

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

LINCOLN POLICE AND FIRE MID-MANAGEMENT/SUPERVISORY GROUP

AND

THE CITY OF LINCOLN

TERM OF AGREEMENT:

July 1, 2021 through June 30, 2027

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## **PREAMBLE**

This Memorandum of Understanding or "MOU", hereinafter referred to as "the Agreement" or "Collective Bargaining Unit", entered into by the City of Lincoln, hereinafter referred to as "the City", and the Lincoln Police and Fire Mid-Management/Supervisory Group, hereinafter referred to as the "LPFMM" or "Union", pursuant to section 3500 et seq. of the Government Code of the State of California has as its purpose the establishment of an equitable and peaceful procedure for the resolution of differences and the establishment of rates of pay, hours of work and other terms and conditions of employment for employees in the LPFMM, as provided in this Agreement.

The term "agreement" as used herein means the written agreement provided under section 3505.1 of the Government Code.

## **1. ARTICLE I – RECOGNITION AND COVERAGE**

### **1.1. RECOGNITION**

The City recognizes the LPFMM as the exclusive representative of those employees within the bargaining unit for the purpose of meeting and conferring in good faith on matters within the mandatory scope of representation, pursuant to California Government Code 3500 et seq.

It is understood by the City and the LPFMM that articles and sections of this Agreement which conflict and/or are inconsistent with City ordinances and resolutions shall take precedent. Furthermore, all articles and sections of this Agreement dealing with wages, hours, and terms and conditions of employment are in addition to, and supplement the rights and benefits provided to LPFMM members by existing state and federal law.

Ordinances in existence at the time this MOU is signed, pertaining to wages, hours, and terms and conditions of employment, and not explicitly covered by this MOU will remain in full force and effect during the term of this Agreement and be incorporated as if stated in full. In the event any ordinance or resolution conflicts with the language of the MOU, the MOU takes precedent.

### **1.2. COVERAGE OF EMPLOYEES**

The following classifications are agreed between the parties to be in the PFMM bargaining unit:

- Police Sergeant
- Fire Battalion Chief
- Fire Division Chief
- Police Lieutenant

### **1.3. TERM OF AGREEMENT**

This Memorandum of Understanding shall be effective July 1, 2021 and shall expire June 30, 2027 and shall continue in effect from year to year thereafter unless terminated or modified as provided herein.

## **2. ARTICLE II – ASSOCIATION RIGHTS**

### **2.1. ACCESS TO EMPLOYEE WORK LOCATIONS**

Representatives of the LPFMM shall have the right of reasonable access to bargaining unit members outside of their assigned duties; before and after work hours, at meal and break periods; and during work times with the express approval of the City Manager or his designee.

### **2.2. DISTRIBUTION AND POSTING OF LPFMM LITERATURE**

The LPFMM may post material on bulletin boards provided to serve employees in the represented unit. All posted items shall be authorized by the LPFMM and shall bear the date of posting.

### **2.3. USE OF CITY FACILITIES**

The City Manager or his designee may permit the LPFMM to use City conference rooms and similar building facilities for conducting official Association business. Use of such facilities must be made by written request and will be granted provided that the facility is available. No request for use of City facilities shall be unreasonably denied.

## **3. ARTICLE III – MANAGEMENT RIGHTS**

### **3.1. MANAGEMENT RIGHTS**

The City retains all rights, powers, duties, responsibilities and authority of a managerial or administrative character, except as specifically modified by the express provisions of this Memorandum. The exclusive rights of the City shall include, but not be limited to, the right to determine the organization of City government and the purpose and mission of its constituent agencies; to set standards of service to be offered to the public, and through its management officials to exercise control and discretion over its organization and operations; to establish and effect administrative regulations and employment rules and regulations consistent with law and the specific provisions of this Memorandum; to direct its employees; to take disciplinary action; to relieve and lay off employees from duty because of lack of work or for other legitimate reasons, including but not limited to the economic condition of the City; to determine whether goods or services shall be made, purchased or contracted for; to determine the methods, means and personnel by which the City's services are to be provided, including the right to schedule and assign hours of work and overtime, or reduce same; and to otherwise act in the interest of efficient service to the City. The City agrees to meet and confer, upon request of the Union, over the impact to employees of any decision by the City to contract-out significant bargaining unit work to a non-City enterprise or agency. The

decision to contract-out such work shall not be subject to meet and confer during the term of this Memorandum; however, the City shall endeavor to facilitate the employment of the impacted employee(s). The City retains its right to assign and place volunteers in accordance with City policy.

#### **4. ARTICLE IV – GENERAL PROVISIONS**

##### **4.1. STRIKES**

During the term of this agreement, neither the LPFMM, its agents, and/or its representatives, shall, for any reason, authorize, institute, condone and/or engage in a work close down, work slowdown, work stoppage, strike or any other interference with the work and statutory functions or obligations of the City.

##### **4.2. LOCKOUT**

During the term of this agreement neither the City, its management employees, agents and/or representatives shall authorize, institute, condone and/or lockout the employees governed by this agreement.

##### **4.3. DISCRIMINATION**

The City agrees not to interfere with or discriminate against any employee for the employee's membership in, activity on behalf of, or other means of lawful participation in the LPFMM which is authorized and protected by State and Federal law, this Memorandum of Understanding and/or City codes, Ordinances and Resolutions.

The LPFMM, recognizes its responsibility as exclusive negotiating agent and agrees to represent all employees without discrimination, interference, restraint, or coercion.

#### **5. ARTICLE V – SALARY AND OTHER COMPENSATION**

##### **5.1. SALARIES**

The salaries for the classifications covered by this MOU, with the exception of the Battalion Chief (GFE), shall be increased by three percent (3%) effective the first full pay period following July 1, 2021.

The salaries for the classifications covered by this MOU, with the exception of the Battalion Chief (GFE), shall be increased by three percent (3%) effective the first full pay period following July 1, 2022.

The salaries for the classifications covered by this MOU, with the exception of the Battalion Chief (GFE), shall be increased by three percent (3%) effective the first full pay period following July 1, 2023.

The salaries for the classifications covered by this MOU, with the exception of the Battalion Chief (GFE), shall be increased by three percent (3%) effective the first full pay period following July 1, 2024.

The salaries for the classifications covered by this MOU, with the exception of the Battalion Chief (GFE), shall be increased by three percent (3%) effective the first full pay period following July 1, 2025.

The salaries for the classifications covered by this MOU, with the exception of the Battalion Chief (GFE), shall be increased by three percent (3%) effective the first full pay period following July 1, 2026.

**Lump Sum Cash Payment**

Effective with the first full pay period following City Council adoption of this MOU, members of the bargaining unit shall receive a one-time, non-recurring, non-pensionable lump sum payment in the amount of ten thousand dollars (\$10,000.00) minus applicable payroll deductions.

**5.2. SALARY RANGES**

Salary ranges for all classifications covered by this MOU shall consist of 7 steps with approximately five percent (5%) between each step.

**5.3. DEFERRED COMPENSATION**

The City's participation in the Matching Deferred Compensation program has ceased. The City shall only pay the "Maintenance Fee" associated with the Deferred Compensation Program up to a maximum of \$30.00 per year for those individual employees who wish to continue with the program without City participation.

**5.4. MERIT SALARY ADJUSTMENT**

Merit salary increases shall accrue pursuant to the City of Lincoln Personnel Rules and Regulations.

**5.5. UNIFORM ALLOWANCE**

The City shall grant each uniformed employee an allowance of sixty-seven dollars and ninety-six cents (\$67.96), paid on a bi-weekly basis. Employees shall adhere to the maintenance standards, uniform specifications and appearance standards established by the Department.

**5.6. EMT AND BILINGUAL COMPENSATION**

- A. The City shall pay \$75.00 per month over the employee's wage upon certification as an Emergency Medical Technician I (EMT I), for the period such employee remains certified. The City shall determine the appropriate number of employees eligible to receive this compensation.



This provision shall not apply to those employees who are required to obtain this certification in order to meet the minimum qualifications of their position

For those employees who were required to obtain this certification in order to meet the minimum qualifications of their position but were awarded this certification pay, an amount equal to the monthly Emergency Medical Technician I (EMT I) certification pay (\$75 per month) shall be included in the base wage of only those employees who are receiving this pay separate from their base wages as of the effective date of this agreement.

- B. The City shall pay \$75.00 per month over the employees' basic rate for Bilingual aptitude. Certification of competency shall be required as established by the City. The City shall determine the appropriate number of employees eligible to receive this compensation.

### **5.7. SPECIAL ASSIGNMENT POSITIONS**

Special Assignments within a classification may be established where duties and responsibilities are of a specialized nature by comparison to other positions in the class. Assignment of employees to special assignments shall be made by the Public Safety Chief. All employees assigned to one of the following assignments shall be paid an additional five percent (5%) of base salary for the term of their assignment:

- Police Sergeants: Detective, Traffic and any other position recommended in writing by the Public Safety Chief and approved by the City Manager.

Special Assignments that require a reduction in hours from the standard 84-hour patrol schedule will not reduce an assigned employee's annual salary. Employees assigned to any Special Assignments that require an 80-hour pay period work schedule will be moved to the respective 2080-hour salary schedule.

### **5.8. STANDBY DUTY**

- A. The Chief or designee may place a non-exempt employee on Standby Duty as necessary. Standby Duty requires an employee so assigned:

1. To be ready to respond immediately to calls from the City and to be called into work;
2. To be reachable by telephone/pager;
3. To remain within a reasonable distance of the work location; and
4. To refrain from activities which might impair their ability to perform any assigned duties.

- B. Standby Duty will include court standby time.

- C. Employees assigned to Standby Duty shall receive additional compensation of \$1.50 per hour.

- D. Employees other than employees in the classes of Police Lieutenant and ~~Fire Battalion Chief~~ assigned to Standby Duty and who are called in to work shall be compensated at the overtime rate pursuant to applicable provisions of the MOU and City rules.
- E. If an employee assigned to Standby duty fails to fulfill the obligation while on Standby duty and, work the hours if called upon to do so, the employee will be subject to disciplinary action.

## 5.9. LONGEVITY AND EDUCATION INCENTIVE PAYS

### A. Longevity Incentive Pay

When an employee has completed ten (10) years of service with the City, he/she will receive a longevity differential of 3% of their base rate of pay at the beginning of the pay period including the effective date.

### B. Education Incentive Pay

- Each employee shall be eligible for education incentive pay.
- Only education for which an employee has not been compensated by the City prior to the adoption of this MOU (i.e., education for which an employee was previously compensated and was subsequently rolled into their base pay) is eligible for the education incentive pay.
- Only education that is not a required qualification for the employee's assigned classification and that is deemed by the Public Safety Chief to be beneficial to enhancing the employee's performance in their assigned position will be eligible for the education incentive pay.
- Employees who have been approved by the Public Safety Chief to receive education incentive pay will receive a maximum education incentive differential of 2.5% of their base rate of pay.
- The employee will be paid in each biweekly payroll.
- Payment of education incentive will begin effective the first day of the pay period following the date of the award of the certificate or degree, provided the Human Resources Office receives acceptable proof of such award within 30 days of receipt of the certificate or degree.
- If notification and acceptable proof are not filed within 30 days of receipt of the certificate or degree, payment of the education incentive will begin effective the first day of the pay period following receipt of the appropriate documentation in the Human Resources Department.

- Proof that all of the required coursework has been completed for the respective certificate will be considered acceptable proof of accomplishment. For college degrees, a certified copy of the college transcripts or a copy of the diploma will be considered acceptable proof of accomplishment.

## **6. ARTICLE VI – RETIREMENT**

### **6.1. CALPERS RETIREMENT**

The City provides two Local Safety Member retirement tiers, Classic and PEPRAs (also known as New Members). An employee's retirement tier is based on an employee's hire date and applicable CalPERS law.

1. Employees hired prior to January 1, 2013, are Classic Members and have a formula of 3% at 50. Employees contribute the normal member contribution, which is currently 9%. This tier also applies to those employees who are hired on or after January 1, 2013 and are considered a classic CalPERS member (left a CalPERS service agency within 6 months of working for the City of Lincoln).
2. Employees hired on or after January 1, 2013 and are not considered a classic CalPERS member are PEPRAs Members (also known as New Members) and are subject to the California Public Employees' Pension Reform Act of 2013 (PEPRA).

PEPRA Members have a formula of 2.7% at 57. Employees contribute the normal member contribution rate which will be at least one-half of the total normal cost, which is calculated each fiscal year and subject to change.

Employees within the PFMM employee group agree to share a portion of the employer contribution. In addition to the required employee contribution, employees will contribute three percent (3%) of the employer contribution rate. This contribution is on a pretax basis in accordance with IRS Code 414(H)(2).

All employee retirement contribution rates stated above are subject to change by the State of California.

## **7. ARTICLE VII – INSURANCE**

### **7.1. HEALTHCARE**

The City shall contribute the following amounts toward premiums for active health care coverage:

- A. Subscriber only plans: Up to 80% of the 1-Party Premium Rate for Kaiser Region 1.
- B. Subscriber & 1 Dependent plans: Up to 80% of the 2-Party Premium Rate for Kaiser Region 1.
- C. Subscriber & 2+ Dependent plans: Up to 80% of the 3-Party Premium Rate for Kaiser Region 1.

The monthly City contribution shall be limited to the cost of a health plan's monthly premium, up to the contributions as defined in the above subsections A-C. In the event an employee enrolls in a health plan with a monthly premium higher than the stated City contribution, the employee shall pay the difference through payroll deduction.

Employees that elect to waive medical insurance coverage from the City shall receive a Cash Back in Lieu of Medical benefit equal to 66 2/3% of the 1-Party Premium Rate for Kaiser Region 1. This benefit shall be paid bi-weekly. An employee waiving the employee healthcare coverage must waive coverage and submit proof of active insurance coverage prior to receiving the benefit.

Regular, part-time employees (exclusive of seasonal and temporary employees) shall receive a prorated City contribution towards medical premiums or the Cash Back In Lieu of Medical benefit. The proration shall be based on the employee's approved time-base.

## **7.2. RETIREMENT MEDICAL HEALTH BENEFITS**

The City of Lincoln shall ensure the current health care benefit of one hundred percent (100%) cost of benefit for employees (and family members where applicable) hired prior to January 1, 1998, and who retire from the City of Lincoln, be maintained. Employees hired after January 1, 1998, and who retire from the City of Lincoln, shall vest in the life time retiree medical health benefits as provided in Government Code Section 22893.

## **7.3. LIFE INSURANCE**

All employees employed in classifications covered under Article 1.2 of this agreement shall be provided a City-sponsored Basic Group-Term Life Insurance policy. The policy will include a double indemnity clause, also known as an Accidental Death and Dismemberment provision. Sworn classifications will be provided a one hundred thousand-dollar (\$100,000) benefit. Premiums for the policy are City-paid and the policy and carrier will be selected and administered by the City.

## **7.4. DENTAL & VISION INSURANCE**

The City will pay 100% of premiums for dental and vision coverage for employees and dependents. Dental and vision coverages, policies and carrier will be selected and administered by the City.

Regular, part-time employees (exclusive of seasonal and temporary employees) shall receive a prorated City contribution towards dental and vision coverage premiums. The proration shall be based on the employee's approved time base.

At no time shall the City allow the dental and vision coverage services provided to become less than that which was in place at the adoption of this Agreement.

## 8. ARTICLE VIII – HOURS OF WORK/OVERTIME

### 8.1. HOURS OF WORK

The workday, work shift, work week, and work schedule for the classifications covered by this agreement shall be as follows:

- A. Workday for full-time positions, not performing fire suppression work (as defined in Title 29 United States Code 203[y]), shall be 8 hours, 9 hours, 10 hours, or 12 hours per day.
- B. Work period shall vary depending on the work schedule for full-time positions.
- C. Twelve (12) hours-Shifts Schedules:
  1. The parties agree that should this section conflict with any other term of this Agreement, the provisions and general intent of this section shall prevail.
  2. Sergeants are currently working a 12-hour shift schedule. The following terms shall govern implementation of this schedule:
    - a. The workday (work shift) for full time Sergeants shall be 12 hours per day. Sergeants assigned to patrol shall work seven 12-hour work shifts in a fourteen-day work cycle. Police personnel assigned to details other than patrol will work a 14-day work cycle based on the specific duty schedule assigned.
    - b. Sick Leave: Sick leave will be earned in accordance with the sick leave provisions of this Agreement. Any sick leave used will be charged on an hour for hour basis.
    - c. Vacation Leave: Vacation leave will be earned in accordance with the vacation leave provisions of this Agreement. Any vacation time used will be charged on an hour for hour basis.
- D. Employees who perform fire suppression work (as defined in Title 29 United States Code 203[y]) such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims shall work a 48/96 schedule.
  - The 48/96 schedule shall consist of:
    - 48 consecutive hours on duty
    - 96 consecutive hours off duty

- All 24-hour employees working a 48/96 schedule shall work a total of 2,912 hours of work per year (which includes FLSA required overtime).
- Employees assigned a 24-hour work schedule shall be on duty at all times and prepared to perform emergency response and fire-fighting activities as required. Break times and meal periods shall be considered hours worked and will be arranged by the City as operations permit.
- The straight time hourly rate of pay for employees on a 24-hour work schedule shall be determined by dividing the employee's annual base salary by 2,912 hours.

Work schedules for each position shall be established by the department head/designee who may change such schedules from time to time based on the needs of departmental operations and with the approval of the City Manager. A department head/designee, with forty-eight (48) hours' prior notice, may require an employee to work an unscheduled day/shift and receive an otherwise scheduled work day/shift off.

Flexible schedules may be approved by the City Manager upon recommendation and justification of the department head/designee.

The City agrees to meet and confer with the LPFMM regarding permanent work schedule changes.

## **8.2. OVERTIME**

Employees shall be compensated only for overtime ordered or authorized by designated supervisory personnel. Overtime shall be discouraged. However, when overtime has been authorized it shall be compensated and permitted in accordance with the following:

- A. Unless otherwise noted below, overtime is defined as time worked by an employee in excess of forty (40) hours in one week. All overtime work authorized shall be compensated at the overtime rate of one and one-half (1½) times the regular hourly rate of pay.
- B. Overtime for Sergeants assigned to patrol shall be paid for time worked in excess of 84 hours in a 14-day FLSA work period. Overtime for police personnel assigned to duties other than patrol shall be defined as time worked in excess of 80 hours in a 14-day FLSA work period.
- C. Employees who perform fire suppression work (as defined in Title 29 United States Code 203[y]) and are assigned to a 48/96 schedule shall be paid overtime based on Title 29 United States Code 207(k). Fire suppression staff covered by this agreement are currently assigned to a 14-day FLSA work period and are paid overtime for those hours worked which exceed 106 hours.

- D. Overtime work not specifically authorized by the City Manager shall be performed only upon express authorization of the Department Head/Designee or subordinate empowered by him/her to authorize the overtime.
- E. Total hours of recorded authorized overtime for each pay period for each employee shall be reported on an attendance report and shall be signed by each Department Head/Designee or his/her designated alternate. The total hours of prior accumulated compensatory time taken off during each pay period shall be likewise reported. All authorized overtime shall be recorded in the City's official payroll system.
- F. Overtime work shall not be a basis for increasing vacation or sick leave benefits, nor shall it be a basis of advancing completion of required periods for probation or salary step advance.
- G. Compensation of overtime and holidays shall either be paid at the rate of time and one-half (1½) or accrued as Compensatory Time Off at the discretion of the employee subject to the rule as stated herein.
- H. The Police Lieutenant and is not eligible for overtime compensation.
- I. Fire Battalion Chiefs and Division Chiefs who work a 2080 schedule (40 hours per week) and do not perform emergency response and fire suppression duties (as defined in Title 29 United States Code 203[y]) are not eligible for overtime compensation.
- J. When an employee is out on industrial leave and receiving salary continuation as required by Labor Code Section 4850, the employee will be paid their straight-time pay (base wage plus any applicable incentive pays) and will not receive overtime pay.
- K. Mandatory overtime shall always be calculated at one and one-half (1½) times the regular hourly rate of pay.
- L. All paid leave time, except sick leave and bereavement leave, taken by the employee shall be considered as hours worked for purposes of calculating the appropriate overtime earned. This provision shall not apply for mandatory overtime.

### **8.3. COMPENSATED TIME OFF**

Employees may accumulate Compensatory Time Off (CTO) in lieu of overtime pay subject to the following conditions, or receive overtime pay for that pay period. An employee may not accumulate CTO in excess of two hundred (200) hours. In the event an employee has accumulated two hundred (200) hours of CTO, payment of overtime shall be automatically made unless mutually agreed otherwise by the City Manager and the employee. Accumulated CTO shall be paid upon termination of employment, prior to an employee being promoted to a position that results in a pay difference of more than five (5) percent. Employees shall have the option to cash-out their accrued CTO during

any payroll cycle provided the employee submits a written request to do so one (1) week prior to payroll being completed. All CTO leave shall be recorded in the City's official payroll system.

#### **8.4. CALL BACK TIME**

"Call-back" is defined as those occasions when an employee responds to an unplanned, immediate City request, as authorized by the Public Safety Chief, made after the employee has completed his/her normal shift and left the workstation, to report to duty during off-duty hours. For purposes of callback, time spent by the employee in traveling to and from their place of residence to the work area is not hours worked.

Planned activities such as meetings or special events scheduled during off-duty hours will be paid for the actual time spent in attendance at the applicable rate.

For each call-back occurrence, employees shall receive a minimum of four (4) hours at the applicable rate of pay. In the event an employee is required to work beyond four (4) hours, the employee will be compensated at the applicable rate of pay to the nearest one-half (1/2) hour.

#### **8.5. COURT TIME**

When employees are required to make court appearances in a criminal or non-criminal action to provide testimony in their capacity as employees of the City they will be paid as follows:

- When an employee is summoned to appear in court during the employee's nonscheduled work hours, the employee will receive a minimum of four (4) hours pay at the employee's FLSA overtime rate. Any time in excess of four (4) hours minimum shall be compensated at the employee's FLSA overtime rate for actual time worked.
- An employee who is scheduled for court less than four (4) hours prior to the employee's regular shift or scheduled overtime will only receive compensation for the additional hours worked. In no instance shall an employee receive double compensation.
- If the court appearance which was scheduled on the employee's regular days off or the employee's previously scheduled time off is cancelled by the court with less than sixteen (16) hours' notice to the City, the employee will be compensated for two (2) hours at the employee's FLSA overtime rate. The Department will notify the employee of the cancellation.
- If a scheduled court appearance is not canceled but the employee is placed on telephone standby, the employee will be compensated for two (2) hours at the employee's FLSA overtime rate for that day. For multiple same day subpoenas, an employee is entitled to receive pay in accordance with this article. When the employee has subpoenas for the morning (0800-1200 hours) and afternoon (1300-1700 hours) or



when one or both are canceled, the employee shall be paid for both subpoenas so long as appearance times do not overlap.

- The required notification for this provision shall be one of the following: Notice in person or by telephone to the employee including messages left or telephone recorders or answering devices at the employee's place of residence. Written or electronic mail communications delivered to the employee's mail box or electronic mail box thirty (30) minutes prior to the end of the employee's last regularly attended shift.

## **8.6. SHIFT CHANGES NOTICE**

An employee's shift shall not be changed solely to avoid overtime. When administratively feasible, non-exempt employees will be given at least five calendar days' notice of a shift change. In the absence of such notice, the employee shall receive a five percent (5%) differential over base salary for each day in which the notice was not given.

At the employee's discretion, the employee may work with the Department so as to adjust his/her work schedule in order to reduce the amount of overtime worked by the employee without the City being required to pay the five percent (5%) differential.

This section shall not apply to changes caused by an employee's initiation of any form of leave status.

## **8.7. PROBATIONARY PERIOD**

### **Original Appointments**

All original appointments for all individuals covered by this Agreement shall be tentative and shall be subject to a probationary period of eighteen (18) months of active duty. Days absent without pay and paid leave of more than 2 weeks during the probationary period shall extend the probationary period to result in a probationary period of active working duty for the time specified.

Prior to the expiration of the eighteen-month probationary period, the department head on a showing of good cause and with the approval of the City Manager, may extend the probationary period an additional six months

During the probationary period, the employee may be dismissed from City employment at any time by the City Manager and/or appointing authority without the right of appeal or grievance.

### **Transfers**

Employees who transfer to another position in the same classification shall not be required to complete a new probationary period in the new position, provided the employee has completed the probationary period in the former position at the time of transfer.

## **Promotional Appointments**

All promotional appointments for all individuals covered by this Agreement shall be subject to a probationary period of six (6) months of active duty from the date of promotion. Days absent without pay during the probationary period shall extend the probationary period to result in a probationary period of active working duty for the time specified.

Prior to the expiration of the six-month probationary period, the department head on a showing of good cause and with the approval of the City Manager, may extend the probationary period an additional six months.

An employee who has previously completed a requisite probationary period in his/her prior position and who is rejected during a subsequent probationary period for a promotional appointment shall be reinstated to the former position from which the employee was appointed. If the employee was dismissed for reasons other than failure to successfully complete the probationary period, the employee shall not be entitled to such reinstatement rights.

## **9. ARTICLE XI – LEAVES**

### **9.1. VACATION**

Employees within the LPFMM Group shall be entitled to vacation leave as follows:

- A. All employees except for those employees assigned to a 48/96 schedule, shall accrue vacation leave in accordance with years of service with the City of Lincoln as follows:

0-4 years:	100 hours per year
5-9 years:	144 hours per year
10-14 years:	160 hours per year
15-17 years:	184 hours per year
18+ years:	220 hours per year

- B. Shift employees assigned to a 48/96 schedule shall accrue vacation leave in accordance with their years of service as follows (a 1.4 conversion has been applied to the numbers below):

0-4 years:	140 hours per year
5-9 years:	201.6 hours per year
10-14 years:	224.0 hours per year
15-17 years:	257.6 hours per year
18+ years:	308 hours per year

The accrual rates above shall be retroactively applied to July 1, 2019 for those shift employees serving in the classification of Battalion Chief (GFE). If the retroactive adjustment results in the employee exceeding the 420-hour vacation cap, the employee will be allowed to exceed the cap by the excess numbers resulting from this provision only.

Vacation leave accruals and caps shall be decreased by the conversion factor of 1.4 whenever an employee is reassigned from a 24-hour work schedule (2912 hours of work per year) to a 40-hour work schedule (2080 hours of work per year). An employee with a leave time balance that exceeds a 40-hour work schedule cap may be permitted to carry the excess leave time until it equals or is lower than the 40-hour work schedule cap.

- C. No Employee shall be entitled to take a vacation leave until such employee has completed six (6) months of service, after which the employee shall be entitled to the use of accrued vacation leave.
- D. No employee, with the exception of those assigned to a 48/96 schedule, shall accrue more than three hundred (300) hours of vacation. If an employee accrues vacation time in excess of three hundred (300) hours, he/she shall have their accrual frozen until he/she falls below three hundred (300) hours.
- E. Shift employees assigned to a 48/96 schedule shall accrue more than four hundred and twenty (420) hours of vacation. If an employee assigned to a 48/96 schedule accrues vacation time in excess of four hundred and twenty (420) hours, he/she shall have their accrual frozen until he/she falls below four hundred and twenty (420) hours.
- F. It is the City's desire that employees utilize their accrued vacation on an annual basis. An employee shall be allowed to cash out up to 80 hours of accrued vacation leave once per calendar year when: The employee's accrued leave balance is at least 220 hours and the employee has used at least 40 hours of vacation leave within the last twelve (12) months. An employee shall be allowed to cash out vacation in the event the employee is capped out and the City has denied the use of vacation twice in the preceding six (6) months. Proof of vacation denial is required.
- G. Each department head shall arrange the schedule for vacations for employees with the department. No vacation leave shall be granted in increments of less than one (1) hour within any workday.
- H. In case of termination or discharge, all employees shall be entitled to pay for all accrued but unused vacation leave hours.

Employees shall continue to be paid during the period of their vacation at the same rate of compensation in effect at the commencement of the vacation period.

- I. Employees who work less than full-time, but more than nine-hundred (900) hours per year shall be credited vacation on a prorated basis. The nine-hundred (900) hour minimum need only be reached once during continuous employment (exclusive of any seasonal, temporary or contracted work performed for the City). The maximum accumulation of vacation time shall be fifteen (15) days.
- J. Employees will be required to exhaust all vacation leave balances prior to taking any non-pay time off.

## 9.2. SICK LEAVE

Employees covered by this Agreement shall be entitled to sick leave with pay as set forth in this Section.

- A. Employees shall accrue one (1) day of sick leave per month, equivalent to their assigned shift as follows:
  - Non-shift employees on a 2,080-hour schedule will accrue eight (8) hours of sick leave per month.
  - Shift employees on a 2,184-hour schedule will accrue twelve (12) hours of sick leave per month.

Effective the first full pay period following ratification of this agreement, shift employees assigned to a 2,912 schedule shall be entitled to 6.09 hours of sick leave per pay period (158.4 hours per year) for each month of full-time employment worked, commencing on the first day of the month following the month in which said person was employed. Sick leave accruals for shift employees assigned to a 2,912 schedule shall be decreased by the conversion factor of 1.4 whenever an employee is reassigned from a 24-hour work schedule (2,912 hours of work per year) to a 40-hour work schedule (2,080 hours of work per year).

- B. Effective the first full pay period following July 1, 2019, those shift employees serving in the classification of Battalion Chief (GFE) who were on a 2912 schedule and currently earn 3.7 hours of sick leave per pay period will be issued an additional 1.47 hours of sick leave per pay period until the first full pay period following ratification of this agreement when they will begin accruing leave in accordance with paragraph A of this Section. If the retroactive adjustment results in the employee exceeding their sick leave cap, the employee will be allowed to exceed the cap by the excess numbers resulting from this provision only.

- C. Employees hired prior to January 1, 2001, shall accrue no more than 1,440 hours of sick leave. Employees hired on or after January 1, 2001, shall accrue no more than 1,000 hours of sick leave.
- D. Regular part-time employees working in excess of nine hundred (900) hours per year shall be credited with sick leave on a pro rata basis. The nine hundred (900) hours minimum need only be reached once during continuous employment. The maximum accumulation of sick leave will be twenty-four (24) days.

Sick leave may be applied to:

- A. An absence necessitated by the employee's incapacitation from the performance of regular duties due to personal illness, injury or pregnancy.
- B. Medical, chiropractic, optical or dental office appointments.
- C. Absence due to the illness of an immediate member of the employee's family. Immediate member is spouse, child, father, father-in-law, mother, mother-in-law, grandparent or grandchild.
- D. Any qualifying and approved FMLA/CFRA leave of absence.

### **9.3. PAY FOR UNUSED SICK LEAVE**

Employees in good standing whose employment with the City is otherwise terminated shall be paid for unused sick leave in accordance with the following:

- A. Employees with five (5) or less years of continuous service shall receive no payment.
- B. Employees with in excess of five (5) years of continuous service up to and including twelve (12) years of service receive twenty-five percent (25%) of said leave.
- C. Employees in excess of twelve (12) years of continuous service will be paid one hundred percent (100%) of said leave.
- D. Payment for unused sick leave shall be at the rate then in effect for the concerned employee.
- E. Payment for unused sick leave does not extend the employee's status as a City employee.
- F. Employees hired after January 1, 2001 shall be allowed to accrue up to a maximum of 1,000 hours of sick leave. When said employee terminates his/her employment with the City and has in excess of five (5) years of service with the City, he/she shall be paid at twenty-five percent (25%) of accumulated sick leave, up to the maximum accrual.

Employees hired prior to January 1, 2001 may cash in a portion of their accrued sick leave based on their years of continuous employment as specified below. No employee shall reduce his/her sick leave balance to less than 400 hours.

5 years	25%
6 years	40%
7 years	55%
8 years	70%
9 years	85%
10 years	100%

Election of this option must be made within sixty (60) days of the execution of this contract. Upon election, employees exercising this right under this section shall be subject thereafter to the provision of 9.3(F) for the purposes of sick leave payout (1,000-hour maximum accumulation and 25% payout).

Upon cashing said leave pursuant to 9.3(F) any remaining and accumulated sick leave time for purposes of future separation pay shall be subject to the provisions of 9.3(F).

Employees hired prior to January 1, 2001 may accrue up to 1440 hours of sick leave.

#### **9.4. MANAGEMENT LEAVE**

All eligible, FLSA exempt employees shall receive Management Leave. Such leave will be given under the following terms and conditions:

- A. 80 hours of leave shall be credited annually at the beginning of the calendar year.
- B. Leave must be taken in the calendar year in which it is credited and cannot be carried over into the next calendar year.
- C. Eligible, exempt employees hired after January 1 will be credited on a pro rata basis.
- D. Management leave balances are not payable upon separation.

Those employees serving in the classification of Battalion Chief (GFE) who were on a 2080 schedule during the period of July 1, 2017 through June 30, 2019 will be credited with 160 hours of management leave as soon as administratively possible. This leave has no cash value and must be taken within 24 months of receipt.

#### **9.5. BEREAVEMENT LEAVE**

The Chief or designee may authorize bereavement leave with pay for a permanent, full-time City employee due to the death of his/her parent, step parent, spouse, domestic partner, child, grandchild, grandparent, brother, sister, mother-in-law, father-in-law, daughter-in-law, son-in-law,

sister-in-law, brother-in-law, step child, adopted child, aunt, uncle, or death of any person residing in the immediate household of the employee at the time of death. Such bereavement leave may be authorized for up to 24 hours. The employee shall give notice to his/her immediate supervisor as soon as possible and shall, if requested by the employee's supervisor, provide substantiation to support the request.

If the death of a person as enumerated above requires the employee to travel over four hundred (400) miles one-way from his/her home, upon request, additional time off with pay may be granted, which shall be deducted from accrued sick leave. Should additional leave be necessary, the Chief or designee may authorize the use of CTO, vacation, sick leave, or authorized leave without pay.

Part-time employees will be eligible for bereavement leave on a pro rata basis, based on hours worked.

#### **9.6. JURY DUTY**

When an employee is summoned to jury duty he/she shall immediately inform his/her supervisor and, if required to serve, may be absent from duty with full pay while actively rendering such service. Any jury fees received by an employee shall be remitted to the City, exclusive of any meal and/or travel reimbursements rendered by the courts.

#### **9.7. HOLIDAYS**

For non-sworn, non-shift, or employees who are not regularly required to work holidays, the following shall apply:

1. New Year's Day
2. Martin Luther King Jr. Day
3. President's Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day
8. Thanksgiving Day
9. The day after Thanksgiving Day
10. Christmas Day
11. Two floating holidays per calendar year

If a holiday falls on Saturday, then the previous Friday is to be taken. If a holiday falls on Sunday, then the following Monday is to be taken.

Any employee who might be required to work on any of the above holidays shall be compensated at overtime rates in accordance with Overtime Sections in this Agreement. If the holiday falls on an employee's regular day off; he/she shall be paid straight time for that holiday not worked.

Paid holidays granted by the City to full-time, regular employees shall also be granted, on a prorated basis, to part-time, permanent employees. Such proration shall be based upon part-time hours worked.

#### **9.8. HOLIDAY PAY IN LIEU**

Due to the nature of work performed by Fire/Police mid-management and supervisory personnel, it is not possible to observe traditional holidays as they occur. Therefore, those employees will be credited with ninety-six (96) holiday hours at the beginning of each calendar year commencing January 1, 2016. Holiday time off shall be requested in accordance with Department guidelines and scheduled subject to approval by the Chief or his/her designee. Hours not used by the last pay period in November each year shall be cashed out at the employee's base rate and paid to the employee in the following pay period. Employees must notify Human Resources by November 1st of each year if they elect the cash out option.

Effective the first pay period including December 1, 2019, the following provision supersedes the above benefit: Each sworn employee required to work holidays shall receive one hundred and thirty-two (132) holiday hours per year, paid on a bi-weekly basis at base rate. Eligible, newly hired employees shall receive this benefit upon hire. Upon separation, employees will not receive payment for any hours remaining within the calendar year.

#### **9.9. MILITARY LEAVE**

Military leave shall be granted in accordance with the provisions of state law (Military and Veterans Code). All employees entitled to military leave shall give their department head/designee and the City Manager a notice and opportunity, within the limits of military requirements, to determine when such leave shall be taken. If available, a copy of military orders received shall be delivered to the City prior to the taking of such leave. If not available, then upon return from military duty a copy of military release shall be given to the City.

#### **9.10. LEAVES OF ABSENCE**

Department heads/designee may grant a regular full-time employee leave of absence without pay or benefits related to employment for a period not to exceed one (1) calendar week. Such leaves shall be reported in writing to the City Manager.

Leaves of absence without pay or benefits related to employment for a period not to exceed three (3) consecutive months may be granted to regular full-time employees upon recommendation of the department head/designee and approval of the City Manager. Following the initial three (3) months, the leave of absence may be extended for a maximum of an additional six (6) months if



recommended by the department head/designee with approval by the City Manager. However, no such leave shall be granted except upon written request of the employee, setting forth the reason(s), circumstances and length of the requested leave.

Upon expiration of an approved leave of absence, the employee may be reinstated in the position held at the time leave was granted. Failure on the part of the employee on leave of absence to report for work promptly at the expiration of leave, or within a reasonable time after notice to return to duty, shall be cause for dismissal and the employee shall automatically waive all rights under these rules. The depositing of a first-class letter of notification to return to duty in the U.S. Postal Service, addressed to the employee's last known address shall constitute reasonable notice.

The granting of leave of absence without pay or benefits related to employment for any period exceeding one (1) full pay period shall result in setting of a new salary anniversary date for the employee. Such date shall be based on the employee's original salary date advanced by the number of calendar day's leave in excess of one (1) full pay period.

## **10. ARTICLE X – GRIEVANCE PROCEDURE**

### **10.1. PURPOSE**

The purpose of this grievance procedure is to:

- A. Resolve grievances informally at the lowest possible level;
- B. Provide an orderly procedure for reviewing and resolving grievances promptly.

### **10.2. GRIEVANCE PROCEDURE**

The City and the Union agree to utilize the following grievance procedure:

1. This grievance procedure shall be used to process and resolve grievances arising under this Collective Bargaining Agreement.
2. Grievance time limits specified in each step of the grievance procedures shall be strictly observed and may only be extended by mutual agreement of the parties in writing. Failure of a grievant (or his/her authorized representative) to observe a grievance time limit shall terminate the grievance. Failure of a party to whom the grievance is submitted to observe the grievance time limits shall give the grievant (or his/her authorized representative) the right to move the grievance to the next appropriate level in the grievance process.
3. No matter shall be considered as a grievance under this Collective Bargaining Agreement unless it is presented in writing within thirty (30) calendar days after occurrence of the events on which the grievance is based.

4. The grievant shall have the right to appear in person on his/her behalf, with his/her authorized representative. However, only LPFMM, has access to this grievance procedure as an organization; and the Union Representative or designee shall have the authority to settle grievances for the Union or employees at any step in the grievance procedure.

### **10.3. DEFINITION OF GRIEVANCE**

- A. A grievance is a dispute between the City and the Union involving the interpretation, application, or enforcement of the express terms of this Collective Bargaining Agreement.
- B. As used in this section, the term "supervisor" means the individual who assigns and directs the work of an employee.
- C. As used in this section, the term "party" means an employee, the Union, the City or their respective authorized representative(s).
- D. The employee retains all rights conferred by Government Code Sections 3500 et. seq., Government Code Sections 3250-3262 or regulations of the City unless waived by such employee.

### **10.4. PRELIMINARY INFORMAL PROCEDURE**

All persons having a grievance shall make every effort to resolve such grievance by first discussing the matter with his/her immediate supervisor prior to submission of a formal grievance. If no resolution is reached with the supervisor, the employee shall request an informal meeting with the Department Head or designee prior to utilizing the formal grievance process.

### **10.5. FORMAL GRIEVANCE PROCEDURE**

- A. Step One – If after discussions with the immediate supervisor, the employee does not feel the grievance has been properly addressed, the grievance shall be reduced to writing. The grievance statement shall include the following information:
  1. A statement of the grievance clearly indicating the question raised by the grievant and the article(s) and section(s) of this Collective Bargaining Agreement implicated.
  2. The remedy or correction requested by the aggrieved party.

The Chief or his/her designee shall respond to the grievance in writing within ten (10) working days of receipt of the grievance. The grievance response shall include the following:

1. A complete statement of the City's position and the facts upon which the statement is based.
2. The remedy or correction which has been offered by the City, if any.

- B. Step Two – If a mutual satisfactory solution has not been reached at the first step, the grievant has ten (10) working days to submit the grievance to the City Manager. The Union representative and the City Manager will meet in an effort to settle the matter. The City Manager’s answer to the grievance shall be communicated to the grievant within ten (10) working days after said meeting is held.
- C. Step Three – An appeal may be referred to mediation if the grievant is not satisfied with the dispositions of the City Manager’s review step of the grievance procedure. If both parties agree in writing, the mediation process may be waived. The grievant must notify the City in writing within ten (10) working days of the notice of the City Manager’s decision of grievant’s request to refer the matter to mediation. The City shall respond to the grievant within ten (10) working days and proceed to schedule a mediation hearing with the California State Mediation and Conciliation Service.
- Mediation conference(s) shall take place at a mutually convenient time and location, and shall not be open to parties other than those who are direct parties to the grievance.
- Proceedings before the mediator shall be confidential, informal in nature and shall not be admissible in any subsequent hearing (arbitration or otherwise). No transcript or record of the mediation conference shall be made. In the event a resolution is reached, the parties may stipulate the unresolved issues in writing and submit them for arbitration.
- D. Step Four – Within ten (10) working days of the conclusion of the mediation process, or if the mediation process is not utilized, then within ten (10) days of receipt of the City Manager’s decision pursuant to step two of the grievance process, the Union may request arbitration.

An arbitrator may be selected by mutual agreement between the City and the Union.

Should the representatives fail to mutually agree on an arbitrator they shall make a joint request to the State Mediation and Conciliation Service for a list of five (5) qualified arbitrators. The parties shall each strike two (2) names from the list and the remaining person shall be accepted as the arbitrator. The first party to strike will be determined by the flip of a coin.

The selected arbitrator shall conduct the hearing and report findings, conclusion and recommendations to the City Manager. All parties to the Collective Bargaining Agreement shall endeavor to adhere to the Arbitrator’s final decision. It is understood that the arbitrator shall only interpret this Collective Bargaining Agreement and will in no instance add to, delete from or amend any part thereof.

The parties to the grievance shall share equally in the cost of the arbitration, including but not limited to the arbitrator, witnesses and recordings.

## **11. ARTICLE XI – DISCIPLINARY REVIEW PROCEDURE**

### **11.1. NOTICE OF PROPOSED DISCIPLINE**

The Chief or his/her designee, prior to taking disciplinary action to demote (except for demotion in lieu of layoff), discharge or suspend without pay for one (1) day or more a regular employee, provide the employee with a written notice of proposed disciplinary action which shall contain the charges and the specific factual basis for the charges and the nature of the proposed disciplinary action. Said notice shall inform the employee of his/her right to respond to the charges.

### **11.2. RESPONSE**

The employee shall have the right to respond to the charges set forth in the Notice of Proposed Discipline, verbally or in writing, within five (5) days of receipt of that notice. Any written response shall be delivered to the office of the CHIEF or the Chief's designee within the time allowed. If the employee desires to respond verbally, the employee shall make an appointment with the Chief or the Chief's designee for a response meeting within the time allowed. The employee may bring a representative of his/her choice to a response meeting.

A letter of reprimand shall not be appealable to the Chief, except the employee may have an administrative review of the reprimand by submitting a request in writing within five (5) calendar days to the Human Resources Department. The Human Resources Director or designee will schedule a private meeting within five (5) calendar days of receipt of the written request to hear the employee's response. A final written decision will be rendered by the Director or designee within five (5) calendar days of the meeting. This section shall not be subject to the grievance procedure.

### **11.3. DISCIPLINE ACTION**

After the employee's response is received or, if no response is received, after the five (5) day period expires, the Chief or the Chief's designee shall determine whether to proceed with the proposed disciplinary action and notify the employee in writing.

### **11.4. NOTICE OF DISCIPLINE ACTION**

If the Chief or the Chief's designee decides to proceed with the disciplinary action, a Notice of Disciplinary Action shall be sent to the employee by mail. Said notice shall contain the charges, the factual basis for the charges, the evidence and the disciplinary action to be imposed which shall not be earlier than five (5) days after the notice of proposed disciplinary action is sent to the employee. This notice shall inform the employee of the right to appeal the action.

### **11.5. APPEAL**

In cases of discharge, demotion (except for demotion in lieu of layoff) and suspension without pay, the employee may appeal the disciplinary action by filing a Notice of Appeal containing a detailed

statement of the grounds for appeal with the City Manager or designee within five (5) days of receipt of Notice of Disciplinary Action.

By mutual agreement between the City Manager or designee and the employee, an employee suspended from duty of five (5) days or less without pay may forfeit accumulated holiday, compensatory time off, and/or vacation accruals equal to the number of hours of suspension in lieu of such suspension. This provision shall not be subject to the grievance or disciplinary appeal processes. Even though the employee is no longer taking the suspended time off and giving their accrued leave in lieu of suspension, this section shall not in any way change the City's recording of the suspension.

#### **11.6. ARBITRATION HEARING PROCESS**

If after consideration of the employee's appeal of and response to the disciplinary action, the City Manager or designee affirms the penalty imposed. The employee may appeal the decision of the City Manager to an arbitrator pursuant to this section. The appeal of the City Manager's decision must be made within five (5) days of the issuance of the City Manager's decision to the employee. The date of issuance shall be calculated from the date of the postmark and the City Manager's decision to be sent to the employee at his/her home address. Within ten (10) days of the City Manager's decision, the parties must select an arbitrator. If the parties cannot mutually agree upon an arbitrator, the arbitrator shall be selected from a list provided by the California State Mediation and Conciliation Service (CSMS). The CSMS list shall contain five (5) names of labor relations neutrals, and the parties shall alternately strike names from the list. The first strike shall be determined by lot. The last name remaining on the list shall be the arbitrator.

The parties to this Agreement shall share equally the cost of the arbitration.

The arbitrator will operate under the rules of proceeding of the American Arbitration Association unless such rules are in conflict with this Memorandum of Understanding.

The arbitrator shall have no authority to add to, delete, modify, change, reconstruct or ignore this Memorandum of Understanding, City Policies, Rules and Regulations. Moreover, the arbitrator shall not have the authority to waive any time limits under this procedure; only the parties may do so by mutual Agreement in writing. The decision of the arbitrator shall be final, binding and conclusive on all parties.

The appeal hearing before the arbitrator shall be conducted as a full evidentiary hearing with the right to represent witnesses in evidence, cross-examine opposing witnesses, representation by counsel, and findings to support the decision. Said hearings shall be conducted in closed session. The City shall not be held to the evidentiary standard applied in criminal matters of proof beyond a reasonable doubt.

## **12. ARTICLE XII – SAFETY**

### **12.1. SAFE CONDITIONS**

The City and its employees agree to maintain a safe and healthful place of work and to maintain safety as well as sanitary conditions in accordance with all applicable state laws. Unsafe working conditions or hazardous jobs which jeopardize the health and safety of the employees shall be directed to the attention of the City. The City shall investigate the complaint and make any and all corrective measures as deemed necessary by the City. Employees shall cooperate fully in carrying out safe practices and in using safety devices provided by the City.

### **12.2. UNIFORMS AND SAFETY EQUIPMENT**

Newly hired employees shall receive an initial allocation of uniforms, safety equipment, devices and safety-related items at no cost to the employee. Officers assigned to special assignments requiring assignment-specific uniforms and equipment shall be provided such uniforms and equipment by the City at no cost to the employee for the duration of the assignment, including the necessary replacement of said required uniforms and equipment.

The City shall provide all needed and/or necessary safety equipment for the employee(s) to perform the normal tasks of their respective classification(s), including body armor and external vest carrier, leather gear, cuffs, side arm (optional), chemical agent, baton, and other safety-related items as specified by the Department. All items provided by the City shall remain property of the City and shall be returned to the Department upon request or upon termination of employment.

These devices and equipment shall be customary safety appliances to safeguard the employees against danger to health, life, and limb. Employees agree that the duties and tasks performed by them shall be performed in a safe and healthful manner.

### **12.3. SAFETY TRAINING**

The City shall make available to the employees updated training programs on safety matters and issues as it deems necessary. Such training will be provided as the City deems necessary and will include, but shall not be limited to, training on first aid, cardiopulmonary resuscitation (CPR), toxics and corrective procedures in dealing with toxics.

## **13. ARTICLE XIII – REDUCTION IN FORCE**

### **13.1. RESIGNATION**

An employee wishing to leave the classified service in good standing shall file a written resignation with the department head at least two (2) weeks before leaving the service, stating the effective date and reasons for leaving. The resignation shall be forwarded to the City Manager with a statement by the department head as to the resigning employee's service performance and other pertinent information concerning the cause for resignation. Failure of the employee to give the required notice

shall be entered on the service record of the employee and may be cause for denial of future employment with the City. The resignation of an employee who fails to give notice shall be reported immediately by the department head to the City Manager.

When a Friday is observed as a designated holiday for applicable employees, the resigning employee shall be paid for such Friday, provided the employee works at least one (1) day following the holiday prior to service separation.

### **13.2. LAYOFF**

Non-Discrimination in Work Force Reduction: Layoffs and demotions which result from a reduction in force shall be made without regard to an employee's race, color, creed, national origin, religion, sex, age, or physical handicap.

#### **A. Layoff Plan**

The City Manager, in consultation with the City Council, shall determine the area(s) and position(s) in which layoffs may occur, including the identification of the department, division, work unit, class, and specific position. When a list of the affected areas and/or positions has been prepared, a copy shall be submitted to all affected and recognized employee organizations, and these regulations shall prevail as to the method and manner for implementing such layoffs. Layoffs of employees shall be on a city-wide, classification basis.

Employees holding temporary, seasonal, part-time, probationary, or provisional appointments shall be laid off first. Employees serving in a regular part-time position shall be laid off second. Employees in classified service who have completed probation (i.e. regular classified employees) shall be laid off last.

Should it become necessary to layoff regular classified employees, the person(s) laid off shall be those with the least service credit within an identified position in the affected department. If two (2) or more employees in this circumstance possess essentially the same amount of service credit, the City Manager shall determine which person shall be laid off on the basis of efficiency and effectiveness.

#### **B. Layoff Notification**

The City Manager shall give notice personally or in writing to the last known address to each employee affected by a layoff at least fifteen (15) working days prior to the effective date of such action. The notice shall include:

1. The reason(s) for layoff;

2. Classes or positions to which the employees may transfer or demote within the department, if any;
3. Effective date of the action;
4. Rules regarding waiver of reinstatement and voluntary withdrawal from the reinstatement list;

And

5. Appeal right of the employee, excluding layoff resulting from abolition of the position.

#### C. Reduction in Force

Except in those instances where senior employees are not qualified to perform the remaining work duties, seniority shall determine the order of layoff, which shall be in inverse order of seniority within each work classification and organizational unit. Any employee who is to be laid off and has previously served in a lower work classification or supervised a lower classification may exercise seniority rights to such a lower classification. Final determination of qualifications to perform remaining work duties shall be made by the City Manager, after discussion with the Union, and shall be a determining factor in allowing the displacement of a junior employee; however, where all factors considered are equal between employees, retention shall be on the basis of seniority.

In those instances where an affected employee has not previously served in a lower classification and has more years of service to the City than those less senior employees in the lower classification, shall be placed in the said lower classification and shall be subject to the appropriate probationary period. If he/she does not successfully complete the probationary period, such failure results in a rejection of probation. The rejection of probation is not grievable.

#### D. Layoff of Bumped Employee

The employee laid off as a result of a displaced employee's reversion to a lower classification shall receive written notice of layoff not less than ten (10) calendar days prior to the effective date of the layoff.

The names of regular full-time classified employees who have been laid off due to reduction in force shall be placed on an appropriate reinstatement list according to the date of separation on the following basis; last employee laid off is the first employee on the list with other employees eligible in sequential order thereafter. Such list shall be used by the appointing authority when a vacancy for that class is to be filled before certification of any other employment list.



#### E. Reinstatement Lists

The eligibility of individuals on Reinstatement Lists shall extend for a period of three (3) years from the date of layoff. Individuals not responding to written notification of an opening within five (5) working days shall have their names removed from the Reinstatement Lists.

#### F. Notice of Recall from Layoff

Notice of recall from layoff shall be given by Return Receipt Requested Mail and shall specify the date for reporting to work, which shall be not more than twenty-one (21) days from the date the notice is received. Notice shall be deemed to have been received when sent to the last known address on file with the City, and attempted delivery or actual delivery is certified by the Postal Service. Upon receiving notice, the person on layoff shall have five (5) days to accept or decline the recall opportunity.

An employee who fails to respond to writing within five (5) days, refuses recall, or fails to report on the prescribed date within the twenty-one (21) days maximum, thereby waives all further right to recall and reinstatement as an employee. When recall is declined, the City will proceed to the next person on the reinstatement list and follow the same notice and response procedure. This process will continue through the list until recall needs are met or until the list is exhausted. Reinstated persons shall receive the following upon return to service:

1. Retention of regular full-time service length accrued as of date of layoff.
2. The salary for the classification in effect as of the date of return, at the same step level as the date of layoff, not to exceed the top step.

The accrual rate of vacation and sick leave in effect for the employee's service length and class at the time of rehire, but insurance contributions shall be at the level of a new employee. All other benefits and programs shall be consistent with those provided to new hires.

#### G. Resignation In Lieu of Recall

An employee who elects to resign in lieu of layoff or while laid off shall forfeit all rights to reinstatement, and shall be entitled only to those rights under normal separation of service.

## **14. ARTICLE XIV – MISCELLANEOUS**

### **14.1. AGENCY SHOP/FAIR SHARE FEE**

Employees may sign up for Payroll Deductions of Association dues with the Lincoln Police and Fire Mid-Management and Supervisory employee group (Association). The Association will certify to the City any new members of the Association.

City agrees to deduct dues as established by the Association. The sum so withheld shall be remitted by the City, without delay, directly to the Association along with a list of employees who have had such amounts deducted. Association agrees to provide a listing of all additions or deletions of membership or requested changes to establish payroll deductions of its members, to the City.

The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made.

It shall be the sole responsibility of the Association to procure and enforce payroll deduction of dues.

Hold Harmless: The Association shall indemnify, defend, and hold harmless the City, its officers, employees, and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In no event shall the City be required to pay from its own funds Association dues which the employee was obligated to pay, but failed to pay regardless of the reasons.

Any Association member who notifies the City of their desire to discontinue dues or otherwise withdraw from Association membership shall be referred back to the Association. The City agrees to continue all dues deductions until notified of a deduction change by the Association.

### **14.2. SEPARABILITY OF PROVISIONS**

Should any provision of the Memorandum of Understanding be declared illegal by final judgment of a court of competent jurisdiction, such invalidations of such provisions shall not invalidate the remaining portions thereof; and such remaining portions shall remain in full force and effect for the duration of the Memorandum of Understanding.

### **14.3. PUBLIC SAFETY OFFICERS AND FIREFIGHTERS PROCEDURAL BILL OF RIGHTS ACT**

All members of this bargaining group are afforded the rights provided by the Public Safety Officers Procedural Bill of Rights Act and Firefighters Procedural Bill of Rights Act, respective to their classification.

#### **14.4. OFF DUTY EMPLOYMENT**

Department personnel may engage in off-duty employment subject to the following limitations: (1) such employment shall not interfere with employment with this department; (2) personnel shall submit a written request for off-duty employment to the Chief whose approval must be granted prior to engaging in such employment.

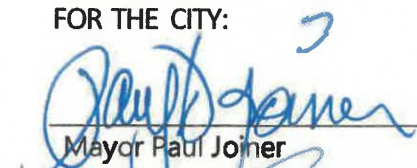
Approval may be denied where it appears that the outside employment might: (1) render personnel unavailable during an emergency; (2) physically or mentally exhaust personnel to the point that their performance may be affected; (3) require that any special consideration be given to scheduling of regular duty hours.

**14.5 POST SHARED SERVICES AGREEMENT ISSUES**

The City and Union agree that the language incorporated into this Agreement (Sections 9.1 B, 9.1 E, 9.2B and 9.4) to address the concerns related to the changes that resulted from the dissolution of the City's shared services agreement with the City of Rocklin are final and no further action related to these concerns will be taken.

The Employer-Employee Representative whose signatures appear below on behalf of their respective organizations hereby execute this memorandum of understanding this 13th day of June, 2023.

FOR THE CITY:

  
\_\_\_\_\_  
Mayor Paul Joiner

  
\_\_\_\_\_  
Sean Scully,  
City Manager

Sean Scully,  
City Manager

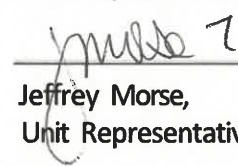
  
\_\_\_\_\_  
Kristine Mollenkopf,  
City Attorney (As to form)

Kristine Mollenkopf,  
City Attorney (As to form)

FOR LPFMM:

   
\_\_\_\_\_  
Keith Johnson,  
Unit Representative

Keith Johnson,  
Unit Representative

  
\_\_\_\_\_  
Jeffrey Morse,  
Unit Representative

Jeffrey Morse,  
Unit Representative