MEMORANDUM OF UNDERSTANDING

BETWEEN

THE CITY OF EL CERRITO

AND

THE EL CERRITO PUBLIC SAFETY MANAGEMENT ASSOCIATION

FIRE CHIEF

December 31, 2018 through December 31, 2023
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF EL CERRITO AND
PUBLIC SAFETY MANAGEMENT ASSOCIATION – FIRE CHIEF

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code Section 3500 et seq). The parties to this Memorandum of Understanding are the City of El Cerrito, State of California, which hereinafter shall be referred to as “City,” and the El Cerrito Public Safety Management Association – Fire Chief, which hereinafter shall be referred to as “Association – Fire Chief.” The parties have met and conferred in good faith regarding wages, hours and other terms and conditions of employment for the employee represented by the Association – Fire Chief and have freely exchanged information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment, conditions and employee relations of such employee.

This Memorandum of Understanding shall be presented to the City Council as a joint recommendation of the undersigned for salary, fringe benefits, and other working conditions for the period beginning December 31, 2018 and shall be in full force and effect at such date as herein prescribed, upon ratification by both the City Council and affected member of the Public Safety Management Association – Fire Chief. Unless sooner terminated, as provided in this Memorandum of Understanding, the terms and conditions of this agreement shall remain in force until adoption of a successor agreement. Any other term of this Memorandum of Understanding notwithstanding, either party may terminate this Memorandum of Understanding effective on or after December 31, 2023, with 30 days minimum written notice.

It is expressly understood and agreed to by the parties that this Memorandum of Understanding will automatically terminate and be of no further legal force or effect if Michael Pigoni ceases to be the Fire Chief for the City of El Cerrito.

City of El Cerrito

Karen Pinkos, City Manager
Date: 12/20/2018

Kristen Cunningham,
Human Resources Manager
Date: 12/20/18

Public Safety Management Association
-Fire Chief

Michael Pigoni, Fire Chief
Date: 12/21/18

Stephen Bonini
Association Representative
Date: 12/20/18
MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF EL CERRITO
AND
PUBLIC SAFETY MANAGEMENT ASSOCIATION – FIRE CHIEF

This Agreement is entered into by and between the City of El Cerrito, hereinafter referred to as the “City,” and the El Cerrito Public Safety Management Association – Fire Chief Michael Pigoni, hereinafter referred as the “Fire Chief.” This Agreement establishes the salaries, benefits, and conditions of employment for the City’s public safety management employee – Fire Chief Michael Pigoni as follows:

CHAPTER 1

MANAGEMENT EMPLOYEE

1.1 Subject to the provisions of this agreement, The Fire Chief is an at-will employee who serves at the discretion of the City Manager. Pursuant to Section 3.10.020 of the El Cerrito Municipal Code, the Fire Chief is not entitled to any of the rights or protections of the City’s civil service system. In the event that the Fire Chief is removed from his position as Fire Chief, he may, at his discretion, return to his prior position as Battalion Chief in the El Cerrito Fire Department, as permitted under El Cerrito Municipal Code § 3.10.090 and any related rules or regulations. Should the Fire Chief return to his prior position as Battalion Chief, he shall be credited with all service time with the City of El Cerrito and not suffer a loss of seniority and enjoy all benefits and compensation of a Battalion Chief. Reversionary rights will not apply in the case of termination based upon an independent finding of misconduct, made by the Civil Service Commission or a mutually agreed hearing officer.

The Fire Chief shall be entitled to those rights contained in the Firefighters Procedural Bill of Rights Act, and specifically to those rights contained in Government Code Section 3254(c). However, such rights shall not be deemed to create a property interest in the job of Fire Chief or to make the job of Fire Chief other than an at-will position within the City.

1.2 Management employee is, for purposes of this section, the individual actively involved in the following classification: Fire Chief.

CHAPTER 2

SALARIES AND BENEFITS

2.1 Salary

A. Consistent with the El Cerrito City Council Resolution for Management and Confidential Employees, a salary range of 25% above and below the control point of $17,713 shall be created within which the City Manager may approve salary adjustments of up to 10% per calendar year.

B. Effective December 31, 2018, the Fire Chief will receive a monthly salary of $17,713.
C. Effective the first full pay period in July 2019, the City will increase the salary for the Fire Chief by the April to April San Francisco Area Consumer Price Index (CPI). This salary increase will be no less than 2.0% and no more than 4.0%.

D. Effective July 2020, the City shall survey similar cities as those surveyed by the El Cerrito Firefighters Association and establish a new control point for the Fire Chief classification.

E. Effective the first full pay period in July 2021 and July 2022, the City will increase the salary for the Fire Chief by the April to April San Francisco Area Consumer Price Index (CPI). This salary increase will be no less than 2.0% and no more than 4.0%.

2.2 Uniform Allowance
The uniform allowance for the Fire Chief is $725 per fiscal year. Uniform allowance shall be paid on the first payroll date in December, covering the fiscal year beginning the prior July. Such payment shall be by check, separate from the normal payroll check.

2.3 Auto Allowance
The City will supply an automobile to the Fire Chief who, in the opinion of the City Manager, requires a City vehicle as an integral part of their work. Alternately, the City will provide a cash allowance of up to $350 per month in lieu of use of a City automobile.

2.4 Pension Plan Benefits and Reimbursement

- The City's contract with the California Public Employees Retirement System (CalPERS) provides the Fire Chief with the 3% at Age 50 CalPERS plan. This plan includes the CalPERS single highest year option, service credit for unused sick leave, Pre-Retirement Optional Settlement 2 Death Benefit, 1959 Survivor Benefit Fourth Level, and Retired Death Benefit.

- The 3% at age 50 CalPERS Plan has a 9.0% employee contribution. The Fire Chief shall make an additional 3.0% contribution to CalPERS for a total employee contribution of 12.0%.

2.5 Flexible Benefits Plan
The City has a Flexible Benefits Plan which is consistent with Section 125 of the Internal Revenue Code. The plan is known as “Citiflex.” For the duration of this agreement, the plan provides the following:

A. With the exception of the employee who chooses the “no medical plan” option, the City will contribute an amount equivalent to the lowest cost (currently Kaiser) medical plan rate according to dependent status regardless of which medical plan is chosen. “According to dependent status” means that if an employee is single the employee
shall receive the equivalent to the lowest cost (currently Kaiser) single premium in employee’s flexible spending account. If the employee and a dependent are enrolled in a City medical plan, the employee shall receive the equivalent to the lowest cost (currently Kaiser) two-party premium in employee’s flexible spending account. If the employee and more than one dependent are enrolled in a City medical plan, the employee shall receive the equivalent to the lowest cost (currently Kaiser) family premium in employee’s flexible spending account.

B. The employee may select one of the following medical plans within their individual Flexible Benefits Plan:
   ▪ HMO Kaiser (S)
   ▪ Alternative HMO

C. In the event that the employee selects a medical plan which exceeds the City’s premium contribution, the employee is responsible to pay the difference through payroll deduction.

D. In the event that the employee has alternate comprehensive group medical coverage through a spouse’s medical plan or some other group medical plan, the employee may select a “no medical plan” option. (Proof of alternate coverage is required.) In this event, the City shall contribute the equivalent to the single Kaiser medical premium to their Flexible Benefit Plan and the employee may receive this amount in cash, in which case the amount is treated as taxable income, or the employee may reallocate it toward the purchase of other benefits in the Plan, or a combination of both.

E. The employee may contribute salary up to the IRS limits on a pretax basis in order to purchase the following benefits:

   • Medical Premiums, Co-Payments, and Deductibles
   • Dental Premiums, Co-Payments, and Deductibles
   • Un-reimbursed Medical & Dental Expenses
   • Dependent Care

Rules governing the allocation and distribution of such funds shall conform to applicable sections of State and Federal tax codes and the City of El Cerrito’s Flexible Benefits Plan.

F. The health benefit programs recognize the participation of domestic partners of the eligible employee. Please refer to the City’s Citiflex document for details.

G. During the term of the contract, the City may establish a City-wide task force for the purpose of exploring alternate health plans, including PERS Health, for both active and retired employees. The City or Fire Chief agrees to reopen negotiations for the sole purpose of implementing alternative medical coverage.
2.6 Dental Plan
Through the duration of this agreement the City will pay the full cost of employee plus dependent coverage under the Delta Dental Plan.

2.7 Retirement Health Plan
A. Retirees, survivors of retirees and survivors of deceased employees, unless prohibited by the carrier, will be permitted to maintain the current level of health plan benefits available to employees. Retirees, survivors of retirees and survivors of deceased employees may maintain such health plan benefits at their discretion and with no cost to the City.

B. Post-Employment Health Plan Retiree Medical:
The City shall contribute $300 per month for the member's Post employment Health Plan account.

2.8 Life Insurance
The City will provide a term life insurance policy for the Fire Chief. The principal sum shall be equal to the annual salary rounded to the nearest $1,000 (up to a maximum of $100,000).

2.9 Long-term Disability Insurance
The City shall provide the Fire Chief with long-term disability insurance with coverage of two-thirds salary up to the maximum set by the Municipal Pooling Authority and a sixty-day elimination period. Like regular wages, this benefit is taxable.

2.10 Benefit Status
A. The salary and benefits contained within this Memorandum of Understanding are granted only to the Fire Chief if he is in a current pay status. The City shall incur no cost, nor shall benefits accrue for retirees, survivors, or employees in a non-pay status, unless the employee is granted medical leave of absence or military leave of absence.

B. In the event the Fire Chief is in a non-pay status because of a disputed workers' compensation claim, benefits under this article shall be continued upon written agreement of the affected employee to repay to the City the amount of any premiums paid by the City during the non-pay status period if the employee's claim is denied by the Workers Compensation Appeals Board or withdrawn by the employee prior to a decision by the Board.

2.11 California Fire Service and Rescue Emergency Mutual Aid
Consistent with the El Cerrito City Council Resolution 2015-28 for portal to portal overtime reimbursement for all personnel assigned to emergency incidents through the California Fire Assistance Agreement, the Fire Chief will be compensated portal to portal while in the course of their employment and away from their official duties and assigned to an emergency, in support of emergency incidents or prepositioned for emergency incidents. The City will compensate the Fire Chief for any time worked outside of their regular eight (8) hour day. This compensation will be at the overtime rate of time and one-half (1-1/2).
CHAPTER 3
HOLIDAYS

3.1 Holidays
The following holidays are recognized as municipal holidays for pay purposes:

- New Year's Day
- Labor Day
- Dr. M.L. King Jr. Birthday
- Veteran's Day
- (3rd Monday in January)
- Thanksgiving Day
- President's Day
- Day after Thanksgiving
- (3rd Monday in February)
- Christmas Eve Day
- Memorial Day
- Christmas Day
- Independence Day (July 4)
- ½ Day New Year's Eve

In the event that any of the aforementioned days falls on a Sunday, the following Monday shall be considered a holiday for pay purposes. In the event that any of the aforementioned days fall on a Saturday, the preceding Friday shall be considered a holiday for pay purposes. The afternoon of New Year’s Eve, commencing at 12 noon, shall be considered a holiday for pay purposes. In the event New Year’s Eve falls on a Sunday or a Monday, the preceding Friday afternoon shall be considered a holiday for pay purposes. The City Manager may make changes in the above schedule in accordance with the needs of the City.

3.2 Birthday and Floating Holidays
In addition to the recognized municipal holidays, the Fire Chief shall receive annually three (3) floating holidays, subject to the same requirements for scheduling vacation. Floating holidays must be taken during the fiscal year they are received and may not be carried over and accumulated.

The Fire Chief is allowed an additional holiday on the birthday or another day at the convenience of the City.

3.3 Compensation for Municipal Holidays

A. If the Fire Chief is on leave-of-absence without pay, he shall not receive any compensation for holidays occurring during such leave.

B. The Fire Chief must be in a pay status on the workday preceding a holiday to be eligible to be compensated for the holiday.

CHAPTER 4
SICK LEAVE, WORKERS’ COMPENSATION, FAMILY SICK LEAVE, AND OTHER LEAVES
4.1 Accrual of Sick Leave – Rate
Sick leave shall accrue at the rate of 11 hours and 25 minutes per calendar month worked, provided he has worked or been authorized leave with pay for at least ten working days in the month.

4.2 Sick Leave - Maximum Accrual
The maximum accumulation of sick leave is unlimited.

4.3 Activity During Sick Leave
No employee who is absent from work on sick leave shall engage in any work or other activity that would interfere with the employee’s ability to return to work to perform regular duties.

4.4 Sick Leave Retirement Benefit
Upon retirement from City service, the Fire Chief shall be entitled to compensation for one-fourth of the accumulated sick leave on the books at the time of such retirement, with a maximum payment equivalent to 200 hours pay, at the employee’s option. Actual sick leave remaining on the books will be reported to PERS in accordance with PERS regulations governing the sick leave credit contract option. In no case will unearned sick leave be reported for the purpose of increasing the member’s retirement as prohibited by PERS.

The date of disability retirement for the employee may be established or determined to be effective prior to the expiration of sick leave benefits.

4.5 On-the-Job Injury
The Fire Chief is eligible for benefits (salary continuance) for time off work due to on-the-job injuries as specified in Labor Code Section 4850.

4.6 Unused Sick Leave Upon Death
The value of accrued sick leave shall be paid (based upon the current hourly rate) to the surviving spouse or designated beneficiary upon the death of the Fire Chief.

4.7 Family Sick Leave
Under Labor Code Section 233, employees may utilize accrued sick leave to care for an ill or injured child, spouse or parent. The City has extended this provision to include domestic partners and their dependent children. There is no requirement that the illness or injury reach the level of seriousness provided for under the Family and Medical Leave Acts. However, if the illness or injury qualifies under the Family and Medical Leave Act, it also satisfies the “family sick leave” criteria. The maximum “family sick leave” allowed each calendar year that is subject to this provision is one-half (1/2) of the employee’s annual accrual of sick leave. Additional family sick leave may be taken subject to departmental regulations and approval of the City Manager.

4.8 Bereavement Leave
The Fire Chief is entitled to time off with pay when there is a death or anticipated death in the immediate family. Bereavement leave shall not exceed five (5)
consecutive days when death is anticipated. Bereavement leave after death shall not exceed that period of time between death and the day of the funeral, providing the funeral is held within five days following death. Additional time may be granted and charged as sick leave when, in the opinion of the City Manager, unusual circumstances identify the need for additional time off.

Immediate family is defined as spouse, domestic partner, child, parent, parent-in-law, sister, brother, sister-in-law, brother-in-law, grandparent, spouse’s grandparent, grandchild, son-in-law, daughter-in-law, or any other relative of the employee or employee’s spouse residing in the same household, or who has resided with the employee in the same household for three or more years. In cases where death has occurred involving someone other than the immediate family, the City Manager shall make the decision as to qualification for bereavement leave.

4.9 Administrative Leave
The Fire Chief shall receive administrative leave in recognition of extraordinary working hours and conditions. The City Manager will annually approve the number of leave hours by the individual employee based on the amount of overtime performed and the quality of work produced. The annual amount of time assigned shall not exceed eighty (80) hours. Unused administrative leave cannot be carried over from year to year or cashed out at year-end or upon separation.

4.10 Family and Medical Leave
Pursuant to State and Federal law, the City will provide family and medical care leave for eligible employees. The City Family Care and Medical Leave policy sets forth employees' rights and obligations with respect to such leave. Rights and obligations which may not be specifically set forth in the City's policy are set forth in the Department of Labor regulations implementing the Federal Family and Medical Leave Act of 1993 ("FMLA") and the regulations of the California State Pregnancy Disability Act and the California Fair Employment and Housing Commission implementing the California Family Rights Act ("CFRA") (Government Code Section 12945.2). Unless otherwise provided by the City's policy or this Memorandum of Understanding, "Leave" under this article shall mean leave pursuant to the FMLA.

CHAPTER 5
VACATION

5.1 Eligibility
The Fire Chief shall be eligible to take a paid vacation, unless otherwise provided by the City Manager.

5.2 Scheduling
The scheduling of annual vacation leave and the amount to be taken at any one time shall be determined by the Fire Chief, subject to City Manager approval, in
accordance with departmental regulations and with regard for the needs of the City and the preference of the employee.

5.3 **Vacation at Termination**
The Fire Chief, who leaves the municipal service with accrued vacation leave, shall be paid the amount of accrued vacation to the date of termination. Payment for accrued vacation shall be at the Fire Chief's current rate of pay.

5.4 **Effect of Extended Military Leave**
A Fire Chief who interrupts his/her City service because of extended military leave shall be compensated for accrued vacation at the time the leave becomes effective.

5.5 **Sick Leave During Vacation**
Vacation leave may be converted to sick leave subject to the review and approval of the City Manager, if the Fire Chief is injured or sick during the vacation for a period in excess of 24 hours.

5.6 **Vacation Cap and Implementation**
   
   **A. Vacation Cap**
   The vacation cap shall be two (2) times the employee's annual vacation accrual rate. Thereafter, at any time an employee reaches the maximum accrual, the employee will cease accruing vacation hours until such time as the balance falls below the cap. No employee will be allowed to accrue vacation hours above the cap, unless an employee has a worked related injury and is on 4850.

   **B. Implementation**
   Vacation hours in excess of two (2) times the annual accrual rate, the excess hours will be placed in a separate vacation bank.

5.7 **Separate Vacation Bank**
Any accrued vacation in excess of two (2) times the annual vacation accrual rate will be placed in a separate Vacation Bank. This will be a single, one time process. Employee shall be entitled to use or sell the hours in the Bank for vacation in the same manner as regular vacation hours. The hours shall be paid out at the employee's current rate of pay.

5.8 **Vacation Cash-Out**
Employees may annually cash-out up to 16 days (128 hours) of vacation provided that they have taken a minimum of 16 vacation days (or administrative leave for management employees) in the previous fiscal year and maintain a vacation balance of 40.0 hours at the time of vacation cash out. Employees may elect to cash-out a maximum of two (2) times annually and each cash-out request must be a minimum of 8 days (64 hours). Employees must reduce their separate vacation bank first when cashing out vacation. All requests must be in writing to the Human Resources Manager for initial review with final approval by the City Manager.
If an employee wants to request an irrevocable vacation cash-out, they must provide written notice to the Human Resources Manager, or designee, no later than July 1 of the fiscal year before the fiscal year in which the employee wishes to cash-out vacation leave. The amount requested cannot exceed the amount stated above. An employee can cash-out during the months of May and December. The notice shall indicate how many vacation leave hours the employee wishes to cash-out the following year.

5.9 **Accrual**

Unless otherwise provided by the City Manager, vacation leave will be accrued from the first day of employment when a Fire Chief is in a pay status and will be credited on a monthly basis. Municipal holidays shall not be counted during vacation. The schedule is on the next page.
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CHAPTER 6
WORK SCHEDULE

6.1 Workweek
The workweek for the Fire Chief is as required by the City. The normal work day is eight (8) hours per day. Alternate work schedules may require working different scheduled hours as determined per City operations.

CHAPTER 7
EDUCATION BENEFITS

7.1 Tuition Refund Plan
The Fire Chief is eligible for educational cost reimbursement up to a maximum of $1,000 per year for work-related studies at a recognized college, university or professional school. Course content should relate to one of the following:

A. Knowledge or skills needed by the employee in his/her present job;

B. Preparation for promotional opportunities or advancement in the same or different field within the City organization.

C. The requirements of a program leading to a degree, at an approved institution, which enhances the employee's job knowledge or on-the-job skills.

Procedures for obtaining reimbursement and limitations regarding reimbursement may be found in the City of El Cerrito administrative procedure on educational expense reimbursement.

CHAPTER 8
MISCELLANEOUS POLICIES FOR THE FIRE CHIEF

8.1 Continuing Education
It is the policy of the City that management employees, including the Fire Chief, take part in some educational or training course each year, and the City Council will attempt to provide funds in each budget for such purpose.

8.2 Membership
It is the policy of the City to provide paid membership in approved professional associations for management employees, including the Fire Chief. This policy shall
include publications associated with membership and other educational materials as may be approved.

8.3 Conferences
It is the policy of the City that each management employee, including the Fire Chief, attend (as a member) professional conferences of his or her peers each year at City expense, subject to any budgetary constraints. These conferences would include but are not limited to Cal Chiefs, California Special Districts Association, California Joint Powers Association and others to provide representation for the City and as approved by the City Manager.

8.4 Benefit Relationship to Rank and File
If new or deleted material benefits and/or cost sharing mechanisms are agreed to with the Firefighters' Association, they would apply to the Fire Chief.