upon effective date after adoption by the City Council.

ARTICLE IV COMPENSATION POLICY

Section 1 Salary

A. Wages

Beginning January 1, 2021, the City and Escondido City Employees' Association – Supervisory (SUP) Bargaining Unit will meet to perform salary comparisons and adjustments for all positions that are 5% or more below the San Diego County market median. Compensation review is premised on passage of the revenue measure.

B. Salary Compaction Adjustments:

Salary compaction adjustments between supervisors and immediate subordinates will take place for all Supervisory classifications where there is less than a 10% differential between top step of the subordinate and top step of the supervisor, including any certification pays that may be applicable to the subordinate employee.

Adjustments will be made in successor Supervisory classifications within the same divisional structure to ensure no compaction occurs when the above adjustment is made.

C. Wage and Salary Schedule:

The wage and salary schedule for the term of this agreement is attached as Exhibit "A."

Section 2 Salary Calculations

Salary calculations shall be based on 2,080 work hours a year.

Section 3 Pay Periods

The City shall continue with a biweekly pay schedule.

Section 4 Overtime/Compensatory Time Off

A. Eligibility - All classified miscellaneous supervisory employees shall be entitled to overtime as described below, except for exempt supervisory employees.

B. Exempt Employees - An exempt employee is an employee whose duties exempt them from overtime as defined by the Fair Labor Standards Act of 1939 as amended. Such employees shall be entitled to compensatory time on a straight-time basis with a maximum balance not to exceed eighty (80) hours and/or overtime compensation at the rate of time and one-half

when responding to emergency callback situations as defined in paragraph G of this section. Eligibility for overtime compensation shall be only for callback overtime.

- C. Overtime-General - All eligible employees shall be paid overtime at the rate of time and one-half their regular rate of pay, including any special pay which is a part of their regular rate (e.g., shift premium) in accordance with paragraphs E and F below; provided, however, exempt employees may opt for compensatory time off in accordance with the provisions of paragraph H.
- D. Overtime-Hours - Overtime shall be paid after forty (40) hours worked in a work week, exclusive of meal time. Upon management approval, employees may flex their work schedule within the same work week in order to remain within a forty (40) hour work week.
- E. Overtime-Hours Worked - Holidays, vacation and sick leave shall constitute hours worked for the purpose of computing overtime.
- F. Overtime-Record Keeping - Overtime shall be recorded and paid on the basis of fifteen (15) minute increments; such that for each full fifteen (15) minute period worked, the employee shall be compensated for one-quarter hour of overtime. Overtime, when reported for either compensatory time off or for payment, shall not be claimed for periods of less than one-quarter hour.
- G. Overtime-Callback - A minimum of three (3) hours pay at the rate of time and one-half shall be paid for each incident of callback overtime for all eligible employees. Callback overtime is unscheduled overtime as opposed to early start or extended day. Holidays, Saturdays, and Sundays within a regularly scheduled work week, and/or attendance at regularly scheduled meetings and other activities such as City Council meetings, Planning Commission meetings, etc., shall not be considered callback overtime. Overtime, other than callback overtime, when worked, will be compensated either by time and one-half compensatory time off or time and one-half pay as set forth herein. All overtime must be requested by the supervisor and approved by the Department Head.

- H. Compensatory Time Off - At the employee's option, overtime may be compensated by time off at the rate of time and one-half the hours worked. The compensatory time off is subject to the needs of the service and may not be taken without prior approval by the employee's supervisor on an approved form, nor shall it be taken in increments of less than one-quarter hour. Compensatory time balances shall not exceed eighty (80) hours but may be maintained on an indefinite basis. When the maximum balance is reached, cash payment for overtime will be automatic. In addition, there shall be an opportunity for a cash payout of all or a portion of accrued compensatory time at the request and discretion of the employee on the first payday in October each year.
- I. Overtime-Holidays - Employees whose regularly scheduled workday or work shift falls on the actual holiday and who works such a holiday shall receive compensation as follows:
1. Time and one-half pay for time worked and shift pay, and, at the employee's option:
 - a. Compensatory time off (Float Holiday Pay) on a straight-time basis subject to the needs of the service and the prior approval of the employee's supervisor; or
 - b. Straight-time pay for time worked.
 2. Employees whose regularly scheduled workday or work shift falls on a holiday and who call in sick on the holiday, or a part thereof, shall receive straight-time holiday pay for those hours scheduled to work, but not actually worked due to illness.
 3. There shall be an opportunity for a cash payout of all or a portion of accrued float holiday hours credited for working holidays at the request and discretion of the employee on the first payday in October each year.

Section 5 Out-of-Class Assignment Pay

An out-of-class assignment is a temporary assignment of a regular employee to an authorized classification at a higher level of pay which requires the employee to perform the duties of the higher classification. Employees directed to continuously perform the duties in a vacant higher level classification shall be entitled to a salary rate increase at five percent (5%) above their regular rate of pay, or the minimum salary of the out-of-class classification, whichever is greater,

commencing after five consecutive work days in the out-of-class assignment, and for a period of no longer than six months at any one time. Compensation will be retroactive to the first day of the out-of-class assignment.

Once the initial out-of-class assignment terminates, the five consecutive workday waiting period will be waived for any additional out-of-class assignments that occur within six months provided that the employee is working in the same out-of-class classification regardless of work area assignment.

Section 6 Shift Differential

- A. Shift differential shall be paid only if one-half of the employee's regularly scheduled shift is worked after 6:00 p.m. or before 7:00 a.m. at the rate of \$1.00 per hour. If an entire shift (minimum eight hours) has been worked such that one-half the shift plus one-half hour falls between 6:00 p.m. and 7:00 a.m., then shift differential shall be paid for the entire shift.
- B. Shift differential shall apply for all Bargaining Unit employees assigned to Building Maintenance/HVAC Division for scheduled shifts only.

Section 7 Safety Shoe Allowance

The City agrees to provide the safety shoe allowance for eligible classifications, as listed in Exhibit “B” of this MOU, which shall be \$150 annually.

The Safety Shoe Allowance will not apply to any supervisory positions in Recreation.

Section 8 Bilingual Pay

The City agrees to pay \$50.00 per pay period to bilingual-speaking employees. The City agrees to pay an additional \$25.00 per pay period for written bilingual skills. The City reserves the right to establish the criteria for eligibility for this skill pay and shall verify through testing procedures, developed by the City, that employees are qualified and eligible. Verbal and written bilingual skill pay will be awarded based on an established need as approved by the Department Head.

Section 9 Certification Pay

In accordance with CalPERS reporting requirements, certification specialty pay will be paid and reported as a separate line item from an employee's hourly base rate of pay. Certification specialty pay will be paid in an amount of \$512.95 per month, paid in equal amounts of \$236.75 per pay period. Certification pay is paid at a maximum of \$512.95 per month, regardless of certifications held by employees as stated below.

Water, Wastewater, Control Systems, and Chemist Supervisory Classifications: Eligible supervisory employees assigned to positions requiring State of California certification will be compensated **certification pay** for certifications held above the level required for their current position.

Associate Engineer: The City agrees to provide specialty pay for employees who hold a Professional Civil or Traffic Engineer Certification in the State of California

Environmental Compliance Supervisor: The City agrees to provide specialty pay for the supervisor who holds a valid Environmental Compliance Inspector certificate from the California Water Environmental Association, which is above the level required for their classification.

Maintenance Supervisor: Effective pay period beginning July 5, 2015, the Maintenance Supervisor assigned to the Tree Trimming Crew will receive specialty pay for possessing a valid Arborist Certification from the International Society of Arboriculture.

ARTICLE V EMPLOYEE BENEFITS PROGRAM

Section 1 Health Insurance

A. Health Insurance Committee

While this memorandum is in force, the Association and the City agree to delegate to the Health Insurance Committee (HIC) the task of recommending to the City Council the health insurance options that will be made available to City employees.

The Health Insurance Committee (HIC) is commencing its annual review of medical and dental insurance plans and the related designs of the various plans available to employees. Consistent with the MOU, the HIC may consider changes in health and dental plan design that may increase the cost to covered employees in such areas as doctor visit co-pays, prescription co-pays and the like.

The Association and the City agree, in good faith, to make every possible attempt to provide a health plan cost which is beneficial to all employees and their dependents. The City Council may overrule and will not be bound by the recommendation of the HIC.

Membership on the HIC, as set forth in Rule 31, Section 4 of the Personnel Rules and Regulations, is set forth as follows:

The Committee shall be comprised of representatives from each employee association and an equal number of Management representatives. Management representatives shall be appointed at the discretion of the City Manager. Association representative members shall be nominated by their respective employee organizations and appointed or not appointed at the discretion of the City Manager. If a nominee(s) is/are not appointed, the nominating employee organization may resubmit additional nominees. All members of the committee may be removed by the City Manager at his/her discretion. Association representative members may be removed by the Association at their discretion. There is no fixed term of membership on the Committee.

B. Current Insurance Premium

The City reserves the right to document, to the City's satisfaction, the status of each employee.

1. Medical Insurance

For the term of this agreement, the City will provide the lowest cost full family medical plan as recommended by the Health Insurance Committee (HIC) and approved by the City Council; and

Beginning January 1, 2013, and thereafter, any medical insurance premium increases will be shared equally by the City and the employee for the lowest cost HMO medical plan. Employees choosing more expensive medical plans are required to pay the increased cost between that plan and the lowest cost plan. The employee's share of any medical insurance premium increases will be added to the employee's 2012 insurance contribution.

The current HMO monthly rates, beginning January 1, 2020:

HMO (Currently Kaiser):	<u>City</u>	<u>Employee</u>
Employee Only	\$450.60	\$ 85.22
Employee + One	\$901.18	\$ 170.46
Family Coverage	\$1,272.48	\$ 243.88

The current HMO monthly rates, beginning January 1, 2021:

HMO (Currently Kaiser):	<u>City</u>	<u>Employee</u>
Employee Only	\$467.94	\$ 102.56
Employee + One	\$935.86	\$ 205.14
Family Coverage	\$1,321.56	\$ 292.96

Employees choosing a more costly level of medical coverage will participate at the above rates, and also pay the differential cost for the more expensive premium level.

For the remaining term of the agreement, employee participation toward medical coverage will include the proportional percentage change in premium each "premium year" for the base level of coverage after changes in Plan Design by the HIC and approval by the City Council.

2. In the event that a majority of the Health Insurance Committee (HIC) recommends to the City Council changes in the Benefit Plan that either provide the same level of benefit coverage for less cost or greater level of benefit coverage for the same cost, the

City will meet and confer with the ECEA as to implementation of the economic impact of the proposed changes.

3. Flexible Benefit Plan

As part of the flexible benefit program, the City will provide a flexible amount equal to 2% of the Bargaining Unit member's monthly salary plus \$70 per month to purchase supplementary health benefits, insurances, 401(k) contributions, or to be received as cash payment, and any remainder funds received by the employee will be considered taxable earnings.

4. Alternate Health Coverage

The City and the Association agree to generate cost savings for health insurance premiums in cases where employees are eligible for dual insurance coverage and those cases where both spouses/domestic partners are City employees. Included in this plan is a rebate to the employee of a fixed amount of \$75 per month upon waiver of insurance. Each affected employee opting to participate in this program will be requested to sign a waiver and disclosure form. Only those employees with proof of other health insurance will be allowed to waive health coverage. Proof of alternate health coverage is required at the time of waiver. Employees will receive \$75 per month upon waiver of health coverage. When both spouses/domestic partners are City employees, only one spouse/domestic partner will receive the \$75 monthly waiver benefit; and if they are subscribers to the highest cost provider, they will be required to pay the higher rate.

C. Health Insurance Premium Deductions

The City reserves the right to deduct health insurance premiums twenty-four (24) times a year.

Section 2 Dental Insurance

The City agrees to pay the full cost of the employee-only dental insurance program for the term of this agreement.

Beginning January 1, 2013 and thereafter, dental insurance premium increases, for employee only coverage, will be shared equally by the City and the employee. The employees share will be added to the 2012 employee premium.

Employees may opt to purchase dependent dental insurance coverage through payroll deduction.

Section 3 Disability Insurance

The total amount of Disability Insurance premiums shall be deducted from salary.

Coordinated benefits for non-work-related disabilities will take place under the following administrative guidelines effective the first pay date in January 2003.

- Employees will be required to accept disability benefits upon determination of eligibility and cooperate in filing for benefits.
- The City will make every possible effort to provide light duty assignments for employees in a disability status. Employees in a work-related disability status will have priority for light-duty assignments. Administrative Directive #26 defines City policy relative to light duty assignments.
- Short-term Disability insurance will be coordinated with Long-term Disability coverage.
- Employees will continue to accrue vacation, sick leave and holiday pay during the twelve-week FMLA/CFRA period and for three months thereafter. Vacation, sick leave and holiday compensation will cease to accrue after the six-month period.
- Employees may supplement the disability insurance benefit with accrued benefits up to either 80% or 100% of regular payroll during the short-term disability period (twelve weeks). The level of supplementation cannot be changed during the short-term disability period.
- Upon receiving long-term disability benefits, the employee may choose to supplement the disability insurance benefit with accrued benefits up to 80% or 100% of regular payroll. During the long-term disability period, the employee may not change their level of supplementation of payroll.

- Medical, Dental, Term and Accidental Death & Dismemberment (AD&D) Life and Dependent Life insurances will be paid by the City for a period not to exceed nine months after the twelve-week FMLA/CFRA period has elapsed (total payment of twelve months).

Exceptions to this policy will be considered on a case-by-case basis by the City Manager.

Note: FMLA: Family Medical Leave Act (Federal Law)

CFRA: California Family Rights Act (State Law)

Section 4 Life Insurance

The City agrees to pay premiums for term life insurance in the amount of \$50,000 for employee-only coverage. Dependent coverage shall remain unchanged from that in effect on the date of this Memorandum of Understanding. Employees may opt to purchase supplemental group term life insurance benefits for employees and dependents through payroll deduction.

Section 5 Public Employees' Retirement System (PERS)

A. Tier 1 Retirement Benefit (Classic Members). The City will continue to provide the PERS 3% at 60 retirement benefit.

1. Effective pay period ending August 20, 2011, all current ECEA/SUP represented bargaining unit employees will make 100% of the statutory employee contribution to CALPERS, which will be applied to the Employees' Contribution and is currently eight percent (8%). The City will cease paying and reporting the value of the seven percent (7%) Employer Paid Member Contribution (EPMC). These contributions will be on a pre-tax basis.

The City and the Bargaining Unit agree to comply with PERS requirements relating to the level of employee contribution and the possible requirement for an election among benefited employees affected by the change in employee contribution.

2. The City shall provide the fourth Level of 1959 Survivor Benefits as offered by the Public Employee's Retirement System (PERS – Section 21382.5).
3. The City shall provide the PERS Single Highest Year Benefit.

4. The City shall provide the Military Service Credit as Public Service benefit (PERS Section 21024).
 5. The City shall provide the Credit for Unused Sick Leave benefit (PERS Section 20965).
 6. The City shall provide Third Tier 1959 Survivor's Benefit through the Public Employees' Retirement System (PERS).
 7. The City agrees to provide CALPERS Section 21548 Pre-Retirement Optional Settlement 2 Death Benefit.
- B. Tier 2 Retirement Benefit (Classic Members). The City and the ECEA/SUP Bargaining Unit agree to implement a second-tier retirement system under Government Code Section 20475. This second tier became effective December 23, 2012. The following is applicable to the second tier:
1. The City will provide Section 21353, the CalPERS 2% at age 60 retirement calculation.
 2. Employees make 100% of the statutory employee contribution to CalPERS, currently 7% of salary. These contributions will be on a pre-tax basis.
 3. There will be no final-year concession of said payments to compensation for CalPERS benefit calculation purposes (EPMC).
 4. The City will provide 36 highest paid consecutive months for determining the average monthly pay rate (Government Code Section 20037).
- C. Tier 3 Retirement Benefit (New Members). Effective January 1, 2013, and in accordance with Assembly Bill (AB) 340, Public Employees' Pension Reform Act (PEPRA) implemented a new benefit formula and contribution requirements for employees hired on or after January 1, 2013, and who meet the definition of a New member under PEPRA. The following will be applicable to the third tier:
1. The city will provide the CalPERS 2% at age 62 retirement benefit program.
 2. Employees pay fifty percent of total normal cost rate, currently 6.25% of salary. These contributions will be on a pre-tax basis. The City may bargain to have employees pay more than fifty percent of total normal cost with no maximum cap.

3. There will be no final-year concession of said payments to compensation for CalPERS benefit calculation purposes (“EPMC”).
4. The final compensation calculation shall be based on the highest average 36 consecutive months.
5. Cap on pensionable compensation – 120% of value of Social Security Wage Index limit.
6. All other provisions in accordance with AB 340 apply.

Section 6 Flexible Spending Accounts

The Supervisory Bargaining Unit is eligible to participate in the reimbursement portion of the Section 125 plan. The members of this unit may elect, by payroll deduction, pre-tax salary to be set aside in the Medical Flexible Spending Account and/or the Dependent Care Flexible Spending Account. Pre-tax health insurance premium payments will be established by negative declaration.

Section 7 401 (K) Plan

Effective January 25, 2009, all City contributions to employee 401(k) accounts shall be suspended and remain until terminated.

The City and the Association agree to provide availability of, on behalf of employees, a 401(k) Plan. Administrative costs will be the responsibility of the City.

The City shall contribute a total of one hundred dollars (\$100.00) per month (\$50.00 on each of the first two pay dates in each month) on behalf of each Bargaining Unit employee.

Section 8 Uniforms

The City agrees to provide a uniform service for seven (7) complete sets of clean uniforms per week for all Building Maintenance employees.

Effective July 1, 2008, the City will pay the Lakes and Open Space Supervisor \$650 a year for an annual uniform allowance. In addition, the City will provide reimbursement for authorized jacket for any new Lakes and Open Space Supervisor upon proof of purchase, as approved by the Department Head.

The City agrees to provide safety jackets for supervisory classification employees designated by the Department Head.

As part of required safety equipment, the City agrees to provide all unit members a safety jacket which is required wear during all-cold weather periods. Wearing of the jacket will be at the discretion of the employee, however, the specified jacket will be the only cold-weather jacket allowed to be worn while on duty. The implementation of this measure will be undertaken with the participation of a committee composed of management and employee representatives.

Section 9 Voluntary Benefit Plans

The City may offer voluntary benefit plans, at no cost to the City, to all employees. The City will notify each respective bargaining group in advance of offering any voluntary benefit program to the employees.

Section 10 Domestic Partner Benefits

Consistent with State Law, the City will provide Domestic Partner benefits.

Section 11 Same Sex Marriage Benefits

Effective October 1, 2013, and consistent with Federal/State Law, the City will provide same-sex marriage benefits.

ARTICLE VI **STANDBY POLICY**

Section 1 Definition

Standby is defined for Bargaining Unit employees as that period of time outside the normal scheduled work shift, in which the employee is required to be within immediate reach for contact by phone, pager, or radio, and be ready to report for work without delay to perform emergency services. Standby duty shall not count as time worked for purposes of computing overtime.

Standby assignments will take place in the Building Maintenance /HVAC Division and in the Public Works Maintenance Division on a voluntary rotation as scheduled by management.

Standby assignments will be managed in accordance with the Standby Policy dated October 1, 2006, providing for the operational protocols and divisional assignments within which standby assignments will be managed.

Section 2 Standby Pay

- A. Each employee who has served on a seven (7) day standby duty shall receive three hundred and twenty-five dollars (\$325.00) compensation for each entire seven (7) day standby tour of duty served.
- B. Applicable standby compensation will be paid on the first pay period following the end of a tour of standby duty served.
- C. In the event of an emergency substitution, the person substituting will be compensated at 1/128th of the weekly figure, on an hour-for-hour basis of standby duty served. The total amount paid for substitution personnel will be deducted from the total weekly compensation of the individual assigned the seven (7) day tour of duty.
- D. If a designated City holiday occurs during the seven (7) day tour of standby duty, the employee will be eligible for an additional fifty dollars (\$50.00) of compensation for each designated City holiday served during that tour of duty. This additional Holiday compensation applies only to City-designated Holidays.

Section 3 Callback Standby Overtime

- A. Employees will be paid a three (3) minimum at the rate of time and one-half for each emergency callback responded to while assigned standby status except as follows:
 - Subsequent callouts within a three (3) hour period of the original callback shall be considered as one callback for purposes of compensation.
- B. Callback compensation will be paid for portal to portal time for each individual callback.

Section 4 Telephonic Call Back

The City will implement Supervisory telephonic response compensation through which Supervisory employees, while off duty, and when contacted by Emergency Dispatch or by a subordinate employee called-back as an Emergency Responder, will be compensated with overtime pay in increments of 15 minutes when contacted to provide verbal guidance to the emergency call-back circumstance.

ARTICLE VII CONFINED SPACE TEAM

Members of the Confined Space Team, upon successful completion of training, will be paid \$143.87 per month, paid in equal amounts each pay period, while assigned to the team. In accordance with CalPERS reporting requirements, Confined Space Team specialty pay will be paid and reported as a separate line item from an employee's hourly base rate of pay. While receiving the stipend, team members must maintain satisfactory job performance in their normal work assignment as well as continue to meet all requirements of the Confined Space Team.

ARTICLE VIII TUITION REIMBURSEMENT

Within budgetary limitations, and subject to the criteria and limitations listed below, the City will reimburse tuition and related expenses, up to one thousand five hundred dollars (\$1,500) per employee per fiscal year, for tuition fees at a maximum not to exceed the California State University systems. A maximum of \$8,000 will be allotted annually for the use of tuition reimbursement for all ECEA members (ACE and Supervisory Bargaining Unit employees), as outlined within this Article.

Eligibility Criteria

1. Course content is closely related to the employee's current classification and is designed to improve job performance or would assist the employee in preparing for a promotional opportunity.
2. To receive reimbursement, it is encouraged that the employee pursue any approved course or courses of study at an educational institution with tuition fees comparable to fees of the California State University systems.
3. Reimbursement shall be provided for up to one hundred (100%) percent of amount of tuition fees of the California State University systems.
4. Course is completed with a minimum grade of "C" or its equivalent or by evidence of satisfactory completion.

5. Course is given by a school accredited by the Western Association of Schools and Colleges or equivalent approved by the Council for Private Post-Secondary and Vocational Education, or by an accredited high school.

Tuition and Related Expenses

The following are eligible expenses within the meaning of "Tuition and Related Expenses":

1. Tuition and/or class fees and/or registration fees charged by an educational institution;
2. Books required for the course;
3. Miscellaneous mandatory charges such as health service and/or identification cards.
(Parking charges are not considered required expenses and will not be reimbursed.)
4. Mileage Reimbursement
 - a. In view of the distance existing within San Diego County, with Department Head approval, City vehicles may be used on a "pooled" basis when two or more employees attend the same institution on the same schedule.
 - b. When private vehicles are used and attendance is required by the City, mileage shall be paid at the rate established by the Internal Revenue Service.

Approval Process

Upon submittal, the Department Head will note the recommendation and forward the application to the Human Resources Department for approval.

Exception Review

Applications which are not approved by the Department Head and the **Human Resources Manager** may be submitted to the Tuition Review Committee.

The Tuition Review Committee will consist of:

- City Manager or designee
- Director of Human Resources**
- Department Head
- One other Department Head (selected on a rotating basis)

Limitations/Return of Education Reimbursement

Employees will not be reimbursed for that portion of tuition, books and mandatory fees which is reimbursed by a federal or state benefit, grant, scholarship or other reimbursement program.

Reimbursement Procedure

Upon preliminary approval and successful completion of approved courses, employees may request reimbursement as follows:

1. Complete tuition reimbursement form.
2. Submit proof of payment of reimbursable items.
3. Submit school transcript indicating the grade achieved for the completed course.

ARTICLE IX **VACATION**

Section 1 Annual Vacation Leave

All probationary, regular part-time and full-time supervisory unit employees shall be entitled to annual accrual of full or prorated vacation leave with pay.

Section 2 Earned Vacation

Each eligible employee shall accumulate annual prorated vacation from the date of hire at the rate applicable to their employment status as follows:

1-5 years of service	=	3.68 hours a pay period for 26.0893 pay periods
6-10 years of service	=	5.21 hours a pay period for 26.0893 pay periods
11-15 years of service	=	6.75 hours a pay period for 26.0893 pay periods
16 years & over	=	8.280 hours a pay period for 26.0893 pay periods

The City agrees to provide an additional four (4) hours of vacation time in lieu of past practice of granting an informal four (4) hours off during the holiday season. This additional vacation shall be added to the vacation balances of each employee on the first payday in October every year (including maximum accrual of eight [8] hours).

Section 3 Vacation Periods

Vacation may never be used in units of less than one (1) hour.

- A. The times during an accrual year at which an employee may take their vacation shall be determined by the Department Head with due regard for the wishes of the employee and particular regard for the needs of the personnel system. Prior approval is required except in the case of an emergency. In such circumstances, the Department Head or designee must be

notified of need for previously unapproved vacation. If the requirements are such that an employee cannot take all of their accrued vacation within an accrual year, the balance may be carried forward to the next year. Vacation credit shall be forfeited if not taken within a twenty-four (24) month period for such employees.

- B. When an eligible employee intends to defer any portion of their accrued vacation to a succeeding twelve (12) month period, subject to the provisions of this Article, it shall be their obligation to advise their Department Head of that intent and the reasons therefor.
- C. No legal holiday that falls during an employee's vacation may be charged against the employee as vacation, and the leave shall be extended accordingly.
- D. Employees who terminate shall be paid in a lump sum for all allowable accrued vacation leave earned prior to the effective date of termination.
- E. Allowable, accrued terminal vacation pay shall be computed as follows:

1 - 5 years of service: Actual hrs. worked x 4.62%	=	Terminal vac. hrs.
6 - 10 years of service: Actual hrs. worked x 6.54%	=	Terminal vac. hrs.
11 - 15 years of service: Actual hrs. worked x 8.46%	=	Terminal vac. hrs.
16 & over years of service: Actual hrs. worked x 10.38%	=	Terminal vac. hrs.

Computations shall be made to the nearest tenth of an hour, the figure "5" being rounded to the nearest even number.

Vacation accrual information will be printed on employee pay statements.

Section 4 **Vacation Cash Out**

All employees have the ability to cash out a maximum 24 vacation hours in July and a maximum of 24 vacation hours in December, for a total of 48 vacation hours in a year.

ARTICLE X SICK LEAVE

Section 1 Personal Use

Sick leave with pay shall be granted to all probationary, regular part-time and full-time employees within the personnel system. Sick leave shall not be considered as a right which employees may use at their discretion, but shall be allowed only in case of necessity and actual personal sickness

or disability, or for instances where employees are victims of domestic violence, sexual assault, and stalking.

In order to receive compensation while absent on sick leave, the employee shall notify their immediate superior or their Department Head prior to or within two (2) hours after the time set for beginning their daily duties, or as may be specified by the head of their department. In the event that an employee has applied for sick leave use for four (4) or more consecutive scheduled working days, the City may require a physician's certification as to the duration of the sickness or injury and an approval of the employee's intended return to work. The City Manager may, however, require such certification or evidence the City deems necessary regarding sick leave use at any time. In no case shall the City require a physician's certification as stipulated under the Kin Care Leave Law.

"Evidence" as used in the prior sentence includes but is not limited to:

- A. A prognosis from the treating physician as to the expected convalescent period, if any;
- B. Specific physical restrictions, if any, which bear on the employee's ability to perform his/her usual and customary duties or modified work assignments;
- C. A second opinion on the employee's condition from a physician or physicians of the City's choice (and at City's expense) based upon independent medical evaluation(s) and/or review of the employee's physician's report.

All employees shall accumulate sick leave at the rate of nine (9) hours/month (4.15 hours/pay period); there shall be no limit on the amount of sick leave accrued.

An employee may coordinate sick leave pay with disability payments in accordance with Article V, Section 3.

(Note: Sick Leave use and notification language is currently under Rule 14 of the Personnel Rules and Regulations. The City will abide by, and in no case provide less sick leave than which is set forth in AB 1522, Healthy Workplace, Healthy Families Act (California Paid Sick Leave Act).

Section 2 Sick Leave Conversion

Once annually, during the sixty (60) days following the end of a fiscal year, an employee may convert any unused sick leave accrued during that fiscal year on the basis of two (2) hours of sick leave to one (1) hours of vacation.

However, a minimum balance of one hundred twenty (120) sick leave hours must be maintained in order to be eligible for conversion to vacation.

Section 3 Family Leave/Bereavement Leave/Child-Related Activities Leave

Family Leave: Effective January 1, 2016, the Kin Care Leave Law (Labor Code Section 233) was modified per SB 579. Per the Kin Care Leave Law and the City of Escondido, employees may now use up to one year of their sick leave accruals each calendar year for the following purposes:

- The diagnosis, care, or treatment of an existing health condition of, or preventative care for, the employee's family member.
- The diagnosis, care, or treatment of an existing health condition of, or preventative care for, the employee.
- An employee who is a victim of domestic violence, sexual assault, or stalking.

Child-Related Activities Leave: Employees can take up to 40 hours per calendar year (up to 8 hours per month) for child-related activities per Labor Code Section 230.8. Employees must use their available vacation, compensatory time, or holiday leave accruals and provide reasonable notice to their supervisor for the need of such leave.

Bereavement Leave: Employees may use up to one year of their sick leave accruals each calendar year for situations when an employee's presence is required elsewhere due to bereavement for members of the employee's immediate family, or individuals whose relationship to the employee is that of a dependent or near dependent, member of the immediate household, domestic partner, or a person who is of significance to the employee.

Exceptions to exceed the authorized accrual for family leave or bereavement are subject to consideration by the City Manager on a case-by-case basis. In no event shall an employee be granted sick leave time to oversee children who are not ill (babysitting).

In no case will the City provide less family leave than that which is set forth in State and Federal law.

Section 4 Workers' Compensation

A. When an employee takes sick leave on account of a physical condition for which they received compensation from Workers' Compensation:

1. The pay that they receive from the City while on leave shall be at a rate that is the difference between the rate of the disability payment and their regular rate of pay if an employee chooses to supplement workers' compensation pay with accumulated leave pay.

B. Employees in a Workers' Compensation status will be provided the same additional benefits as employees in a non-industrial disability status.

Section 5 Illness during Authorized Vacation

Employees who are on authorized vacation and become ill, or otherwise disabled through accident, may charge such sickness or disablement to credited sick leave, provided a doctor's certificate is presented to the **Director of Human Resources** indicating the total number of days to be so charged.

Section 6 Termination

Employees who terminate for any reason, including retirement, shall not receive cash payment for accrued sick leave. Further, all eligibility for sick leave with pay shall be canceled upon separation of the employee from the City service. However, if such separation is by layoff, this accumulated eligibility may be restored to the employee in whole or in part by the City Manager upon reemployment.

ARTICLE XI **HOLIDAYS**

Section 1 Holidays Observed

Every regular full-time and part-time, and every probationary employee in the personnel system shall not be required to be on duty on holidays unless the employee's services are needed and required in the interests of the public health, safety, or general welfare, in which latter event, any

such employee shall be entitled to an in lieu holiday or overtime pay, in accordance with these rules.

CONSTITUTED HOLIDAYS

New Year's Day	Labor Day
Martin Luther King Day	Veteran's Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day After Thanksgiving
Independence Day	Christmas Day

For employees whose regular work schedule is Monday through Friday, when a holiday falls on a Sunday, it is observed on the Monday immediately following. When a holiday falls on a Saturday, it shall be observed on the preceding Friday. For employees whose regular work schedule rotates on a seven-day cycle, the actual holiday is the recognized holiday for holiday compensation purposes.

Section 2 Holiday Pay

Employees whose regularly scheduled workday or work shift falls on a holiday and who actually work such a holiday shall receive compensation as follows:

1. Time and one-half pay for time worked, and, at the employee's option,
 - a. Compensatory time off (Float Holiday Pay) on a straight-time basis subject to the needs of the service and the prior approval of the employee's supervisor; or
 - b. Straight time for time worked.
2. Employees whose regularly scheduled workday or work shift falls on a holiday and who call in sick on the holiday, or a part thereof, shall receive straight-time holiday pay for those hours scheduled to work but not actually worked due to illness.
3. There shall be an opportunity for a cash payout of all or a portion of accrued float holiday hours credited for working holidays at the request and discretion of the employee on the first payday in October each year.

Section 3 Flexible Holiday Hours

The City agrees to provide the establishment of a flexible holiday bank. The flexible hours must be used within the fiscal year they are deposited. The flexible holiday hours cannot be turned in for cash value at any time, including if an employee terminates employment with the City. Flexible holiday hours cannot be rolled over from year to year. Employees must be in an active and paid status in order to receive the annual credit. Employees who are hired after the annual credit distribution will **not** receive this benefit. The City agrees to provide the following hours:

- a. 18 hours of flexible holiday hours credited to each employee’s leave banks the first pay period in July 2020.**

ARTICLE XII MILITARY LEAVE/FMLA MILITARY LEAVE

Section 1 Military Leave Granted

Military Leave/Military FMLA Leave shall be granted in accordance with the provisions of State and Federal law.

Upon verification of military orders, employees who are members of the military reserve or National Guard who have been called to active duty during national security, after the standard Military Leave Policy, shall receive the difference between the amount the employee would have received from their regular City gross biweekly wage (not including overtime) and the amount the employee receives from the military.

Health benefits will be continued for the employee and family. An employee would continue to pay their respective portion of the benefit programs (including any premiums for family coverage), unless health benefits are waived.

If the leave is longer than 12 months, no more than one uniform allowance will be paid upon return.

Section 2 Compensation

Every employee ordered to take military leave who would have been required to work for and be paid by the City at the same time military leave is ordered shall receive their salary or compensation as an employee of the City in accordance with the provisions of State and Federal law.

ARTICLE XIII **LEAVE OF ABSENCE WITHOUT PAY**

A. The City Manager may grant a regular or probationary employee leave of absence without pay, seniority, or benefit accruals not to exceed six (6) months. For special educational purposes, however, the City Manager may grant leaves of absence not to exceed one (1) year, without pay, provided such study is related to City employment. When such special educational leave of absence is granted, the employee must agree in writing that they will return to regular, full-time employment with the City for a minimum of one (1) year. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval will be in writing. Upon expiration of a regularly approved leave or within a reasonable period of time after notice of return to duty, the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty, shall be cause for discharge.

When an employee is in a leave of absence without pay status due to having exhausted all accrued sick leave and vacation credit, their revised hire date or date of promotion for purposes of merit increases, sick leave, and vacation credit, will be the number of working days absent added to their former hire or promotion date, whenever such leave exceeds thirty (30) consecutive working days.

Employees will be offered continued insurance coverage at employee's expense when paid leave is exhausted.

B. Leave Without Pay

Bargaining Unit employees in good standing may, with supervisory permission and five days prior notice, take time off without pay without having to exhaust vacation leave balance. No employee shall exceed ten (10) work days off without pay within a calendar month.

ARTICLE XIV MATERNITY/PATERNITY/FMLA/CFRA/PDL LEAVE

Employees shall be granted maternity leave in accordance with the following provisions:

- A. In all cases of pregnancy, the employee shall furnish the City a statement from her physician giving the anticipated date of delivery and the opinion of the physician as to her ability to perform her normal work assignment. Such statement shall be furnished as soon as practicable after a determination of the pregnancy has been made.
- B. A pregnant employee will be permitted to work as long as she is able to safely perform the duties of her position as recommended by the statement of her physician.
- C. An employee will be permitted to return to work when she is able to safely perform the duties of her position as recommended by the statement of her physician. An employee must give notice two (2) weeks prior to the date she wants to return to work. If she does not give two (2) weeks' notice prior to the date she wants to return to work, the department shall not be required to return her to work until two (2) weeks after she has given such notice.
- D. A pregnant employee shall be allowed to be absent for the period during which, in the opinion of her attending physician and where necessary, the City physician, she is temporarily disabled because of pregnancy, miscarriage, abortion, childbirth, and recovery there from, in accordance with state and/or federal regulations.
- E. The City may, at its option, and at City cost, require an independent medical opinion concerning the employee's ability to safely perform her duties.
- F. A temporarily disabled pregnant employee shall be entitled to use all accumulated paid leave time for maternity leave and such additional leave of absence without pay, seniority and accrual of benefits, in accordance with state and/or federal regulations.
- G. In the case of adoption and paternity leave, a six (6) month period is applicable, per the City of Escondido Personnel Rules and Regulations, Rule 21, Section 6.

ARTICLE XV **JURY AND WITNESS LEAVE**

Section 1 Jury Duty

Any employee who is called or required to serve as a trial juror shall be entitled to absent themselves from their duties with the City during the period of such service or while necessarily being present in court as a result of such call. Under such circumstances, the employee shall be paid their full salary and any payment received by them from the court for such duty. Employees shall provide Personnel Division staff with a copy of the call to jury duty and other documentary evidence of service as required by the City.

Section 2 Witness Leave

Any employee who is called or required to serve as a witness shall be entitled to absent themselves from their duties with the City during the period of such service or while necessarily being present in court as a result of a proper subpoena. Under such circumstances, the employee shall be entitled to leave with pay unless the employee is a party or expert witness. The employee shall be paid the difference between their full salary and any payment received by them, except travel and subsistence pay, for such duty. Witness leave will not be granted to employees who are litigants in civil cases or defendants in criminal cases. Employees shall provide their supervisor and the Human Resources Department with a copy of the legal subpoena and other documentary evidence of service as required by the City.

ARTICLE XVI **ATTENDANCE**

Section 1 Attendance Requirements

Except as the City Manager requires to the contrary, all offices of the City shall be open for business from 8:00 a.m. until 5:00 p.m. on all days except Saturdays, Sundays, and the designated holidays as set forth in this Memorandum of Understanding.

All departments shall keep daily attendance records of employees which shall be reported to the Finance Department on the form and on the dates specified.

Employees shall, except as this Memorandum of Understanding provides to the contrary, work at least forty (40) hours per week. An employee whose duties require an irregular work schedule

shall work according to a schedule recommended by their supervisor and/or Department Head and approved by the City Manager.

All employees shall be on duty at the times required by this Memorandum of Understanding with respect to hours, days of work, and leave. However, an employee who is absent without leave and who fails to return to duty within twenty-four (24) hours after receiving written notice to do so shall be deemed to have resigned from their position. Such employee automatically waives all rights under the Municipal Code and this Memorandum of Understanding and the Personnel Rules and Regulations.

Section 2 Hours of Work

The normal work week shall be five (5) consecutive work days with two (2) days off. The normal work day shall be eight (8) consecutive hours within a twenty-four (24) hour period. Shift work employees shall be granted reasonable advance notice of changes in the scheduled shifts. Notwithstanding the above, when public or operational necessity or efficiency of the services is deemed by the City to require an other than normal work week, work day, or work schedule, such will be prescribed by the City.

Section 3 Alternate Work Schedule

With written approval of the Department Head, an alternate work schedule may be adopted in a section/division where there is mutual agreement between the employees and their supervisor(s) in instances where an alternate work schedule may meet City service level needs. Said alternate work schedule may change periodically based upon City service demands and the periodic reevaluation by the respective Department Head, which may be at the request of the employees and/or their supervisor(s). Nothing in this Article provides for or implies any additional compensation or benefit for work on an other than normal work week, work day, or work schedule.

Section 4 Employee Work Schedule

Effective with ratification of this agreement, the following work schedule language will govern work assignments within the City service.

Consistent with the Management Rights included in the City of Escondido Employer-Employee Relations Resolution, Article I, Section 1, the normal workweek shall be five consecutive workdays with two days off. Shift work employees shall be granted reasonable advance notice of changes in scheduled shifts.

Notwithstanding the above, when public or operational necessity or efficiency of the public service is deemed by the City to require an other than normal work week, work day or work schedule, such will be prescribed by the City. Whenever there is a permanent change in the existing workweek, work hours or work schedule (except regularly scheduled shift changes) the City will advise affected employee(s) of the reasons for such change. Work schedule changes will be made providing reasonable advance notice to affected employees.

Work schedule changes required for an interim project or special service needs are exempt from the parameters set forth below.

None of the above will prohibit an employee requesting an alternate work schedule as long as the work schedule meets the operational needs of the City.

As service demands dictate a regular, other-than-normal work schedule, a modified work schedule will be implemented on a rotational basis according to the following practice:

- Voluntary participation by employees in the work group
- Alternative schedules will be developed with input and participation by the affected employees
- Schedules will have an equitable rotation cycle
- The schedule will include provisions for shift trades through a flexible, fair process among affected employees

Notwithstanding the above noted features of an alternative work schedule implementation process, the City agrees to meet and confer with the Association to implement a revised work schedule if the voluntary process does not enable the implementation of the revised work schedule.

Section 5 Rest Periods

Employees rest periods will normally be provided to employees at the rate of fifteen (15) minutes for each four (4) hours worked. Further, except under unusual circumstances, rest periods will not

be taken during the first or last hours of the work day. Notwithstanding the above, when public or operational necessity or efficiency of the service are deemed by the City to require other than full freedom from the job assignment and/or less than fifteen (15) minutes rest time, such will be prescribed by the City. Since rest periods are paid time already, nothing in this section provides for or implies any additional compensation or benefit if a rest period is not received.

Section 6 Absenteeism

Excessive absenteeism shall be grounds for termination. Prior to implementation of disciplinary procedures leading to termination, the City shall make a good faith effort to make a performance referral to the Employee Assistance Program. The final determination shall be made by the City subject to the normal disciplinary review process.

ARTICLE XVII **AMERICANS WITH DISABILITIES ACT (ADA)**

Because the Americans with Disabilities Act (hereinafter "ADA") requires accommodations for individuals protected under the Act, and because these accommodations must be determined on an individual base-by-case basis, the parties agree that the provisions of this agreement may be disregarded in order for the City to avoid discrimination relative to hiring, promotions, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leave, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

The bargaining unit recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. The employee's bargaining unit will be notified of these proposed accommodations prior to implementation by the City.

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance/arbitration procedure.

Prior to disregarding any provision of this agreement in order to undertake required accommodations for an individual protected by the Act, the City will provide the bargaining unit

with written notice of its intent to disregard the provision and if requested will allow the bargaining unit the opportunity to discuss options to disregarding the agreement.

ARTICLE XVIII PROBATIONARY PERIOD

City Manager approval is required for the extension of any probationary period. Extension will only be for extended absences during the probationary period. The length of probation shall be 1,560 actual hours worked (excluding any leave time).

ARTICLE XIX SENIORITY PROVISIONS

Section 1 Definition

Seniority shall mean the status attained by length of continuous service with the City as modified by leaves of absence without pay.

Section 2 Leave Preference

For the purposes of granting vacation, holidays and non-emergency sick leave, the following seniority practices shall apply:

- A. First preference shall be granted by classification. The highest classification in the job family shall be granted preference regardless of tenure.
- B. Within each classification, preference shall be given by length of continuous City service regardless of department or classification.
- C. With respect to annual leave (vacation) where a vacation schedule has been bid and approved by the Department Head, employee requested changes will not be subject to seniority.
- D. At all times, the granting of paid leave preference shall be approved by the Department Head with regard for the needs of the service and such leave shall be controlled at the department level.

Section 3 Layoff Procedure

Whenever it becomes necessary to reduce the number of employees in any classification or position, the order of layoff shall be as follows:

- (1) employees with provisional status;
- (2) employees with probationary status; and

(3) employees with regular status in order of seniority, the employee with the shortest service in total City service in any classification is to be laid off first.

In the event that two or more employees have identical total City service seniority, the order of layoff will be determined by length of continuous service in the affected classification. Whenever two or more employees have identical service in the affected classification, the order of layoff shall be determined by the City Manager on the basis of performance.

Employees to be laid off in a particular classification have the right to demote to a lower job previously performed for which they meet the minimum qualifications and the employee is capable of performing the essential functions of the position.

The name of each laid off employee shall be placed on a reemployment list and shall be given the first opportunity to return to regular employment in reverse order of layoff.

In the event of layoffs, the City agrees to meet and confer with employees to the extent required by law.

ARTICLE XX GRIEVANCE/COMPLAINTS

The City and ECEA agree to meet to discuss the current Grievance Policy within 90 days of execution of this MOU. Should changes be proposed and agreed upon, the City will meet and confer with all bargaining units to discuss and review proposed changes.

Section 1 Grievance Procedure

In the belief that the resolution of grievances is a constructive management action, a grievance procedure is hereby established. Such a procedure will give regular employees assurance that the City recognizes their right to be heard and assist them in achieving job satisfaction. The purpose of this procedure is to provide a just and equitable method for the resolution of grievances or complaints without prejudice, coercion or reprisal.

Section 2 Definitions

A. A *complaint* is defined as an allegation or charge against a party that an error or wrong has been committed, and is identified as a complaint when communicated to the supervisor or other appropriate designated representative.

- B. The *complaint procedure* is defined as the orderly process by which a determination is made as to whether or not a wrong has been committed.
- C. A *grievance* is an expressed claim by an employee that the City has violated, misinterpreted or misapplied an obligation to the employee as such obligation to the employee is expressed and written in the City personnel ordinance, rules and regulations, and administrative directives, and is identified as a grievance when communicated to the supervisor or other appropriate designated representatives.
- D. The *grievance procedure* is the process by which the validity of a grievance is determined.
- E. The term *employee* includes employees wherever applicable within this procedure.
- F. The term *days*, when used in this procedure, shall mean calendar days.
- G. A *representative* is a person who, at the request of the employee or management, is invited to participate in grievance conferences.
- H. A *general grievance* is defined as an expressed written claim by the employee organization that the City has violated, misinterpreted or misapplied a provision in a current memorandum of understanding which concerns items or procedures relating to the relationship between the City and the employee organization as a corporate body.
- I. The *general grievance procedure* is the process by which the validity of a grievance is determined.

Section 3 General Provisions

- A. No retribution or prejudice shall be suffered by employees making use of the grievance or complaint procedures, provided, however, no act or behavior which would otherwise subject an employee to discipline shall exclude the employee from discipline simply on the basis that a complaint or grievance is filed pertaining to that act or behavior.
- B. The time limits established herein may be extended to a date certain by mutual written agreement.
- C. If management, at any step of the procedure, fails to respond within the prescribed time limit specified, the employee may process their grievance or complaint at the next step.

- D. If the employee, at any step of the procedure, fails to appeal the decision on a grievance or complaint within the prescribed time limit specified, such decision shall be deemed accepted and shall not be subject to further appeal or consideration.
- E. By mutual written agreement, a grievance may revert to a prior level for reconsideration.
- F. The employee shall be present at all steps of the grievance or complaint procedure.
- G. All communications, notices and papers required to be in writing shall be served personally or by the United States Postal Service.
- H. Management shall inform an employee of any limitation on the authority of the management representative to fully resolve the grievance.
- I. The employee is assured the right to consult with their supervisor, the Department Head or their designee, or the **Director of Human Resources**, without prejudice, concerning the matter, from and/or procedure for filing a grievance.

Section 4 Representation Rights

- A. The employee has the right to the assistance of a representative of their choice in the investigation, preparation and presentation of a grievance.
 - 1. Representation may occur at any stage of the grievance procedure, provided, however, that prior to calling for representation at step one of the procedure, the employee shall discuss their grievance with the supervisor. Upon conclusion of the discussion, the employee may request a continuation of the informal grievance process (step one) to a mutually agreeable time within five (5) days to have the assistance of a representative.
 - 2. If the employee elects another employee as their representative, such representative shall not be released during working hours without the approval of their supervisor.
 - 3. The supervisor shall grant a reasonable amount of time off, provided such would not unreasonably interfere with or delay City work.
- B. Grievance conferences (between management and the employee) will normally be conducted during regular working hours at a mutually convenient time.

- C. The investigation of a grievance during working hours by an employee and their representative, if any, shall be in accordance with the following:
1. Prior to entering any job site, the representative shall obtain the approval of the job site supervisor.
 2. There shall be no solicitation of grievances or employee organization membership.
 3. The investigation shall be conducted in a reasonable amount of time and expeditiously with due regard for the work requirements of the City.
 4. Where the investigation commences prior to the end of the regular workday and continues beyond the close of the regular workday, time spent after the close of the regular workday shall be the employee(s) own time.
 5. Entry will not be permitted if it would unreasonably interfere with or delay City work.
 6. All safety regulations relating to the presence or conduct of persons at the job site shall be complied with.
- D. The name of the representative of the employee or management shall be given to the other party not less than forty-eight (48) hours prior to any grievance conference.

Section 5 Complaint Procedure

A. Step One

1. The employee shall inform their supervisor of their complaint within ten (10) days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the complaint. Failure to complete this procedure will bar further consideration of the complaint.
2. The supervisor shall, within five (5) days after receipt of the complaint, have a discussion with the employee concerning the complaint.
3. The supervisor shall, within five (5) days of the discussion, render a verbal decision to the employee.
4. The City, as well as the employee, has the right to process a grievance or complaint to the next step in the grievance procedure.

B. Step Two

1. Within five (5) days from receipt of the verbal decision from the supervisor, the employee, if they wish to appeal the decision, shall notify the Department Head of their intent to appeal the decision. Failure to complete this procedure will bar further consideration of the complaint.
2. The Department Head or their designated representative shall, within five (5) days of the notification as required above, have a discussion with the employee concerning the complaint.
3. The Department Head or their designated representative shall, within five (5) days of the discussion, render a verbal decision to the employee.

C. Step Three

1. Within five (5) days from the receipt of the verbal decision from the Department Head, the employee, if they wish to appeal the decision, shall notify the City Manager of their intent to appeal the decision. Failure to complete this procedure will bar further consideration of the complaint.
2. The City Manager or his designated representative shall, within five (5) days of the notification as required above, have a discussion with the employee concerning the complaint.
3. The City Manager or his designated representative shall, within five (5) days of the discussion, render a verbal decision to the employee.

D. Nothing in this section shall prohibit more expeditious handling of the complaint.

Section 6 Grievance Procedure

A. Step One - Informal Grievance

1. The employee shall inform their supervisor of their grievance within ten (10) days after the employee knew, or in the exercise of reasonable diligence should have known, of the events giving rise to the grievance. Failure to complete this procedure will bar further consideration of the grievance.

2. The supervisor shall, within five (5) days after receipt of the grievance, have a discussion with the employee concerning the grievance.
3. The supervisor shall, within five (5) days of the discussion, render a verbal decision to the employee.
4. The City, as well as the employee, has the right to process a grievance or complaint to the next step in the grievance procedure.

B. Step Two - Formal Grievance

1. Within ten (10) days from the receipt of the verbal decision from the supervisor, the employee, if they wish to appeal the decision, shall submit a formal written grievance to their supervisor. The grievance shall be submitted on forms provided by the City's Personnel Office and in conformance with the procedures stated thereon. Failure to complete this procedure will bar further consideration of the grievance.
2. The supervisor shall, within five (5) days of the receipt of the grievance, schedule a grievance conference at a mutually agreeable time. A representative of the employee and/or management may attend this conference in accordance with Section 4 of this procedure.
3. The supervisor shall, within five (5) days of the grievance conference, render a written decision to the employee with a copy of the original grievance.
4. The City, as well as the employee, has the right to process a grievance or complaint to the next step in the grievance procedure.

C. Step Three - Appeal

1. Within five (5) days from receipt of the written decision from the supervisor, the employee, if they wish to appeal the decision, shall submit an appeal to the Department Head. The appeal shall be submitted on forms provided by the City's Personnel Office and in conformance with the procedures stated thereon, and include the supervisor's response, if any. Failure to complete this procedure will bar further consideration of the grievance.

2. The Department Head or their designee shall, within five (5) days of receipt of the appeal, schedule a grievance conference at a mutually agreeable time. A representative of the employee and/or management may attend this conference in accordance with Section 4 of this procedure.
3. The Department Head or their designee shall, within five (5) days of the grievance conference, render a written decision to the employee with a copy of the appeals documents.

D. Step Four - Administrative Appeal

1. Within five (5) days from receipt of the written decision from the Department Head or their designee, the employee, if he/she wishes to appeal the decision, shall submit an appeal to the City Manager. The appeal shall be submitted on forms provided by the City's Personnel Office and in conformance with the procedures stated thereon and include the original grievance and management's responses, if any. Failure to complete this procedure will bar further consideration of the grievance.
2. The City Manager or his designee shall, within seven (7) days of receipt of the appeal, schedule a grievance conference at a mutually agreeable time. A representative of the employee and/or management may attend this conference in accordance with Section 4 of this procedure.
3. The City Manager or his designee shall, within seven (7) days of the grievance conference, render a written decision to the employee with a copy of all appeal documents.
4. The City Manager may, at his option, render a written decision based on the documents submitted for their review without the grievance conference within the time frame set forth above. If they do so, the employee may discuss this decision with the City Manager at a mutually convenient time, provided they request such meeting within seven (7) days of receipt of the City Manager's decision.

5. The decision of the City Manager shall be final, except where the grievance has resulted from a disciplinary action, in which case the employee may appeal his/her case to the Personnel Board of Review as permitted in these rules.

E. Nothing in this section shall prohibit more expeditious handling of the grievance.

Section 7 General Grievances

A. In order to provide an effective mechanism whereby disagreements between the employee organization and management concerning items or procedures relating to the relationship between the City and the employee organization may be effectively resolved, the following general grievance procedure is hereby established.

1. Where the employee organization has reason to believe that management is not correctly interpreting or applying a relevant provision of a current Memorandum of Understanding, the employee organization may file a general grievance by requesting in writing that a meeting be held with the authorized representatives of the City who have authority to make effective recommendations for the resolution of the matter. Such written request shall set forth in detail the facts giving rise to the general grievance and shall set forth the proposed resolution sought. Within fifteen (15) days of receipt of the general grievance, management will schedule a meeting at a mutually agreeable time for the purpose of discussing and attempting to resolve the disagreement.
2. Within fifteen (15) days of this meeting, management will submit its decision in writing to the employee organization.
3. If the employee organization is not satisfied with the decision, they may submit a request for hearing before the City Council. Such request for hearing must be submitted within fifteen (15) days of receipt of management's decision and shall include in detail the facts giving rise to the general grievance and all supporting documentation necessary for City Council consideration.
4. Management shall calendar on the City Council agenda such request and supporting documentation within thirty (30) days.

5. It shall be the option of the City Council to:
 - a. Refuse to hear the appeal, or make a decision on the documentation submitted;
or,
 - b. Hold a hearing after which they shall make a decision.
6. The decision of the City Council shall be final.

ARTICLE XXI DISCIPLINARY PROCEDURES

The Escondido City Employees' Association Supervisory Unit agrees to the following:

- A. The City Council may choose not to participate in the Disciplinary Review Process;
- B. The City Council may refuse to hear an appeal;
- C. The number of Commissioners on the Personnel Board of Review may be reduced; but, in no event shall the Board consist of fewer than three (3) Commissioners.

Attached to this Memorandum as Exhibit "C" is an opinion from the City Attorney setting forth an employee's right to challenge a commissioner for cause.

ARTICLE XXII FAIR LABOR STANDARDS ACT

- A. The parties understand that the decision of the United States Supreme Court in Garcia v. San Antonio Transit District causes the City to become subject to the provisions of the Fair Labor Standards Act (FLSA).
- B. It is further understood that the City may at its discretion, from time to time, reevaluate the status of positions and/or classifications and make new determinations as to exempt or nonexempt status (i.e., eligibility for overtime). Any employee whose eligibility for overtime is affected by such determination shall be notified and at their option appeal such determination in accord with the City's grievance procedure.

ARTICLE XXIII DISCRIMINATION/SEXUAL HARASSMENT POLICY

The Association has consulted with its membership for purposes of agreeing to the implementation of the revised Discrimination/Sexual Harassment Policy.

ARTICLE XXIV RECOGNITION

The City agrees to recognize the Escondido City Employees' Association as the sole and exclusive representative for the Supervisory Bargaining Unit, consisting of the employees who perform work in the classifications listed in Exhibit "A" of this Memorandum of Understanding.

ARTICLE XXV BARGAINING UNIT

Section 1 Payroll Deduction

The City shall deduct bargaining unit dues and such other proper and lawful deductions from the salary of each bargaining unit member covered hereby who files a written authorization, on a form provided by the City, requesting that such deductions be made.

Section 2 Release Time

The City shall release members of the bargaining unit negotiating team one-half hour prior to the commencement of formal meet and confer sessions and permit them to continue preparation for the next session one-half hour following the conclusion of a formal meet and confer session. Such release time not to include more than two (2) employees from each unit when bargaining at a joint table. In addition, the bargaining unit chief representative, if he/she so desires to act as a unit coordinator, may attend the sessions subject to the approval of each individual bargaining unit in their meetings with the City's representatives. Such release time is not to include more than three (3) employees, including the alternate, and, subject to unit approval, the bargaining unit chief representative as unit coordinator when bargaining as a single unit. In addition, the City shall allow each bargaining unit's alternate(s) to attend the preliminary ground rules meeting. No other employees may be released without the advance written approval of the City.

Designated members of the ECEA/SUP shall have paid release time for the following activities in the capacity of representing the Association and/or its membership:

- a. Formally meeting and conferring with City representatives on matters within the scope of representation. Release time will also be provided for grievance or disciplinary representation as stated above. Release time will include individuals

designated by the Association, and is based on receiving prior approval of the member's supervisor.

- b. Testifying or appearing as the designated representative of the Association in conferences, hearings or other proceedings before the Public Employment Relations Board, or agent thereof, in matters relating to a charge filed by the employee organization against the City or by the City against the Association.
- c. Testifying or appearing as the designated representative of the Association in matters before the Personnel Board of Review.
- d. The Association must provide reasonable notice to the City for the time off.

Section 3 Bulletin Boards

The City will provide adequate bulletin board space for the use of the bargaining unit in posting bargaining unit reports, agenda, minutes, bulletins, membership benefits, programs and promotions. Any other material approved by the Department Head may be posted. All material shall be initialed and dated by the bargaining unit representative posting or authorizing the posting of such material. Such material shall be removed after a reasonable time.

Section 4 Representatives' Access to Work Locations

Bargaining unit representatives may visit members of the unit on City job sites for purposes of bargaining unit business subject to the following:

- A. Prior to entering any job site, the representative shall obtain the approval of the job site supervisor.
- B. There shall be no solicitation of grievances of bargaining unit membership.
- C. Entry will not be permitted if it would unreasonably interfere with or delay City work.
- D. All safety regulations relating to the presence or conduct of persons at the job site shall be complied with.
- E. The bargaining unit will provide the City with a list of all representatives who may be visiting job sites.

Section 5 Employee Rights

Employees of the City shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations including, but not limited to, wages, hours, and other terms and conditions of employment. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to present themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against by the City or by any employee organization because of their exercise of these rights. No employee shall be prohibited from exercising their right to resign from City employment at any time and nothing in this policy shall be construed as to abrogate that right. In addition, employees of the City shall have the right to the redress of grievances and complaints as set forth in Article XX of this Memorandum of Understanding.

ARTICLE XXVI MANAGEMENT RIGHTS

Section 1 General Rights

The rights of the City include, but are not limited to, the exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees; take disciplinary action for just cause; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means, and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Section 2 News briefs

The City's management may issue Employee News briefs at their discretion commencing with the start of negotiations until agreement is reached or following a declaration of impasse; such news

briefs would be related to salary negotiations and distributed in accord with the agreed policy. Nothing in this section or the Memorandum of Understanding shall limit or abridge the City's right and authority to distribute in any manner and at any time news briefs of a general nature to any and all employees of the City.

Section 3 Management Right to Contract with Outside Vendors

The City will continue to accomplish work internally within the City workforce and assign such work among various City departments. When extra ordinary or specialty work must be accomplished, the City will seek the most cost effective resources to accomplish such work either through temporary employees or outside professionals.

The City is in the process of analyzing efficiencies as to the means and methods of governmental operations. If it is determined that the City is to outsource or contract services, the City will meet and confer over the decision and effects as it relates to any services that specifically pertains to personnel represented by the ECEA.

ARTICLE XXVII OTHER TERMS

Bargaining unit employees are also covered by the City of Escondido Personnel Rules and Regulations to the extent that these Rules and Regulations are not inconsistent with the terms of this Memorandum. In case of inconsistency between the terms of this Memorandum and the City's Personnel Rules and Regulations, the terms of this Memorandum shall prevail.

ARTICLE XXVIII WORK ATTIRE FOR FIELD PERSONNEL

Employees who have continuing contact with the public and/or who are performing tasks which by their nature dictate that they are clearly recognized as City employees are required to wear distinctive apparel that identifies them as City employees. Field Personnel will wear specified identifiable attire at all times while on duty, including a jacket during inclement weather. Other personal attire, e.g., trousers, is the responsibility of the employee and must be appropriate for the work setting. A range of acceptable attire items, as specified within the Identifiable Work Attire for Field Personnel Policy, must be worn by each employee.

The following SUP employees are subject to the provisions of the Identifiable Work Attire for Field Personnel Policy:

- Field Engineering Supervisor
- Senior Building Inspector
- Senior Code Enforcement Officer
- Supervising Chemist

The Field Personnel Attire Committee has been established to specify a range of appropriate shirts and lightweight jackets as required attire to be worn by field personnel. Such attire is denoted within the Identifiable Work Attire for Field Personnel Policy. The Committee will convene on an as-needed basis to review and update the Policy.

ARTICLE XXIX DRUG-FREE WORKPLACE

The City and the Association agree that the provisions of the Federal Department of Transportation rules for drug testing will be met. It is further agreed that only DOT required positions will be included.

The Unit agrees to the terms and conditions of the City's Drug-Free Work Place Policy and the Locker Policy.

ARTICLE XXX MOU REOPENER

At such time as regulations are issued implementing the Affordable Care Act (ACA), including the “Cadillac” Tax, the City and ECEA will meet and confer to review the impact of such regulations on the benefit plans, voluntary plans, and flexible spending accounts (FSA’s), then in force. If modifications to the benefits, eligibility for coverage, employer or employee contribution to the cost of insurance or any other provisions of the benefit plans, voluntary plans or FSA’s, covered by this MOU will be modified by the ACA during the term of this agreement, it is agreed that the City and ECEA will reopen the contract to meet and confer to determine how such mandated changes will be implemented.

DATED: 7/15/2020

DATED: 7/15/2020

FOR THE CITY OF ESCONDIDO:

FOR THE ESCONDIDO EMPLOYEES' ASSOCIATION SUPERVISORY UNIT:



Jessica Perpetua



Ralph Ginese



Christina Holmes



Grant Ruroede

Gary McCarthy



Cynthia Worayeth



Jennifer Fontaine

EXHIBIT "A"
Escondido City Employees Association
Supervisory Bargaining Unit
Effective July 12, 2020

<u>Union Code</u>	<u>Job Description</u>	<u>Base</u>	<u>Step 2</u>	<u>Step 3</u>	<u>Step 4</u>	<u>Step 5</u>
SUP	Associate Engineer	7,278	7,642	8,024	8,425	8,846
SUP	Associate Planner	5,223	5,484	5,758	6,046	6,348
SUP	Bldg Maintenance Supervisor	5,412	5,682	5,966	6,265	6,578
SUP	Control Systems Tech Supv	8,651	9,084	9,538	10,015	10,516
SUP	Custodial Supervisor	3,849	4,041	4,243	4,455	4,678
SUP	Environmental Comp Supervisor	7,278	7,642	8,024	8,425	8,846
SUP	Field Engineering Supervisor	5,686	5,970	6,268	6,582	6,911
SUP	Lakes & Open Space Supervisor	5,547	5,824	6,115	6,421	6,742
SUP	Maintenance Supervisor	5,547	5,824	6,115	6,421	6,742
SUP	Meter Reader Supervisor	5,412	5,682	5,966	6,265	6,578
SUP	Plant Systems Tech Supervisor	7,278	7,642	8,024	8,425	8,846
SUP	Police Records Supervisor	4,553	4,780	5,019	5,270	5,534
SUP	Property & Evidence Supervisor	4,553	4,780	5,019	5,270	5,534
SUP	Purchasing Supervisor	4,519	4,744	4,982	5,231	5,492
SUP	Sr Building Inspector	6,433	6,754	7,092	7,447	7,819
SUP	Sr Code Enforcement Officer	5,151	5,408	5,679	5,963	6,261
SUP	Sr Wastewater Coll Supervisor	7,278	7,642	8,024	8,425	8,846
SUP	Sr Water Distribution Sup	7,278	7,642	8,024	8,425	8,846
SUP	Supervising Chemist	7,646	8,029	8,430	8,852	9,294
SUP	Supervisor I (Comm Svs)	4,002	4,202	4,412	4,633	4,864
SUP	Supervisor II (Comm Svs)	4,402	4,622	4,853	5,096	5,351
SUP	Supervisor III (Comm Svs)	4,853	5,096	5,351	5,618	5,899
SUP	Wastewater Trmt Plnt Op Superv	8,234	8,646	9,078	9,532	10,009
SUP	Water Treatment Plant Op Sup	8,440	8,862	9,305	9,771	10,259

EXHIBIT "B"

SUPERVISORY BARGAINING UNIT

SHOE ALLOWANCE - \$150

Building Maintenance Supervisor
Control Systems Technician Supervisor
Custodial Supervisor
Environmental Compliance Supervisor
Field Engineering Supervisor
Lakes & Open Space Supervisor
Maintenance Supervisor
Meter Reader Supervisor
Plant Systems Technician Supervisor
Property and Evidence Supervisor
Senior Building Inspector
Senior Wastewater Collections Supervisor
Senior Water Distribution Supervisor
Supervising Chemist
Wastewater Treatment Plant Operations Supervisor

EXHIBIT "C"

CITY OF ESCONDIDO

RECEIVED

1983 JUN 22 AM 10:14

FINANCE DEPT.

memorandum

June 21, 1983

TO: Tim Huntley, Director Management Services
FROM: David R. Chapman, City Attorney
SUBJECT: Challenge To Personnel Board of Review
Members for Cause

QUESTION PRESENTED:

You have asked us to advise you whether as a matter of general law employees who are the subject of disciplinary proceedings before the Personnel Board of Review may challenge members for cause.

CONCLUSION:

We have concluded that due process requires that employees have the right to challenge Board members for cause prior to the Board's consideration of disciplinary proceedings affecting such employees.

DISCUSSION:

It is a well established principle of constitutional law (both U.S. and California) that a judge must not participate in the consideration of a matter as to which he may hold some bias. The principle is embedded in judicial practices and is also part of sound administrative law procedures. In practice, a person appearing before any tribunal which may hold some bias is entitled to challenge that tribunal for cause. Where bias is shown, the hearing officer must be recused. Where bias is demonstrated but there is no recusal, then there is a clear denial of due process.