CITY OF TEMPE
FIREFIGHTERS UNIT
MEMORANDUM OF UNDERSTANDING
(MOU)

July 1, 2005 – June 30, 2007

C2005–144

As per Tempe City Code 2-400 Et Seq

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PREAMBLE

WHEREAS, the Parties, through their designated representatives, met and conferred in good faith pursuant to Tempe City Code 2-400 Et Seq in order to reach agreement concerning wages, hours, and working conditions of employees comprising the Firefighter Unit, and,

WHEREAS, the Parties hereby acknowledge that the provisions of this Memorandum are not intended to abrogate the authority and responsibility of City government provided for under the statutes of the state of Arizona or the Charter or Ordinances of the City of Tempe except as expressly and lawfully limited herein,

NOW, THEREFORE, having reached this complete agreement concerning wages, hours and working conditions for the term specified, the Parties submit this Memorandum to the City Council of the City of Tempe with their joint recommendation that body resolve to adopt its terms and take such other action as may be necessary to implement its provisions.

PROVISO FOR EXISTING BENEFITS

The Parties agree and Tempe City Code 2-400 Et Seq confirms that in the event of a conflict between the City of Tempe Personnel Rules and Regulations, attachments thereto, other Council approved programs, and this Memorandum of Understanding, the Memorandum of Understanding shall apply to the conflicting issue. If there is no conflict between the above referenced documents, the Parties are governed by the Personnel Rules and Regulations, attachments thereto and Council approved programs. In the event all such formerly referenced documents are silent on a particular issue, the City Manager and/or designee shall retain the right to exercise judgment on all such matters.

If, during the term of this Agreement, the City anticipates a substantive change in the benefits not included in this MOU, but provided to Unit Members through the City of Tempe Personnel Rules and Regulations and attachments thereto, and other Council approved programs, the City shall meet with the Union, explain the reasons for the change, and discuss the potential impact of such changes.

The purpose of the provisions of this Article is to continue to provide current financial benefit levels, as that terminology is customarily defined as part of the employees' overall compensation package, while simultaneously not restricting the authority of management in the administration and management of such benefits. As an example, firefighters on a 56-hour workweek will continue to be provided the benefit of vacation accrual as provided in the City Personnel Rules and Regulations; however, how approval is obtained to utilize such time shall remain the determination of the City. Similarly, these provisions do not guarantee a firefighter a particular work shift or work assignment; nor shall they guarantee a firefighter a right to overtime.

The referencing of the Personnel Rules and Regulations and other such policies and procedures herein does not make them an extension of this Memorandum of Understanding. Therefore, the process for an alleged breach of this MOU as contained in Tempe City Code 2-400 Et Seq or any procedure agreed upon by the Parties to resolve allegations of a breach of this MOU, shall not be applicable.

Any benefit provided by outside vendors (such as health insurance), and subject to cost increases outside the City's control, may cause a re-opening of this contract for purposes of the affected benefit only. This negotiation process will exclude fact-finding.

Fiscal Crisis

In the unlikely event during the term of this Memorandum of Understanding the City of Tempe experiences loss of revenues or legal requirements that if not resolved during the budget year would result in the layoff of City of Tempe Firefighter Unit Members or the serious curtailment of services provided to the citizens of Tempe, this Memorandum of Understanding may be reopened. This provision shall only apply if the general population of Tempe City Employees is subject to the same or greater reduction of pay or benefits negotiated as a result of this reopener provision. The following provisions shall apply to this circumstance.

1. The City shall notify the Association President in writing of the need to reopen this Memorandum of Understanding. Such notice shall include the reasons for the reopening and the anticipated amount of City-wide budget shortfall that needs to be resolved in order to alleviate the need to layoff City employees or severely curtail services provided to the Citizens of Tempe.

2. The City shall supply the Association President with all available current budget information including, but not limited to, projected revenue shortfalls.

3. The Parties shall meet and confer/negotiate in a good faith effort to reach agreement on what, if any, reduction in pay and/or benefits shall occur for Unit Members in order to address the City's budget shortfall.

4. The meet and confer/negotiation process will be for a period of no less than 30 calendar days. During this 30-calendar day period, the Parties shall meet at least weekly unless mutually agreed otherwise.

5. If the Parties are unable to reach an agreement on the issues identified for this process, the issues will be submitted directly to the City Council who shall make a final determination. The determination of the City Council shall be final and binding on the Parties.

Definitions

For the purpose of this Memorandum of Understanding, the following definitions shall apply:

"City"	shall mean Tempe City government
"Union"	shall mean United Phoenix Firefighters Association Local 493, Tempe Chapter
"Unit Member"	shall mean a City employee identified in the Tempe City Code Section 2-401.

ARTICLE 1
RIGHTS OF THE UNION

1. During the term of this Memorandum of Understanding, union officials will be released from duty with full pay when directed by the City to participate in a meeting with the City and/or City representatives. Union officials will also be released from duty with full pay to participate in any committee or task force established by this Memorandum of Understanding.

2. Employees who participate in meetings covered by this Article at times other than their normal work shift shall not receive compensation and said hours are not considered time worked for the purpose of computing overtime.

3. Union representatives shall be released from duty with full pay to provide employee representation in a grievance hearing or disciplinary meeting with an employee.

4. During the term of this Agreement, the City will provide up to 2500 hours annually to be utilized by the Union Officials as determined by the Union President for the purpose of conducting union/management related business. The time utilized must be authorized in advance by the Chief or his/her designee. The Union President will be responsible for complying with the following guidelines:

- Time will not be authorized if it results in overtime for the Union member utilizing the time or if it creates an operational problem for the Department.
- The activity to be engaged in cannot create a conflict of interest between the Union and the City of Tempe.
- The time used must be considered in accordance with the overall mission and values of the City and must not negatively impact upon the relationship between the City and the Union.

5. It is understood and agreed that meetings such as those mentioned above shall be scheduled in such a manner as to minimize disruptions to service and to minimize overtime.

6. There shall be no use of City paid time for Union-related activities except as expressly authorized by this Article. The Department shall maintain procedures to administer and control use of City paid time in conformity with the provisions of this Article.

7. The City shall furnish monthly, or as requested, a listing of Union members on City payroll deduction for union dues during the term of this agreement. Included with the employee's name shall be the employee's current job assignment. An employee who wishes for his/her mailing address to be released to the Union may so designate to the City and this information will be included. The employee's authorization shall continue until revoked in writing by the employee. The Union agrees to use this list solely for purposes of communicating with Union members and will not share this information with other individuals or organizations.

8. A. The City agrees, in conformity with Tempe City Code Section 2-403, to deduct an amount specified in writing by the employee and transmit such amount to the Union each pay period. Such deductions shall be made only when the employee's earnings for such pay period are sufficient after other legally required deductions are made. The Union reserves the right during the term of this agreement to increase the amount withheld for all employees pursuant to a generalized dues increase.

B. The City assumes no liability on account of any action taken pursuant to this section (Section 8). The Union agrees to indemnify, defend, and hold harmless the City, its agents, employees, and officials for taking action in conformance with this section.

C. Employees may initiate, discontinue or amend union payroll deductions by written authorization in accordance with Tempe City Code section 2-403 at any time during the term of this Memorandum of Understanding.

9. There shall be no implied rights beyond the specific terms of this Memorandum of Understanding.

ARTICLE 2
RIGHTS OF THE UNIT EMPLOYEE

1. Representation

Unit Members have the right to be represented by the Union at any meeting, which could or will result in disciplinary action being taken against that Member. The Unit Member will have one and one-half (1½) hours to obtain Union representation from time of notification of meeting or a Union representative will be

contacted with at least one and one-half (1½) hour's notice to be present at the meeting with the Member.

ARTICLE 3
WAGES

1. Salary

Effective July 1st , 2005, (pay period beginning June 27th , 2005), the following plan will be in effect which includes increases consistent with the City's 2004/2005 Market Survey increase.

Firefighter	2005-2006 Annual Salary	Medics Annual Salary
Assigned as Recruit – 40 Hours	$35,495	
Upon graduation from Academy	$39,179	
1 Year from Academy Graduation	$40,127	$44,139
2 Years from Academy Graduation	$42,134	$46,347
3 Years from Academy Graduation	$44,241	$48,665
4 Years from Academy Graduation	$46,453	$51,098
5 Years from Academy Graduation	$48,776	$53,652
6 Years from Academy Graduation	$51,215	$56,336
7 Years from Academy Graduation	$52,889	$58,177

Negotiations for all monetary issues will remain open for the 2006-2007 fiscal year.

Upon assignment to Paramedic, a Firefighter will receive 10% above his or her current salary.

Members who are certified paramedics, but are not assigned as department paramedics, will receive assignment pay equal to 5% above his or her salary.

	2005-2006
Fire Engineer	
Upon Promotion	$56,960
Fire Engineer Medic	
Upon Promotion	$62,880

Fire Captain	$66,059
Fire Captain Medic	$72,905
Fire Captain (40-Hour Assignment)	$72,004
Fire Captain Medic (40-Hr Assignment)	$79,446

2. Special Operations Pay:

$217 / month

Special Operations Pay will be increased by the same percentage as any Cost of Living (COL) or Market Adjustment given between July 1, 2005 – June 30, 2007.

3. Productivity Enhancement Pay:

Beginning with the third paycheck in July 2005 and the second paycheck in December 2005, Unit Members, who have completed a minimum of five (5) years of service with the City of Tempe, will receive Productivity Enhancement Pay (in two semi-annual payments) according to the following plan. Unit Members will receive this pay through December 2006.

Productivity Pay will be based on his or her years of service and base pay as of the first day of the pay period beginning in July of each year.

Years of Service	% of Base Pay
5-9	1.50%
10-14	3.00%
15-19	4.50%
20-24	6.00%
25+	7.50%

Note: Salaries are based upon a 56-hour workweek unless otherwise noted.

For Productivity Enhancement Pay, years of service will be considered accredited service with the Arizona Public Safety Personnel Retirement System (PSPRS).

4. Bilingual Pay

Unit Members who successfully pass the required competency

Examination for entry into the City's Bilingual Pay Program will be eligible to receive additional compensation for significant interaction of $125 per month.

ARTICLE 4
DEFERRED COMPENSATION

1. Effective with the regular paycheck dated July 15, 2005, Unit Members off of probation will begin receiving $50 per pay period towards deferred compensation ("Deferred Compensation Contribution"). Part of the Deferred Compensation Contribution is in lieu of Mediflex benefits and thus Unit Members are not entitled to City Mediflex benefits.

2. Each contribution in paragraph 1 may be made into either the City's 401(k) or 457 deferred compensation plan or the designated I.A.F.F. 401(k) or 457 deferred compensation plan. If the 457 plan is elected, the City shall pay all applicable taxes (employee and employer). If a 401(k) plan is elected, the Unit Member has no immediate tax obligation.

ARTICLE 5
HEALTH INSURANCE

1. An Employee's Health Insurance Evaluation Committee shall be established to examine issues related to the provisions and maintenance of health insurance for Unit Members and other City employees.

The Union shall be entitled to appoint a Unit Member to the Health Insurance Evaluation Committee related to the provision and maintenance of health insurance for Unit Members, including the reviewing of the Request for Proposal, the evaluation of the submitted proposals, and the recommendation of the preferred provider.

2. The City shall provide health insurance for members retiring from the City pursuant to the rules and procedures for retirement as defined under the Public Safety Retirement System and the City of Tempe policies and procedures regarding retiree health insurance as may be amended.

3. Each member will contribute $15 per pay period into a fund for the purpose of providing a monthly stipend for retirees to apply to the cost of their health insurance upon retirement.

4. The City will match $15 per pay period into a fund for the purpose of providing a monthly stipend for retirees to apply to the cost of their health insurance upon retirement. The Trust Fund shall be maintained and initiated by a Board of five (5) individuals selected as follows:

A. Two (2) individuals shall be appointed by the City Manager

B. Two (2) individuals shall be appointed by the United Phoenix Firefighters – Tempe Chapter Local 493; and

C. One (1) individual, who shall serve as Chairperson shall be selected by the four appointees selected above.

The fund shall be invested in prudent, protected investments in compliance with state and federal laws. The fund managers may seek outside advice and consultation as they deem appropriate and are authorized to secure a formal trust instrument. The trust instrument and any amendments thereto must be specifically approved by the City Manager and the Association before they can become effective.

The Parties have or are in the process of requesting rulings from the IRS and/or PSRS regarding this Article, sections 3 & 4. Any implementation of this Article shall be consistent with current and future IRS and/or PSRS rulings and all federal, state, and local laws.

5. The City assumes no liability on account of any action taken pursuant to this Article. The Union agrees to indemnify, defend, and hold harmless the City, its agents, employees, and officials, for taking action in conformance with this Article.

ARTICLE 6
LIFE INSURANCE

1. The City will continue the existing off-the-job and on-the-job life and dismemberment insurance coverage. The policy shall provide a benefit for each member equal to the member's base annual salary. Additionally, the City will provide a death benefit of $50,000. The City will continue to provide to each member a $250,000 death benefit covering the member's commutation to and from his/her City work location. This policy will be consistent with the City's current group insurance, and will cover the Unit Member's commute for up to two (2) hours before his/her shift begins and two (2) hours after his/her shift concludes.

2. In the event of the death of a member while commuting to or from his/her work location, the City will continue to pay the full health insurance premium for the spouse, domestic partner and all eligible dependents in accordance with City policy.

ARTICLE 7
PENSION CONTRIBUTION

Beginning July 1, 2005, Members participating in the D.R.O.P. Program will receive per pay period into their deferred compensation an amount equal to the City

paid contribution into the P.S.R.S. currently. Members who elected to D.R.O.P. prior to July 1, 2003 will receive 1% and members who elected to D.R.O.P. after July 1, 2003 but before July 1, 2005 will continue to receive 2% into their deferred compensation account.

ARTICLE 8
HOURS REDUCTION

The Fire Chief and the Union President will look into an hours reduction system by utilizing overstaffing of personnel. This will be done through the Labor Management Process.

ARTICLE 9
BIDDING ON VACANCIES

1. The Parties acknowledge that the Fire Department has historically utilized a procedure whereby employees bid on work locations based upon the employee's length of service since date of hire as a firefighter with the City. Although this process oftentimes meets the needs of both the Department and the Employee, the Parties agree that this process in no way limits the authority of the Fire Chief, or his designee, to make assignments to meet the operational needs of the Department.

This process will also be used in the event of any layoffs within the Fire Department.

2. In the event that the Fire Chief exercises his prerogative to utilize a different method for allocating work assignments other than allowing employees to bid as acknowledged above in 1., the Union President has the right to make this issue an agenda item for discussion in the Labor/Management Committee, or the Employee may decide to appeal through the MOU Breach Procedure.

3. The Fire Chief shall make reasonable efforts to allocate work assignments and promotions expeditiously. The Fire Chief retains the right to make reassignments to meet the operational needs of the Department.

ARTICLE 10
CALL-BACK PAY

Employees called back to work after leaving City facilities upon completion of their regular shift shall receive a minimum of two (2) hours pay at one and one-half (1½) times their regular rate of pay. City personnel rules and administrative regulations will govern the application of this provision.

ARTICLE 11
FORTY-HOUR (40) LEAVE ACCRUAL

The Parties recognize that firefighters accrue vacation and medical leave at a higher rate than other City employees because of their fifty-six (56-hour) shift to which they are normally assigned. When the Fire Chief reassigns a firefighter, or a firefighter is selected into a position with a forty- (40) hour work schedule, the firefighter will begin accruing vacation and medical leave at the same rate as other forty- (40) hour per week City employees. Furthermore, the firefighter's current accrual balances will be prorated as if it had been accrued based upon a forty- (40) hour workweek. This article excludes light duty assignments of less than ninety (90) calendar days.

When a firefighter on a forty- (40) hour workweek returns to the regular fifty-six (56-hour) workweek, vacation and medical leave will be in accordance with other fifty-six (56-hour) workweek employees, and the firefighter's leave balance will be prorated accordingly.

ARTICLE 12
HOURS

The duty hours for Unit Members assigned to Emergency Services shall continue to average fifty-six (56) hours per week. Shifts shall continue to be twenty-four (24) hours in duration.

ARTICLE 13
LATERAL ENTRY PROGRAM

When an employee of the City of Tempe outside the Fire Department wishes to become an employee of the Fire Department in a position covered by this Memorandum of Understanding, the following provisions shall apply:

1. The Employee moving into the Fire Department shall be paid a rate of pay as determined by the Fire Chief with the approval of the City Manager. Prior to the final determination by the Fire Chief, he shall review the intended rate of pay with the Association President.

2. The employee will receive leave accrual based upon continuous service with the City of Tempe. Said employee shall retain previously accrued unused leave balances.

3. For purposes of bidding on company-based assignments and/or available vacation slots, seniority will be based upon continuous service within the Fire Department.

ARTICLE 14
LIGHT-DUTY (TRANSITIONAL WORK)

Any member assigned after July 1, 2001, to light duty will be placed on a forty- (40) hour workweek schedule. All pay remains the same if the inability to perform regular duty is work related. If the inability to perform regular duty is not work related, all pay will remain the same for a period of ninety (90) days, after which the Member will stop receiving FLSA overtime premium pay.

ARTICLE 15
WORKING OUT OF CLASSIFICATION

An employee will be paid for temporarily working out of his/her assigned classification in accordance with the City Personnel Rules and Regulations.

ARTICLE 16
BEREAVEMENT LEAVE

Members shall receive up to five (5) working days leave with pay not chargeable to medical or vacation leave for immediate family members. Members shall receive up to three (3) working days leave with pay not chargeable to medical or vacation leave for non – immediate family members. Two (2) additional working days shall be granted for out of state travel for non – immediate family members. See City of Tempe Personnel Rules and Regulations for additional details.

ARTICLE 17
COMPASSIONATE/CASTROPHIC LEAVE

Compassionate/Catastrophic Leave will be administered in accordance with the City's Personnel Rules and Regulations. Union Members are eligible for up to 224 hours of Catastrophic Leave.

ARTICLE 18
HOLIDAY BENEFITS

In lieu of the holidays set forth below, employees working the fifty-six (56-hour) workweek are paid for 11.2 hours at one and one-half (1½) times their hourly rate of pay.

New Year's Day
Martin Luther King's Birthday
President's Day
Cesar Chavez Recognition Day
Independence Day

Memorial Day
Labor Day
Veteran's Day
Thanksgiving Day
Friday following Thanksgiving Day
Christmas Day

Holiday Leave: Each Unit Member will receive six (6) hours of holiday leave to be used between November 15th and January 15th.

Personal Leave Day : Each Unit Member shall have the opportunity of selecting 11.2 hours of pay at the overtime rate or twenty-four (24) hours of personal leave as per the City's Personnel Rules and Regulations.

ARTICLE 19
INDUSTRIAL LEAVE

Members are covered by the City under the Arizona State Worker's Compensation Act against injuries, illness or disease occurring in the course of City employment.

If a member is absent from work as a result of an injury, illness, or disease that is covered under the Arizona State Worker's Compensation Act, the absence is considered industrial accident leave. For absences of one (1) to seven (7) calendar days, Members are compensated 100% of their regular base rate of pay without loss of any medical or vacation leave. For absences over seven (7) days, Members are compensated 95% of their regular biweekly base rate of pay from the City for up to twelve (12) months. Beyond twelve (12) months, employees are compensated in accordance with the Arizona Worker's Compensation Act. Members may voluntarily supplement their Worker's Compensation benefit with accrued medical and vacation leave. The amount that may be supplemented is the difference between the Worker's Compensation benefit and the employee's net take-home pay, plus voluntary payroll deductions. The amount of a member's Worker's Compensation benefit shall not exceed his/her regular base rate of pay. ·

ARTICLE 20
MEDICAL LEAVE

1. Members shall accrue 11.2 hours of medical leave per month. Maximum accrual of Medical leave shall be unlimited. In December of each year, the Member may elect for the following year to cash out medical leave in excess of 672 hours at a rate of 25% or let the Medical leave accrue above the 672 hours.

2. Members retiring from the City in good standing shall receive 50% of all accrued Medical leave in the form of cash or vacation leave. The Member will be reimbursed at an hourly rate equal to the Member's hourly rate at time of retirement.

3. Medical leave may be used for illness or physical incapacity of the employee, medical, dental or psychological appointments during working hours. Medical leave may also be used for any of the above reasons for an immediate family member.

.4. Any member who has had an extended injury or illness for longer than twelve (12) shifts will have their sick leave retroactively charged to them based on a forty- (40) hour work week.

Note: Benefits are based upon a 56-hour workweek unless otherwise noted.

ARTICLE 21
OVERTIME

1. Unit Members who are assigned to be on duty beyond their scheduled work shift shall be compensated for such assigned work at one and one-half (1 ½) times their regular rate after the first eight (8) minutes of assigned and worked overtime calculated to the nearest quarter hour.

2. Allocations and opportunities for overtime shall be discussed in the Labor/Management Process.

3. The City and the Fire Chief have the exclusive right and authority to schedule work and/or overtime work as required in the manner most advantageous to the City subject to the express terms of this Memorandum.

A. Employees can only work overtime with the advance authorization of the Fire Chief or his designee.

B. Overtime will not be paid twice for the same hours worked.

4. Partials greater than eight (8) hours will be constant staffed.

5. Any Member working any Special Event, Fire Watch or any event other than regular shift work will be paid overtime at their regular salary based on a 40 hour work week. Holdovers, partials, call backs and training are considered a normal fifty six (56) hour work week and will be paid 1 ½ times their regular rate based on a fifty six (56) hour work week.

ARTICLE 22
TUITION REIMBURSEMENT

Members will receive tuition reimbursement up to a maximum of $5,000 within any calendar year as long as they are a full-time employee. Tuition Reimbursement includes the cost of tuition, required textbooks, supplies and related fees. The City

of Tempe Tuition Reimbursement Policy Guidelines and Section 127 of the IRS Tax Code will dictate the requirements for receiving Tuition Reimbursement.

ARTICLE 23
UNIFORM, CLOTHING AND EQUIPMENT ALLOWANCES

During the term of this Memorandum of Understanding, the Parties agree to discuss and review the Department's policy for providing employees uniforms, clothing and equipment allowances within the framework of the Labor Management Committee established by this MOU.

Each year Members will receive an allowance of $150.00 for purchase of supplemental clothing in accordance with Department policy.

ARTICLE 24
VACATION LEAVE

Employees on a fifty-six (56-hour) work schedule will accrue vacation in accordance with the following schedule. Accrual amounts are based upon continuous service as a City employee.

0 to completion of 5 years' of City service	11.2 hours per month
After completion of 5 years, but less than 10 years	14 hours per month
After completion of 10 years, but less than 15 years	16.8 hours per month
After completion of 15 years	19.6 hours per month

Maximum accrual for fifty-six (56-hour) employees shall be 440 hours.

For vacation leave accrual, years of service will be considered accredited service with the Arizona Public Safety Personnel Retirement System (PSPRS).

To the extent permitted by current and future IRS and/or PSRS rulings, and all federal, state and local laws, Unit Members may sell up to eighty (80) hours of vacation leave in excess of one hundred and fifty (150) hours for those employees working a forty (40) hour workweek or two hundred and ten (210) hours for those employees working a fifty-six (56) hour workweek. This benefit shall not exceed a total of eighty (80) hours and may be sold as follows: forty (40) hours sold back twice per fiscal year as agreed to by the Union and the Financial Services Manager. No employee shall be permitted to sell back accrued vacation leave if the member has less than one hundred fifty (150) hours of vacation leave for a forty- (40) hour member and two hundred ten (210) for a fifty-six (56) hour member.

Unit Members who have reached their maximum vacation accrual limit and have attained a minimum of seventeen (17) years of service in the P.S.R.S., may make a one time revocable election to have the additional vacation leave that the member earns paid to them on a per paycheck basis for the upcoming three (3)

consecutive years. Members making this election can continue using their accrued vacation.

The Parties have or are in the process of requesting rulings from the IRS and/or PSRS regarding this Article. Any implementation of this Article shall be consistent with current and future IRS and/or PSRS rulings, including but not limited to IRS Private Letter Ruling No. 200130015 dated 4/26/01, and all federal, state, and local laws.

ARTICLE 25
LABOR MANAGEMENT COMMITTEE

1. There shall be a Labor Management Committee consisting of City employees: four (4) representatives of the Union and four (4) representatives of the Fire Department. The purpose of the Committee is to facilitate positive labor-management relationships by providing a forum for the free discussion of mutual concerns and problems, which may include discussion of the implementation of major, new department programs or substantial modifications of existing major department programs that will have a significant impact on service delivery, work schedules, or duties.

2. The Committee shall meet quarterly at mutually scheduled times, and at any other mutually scheduled time.

ARTICLE 26
DIVERSITY RECRUITMENT

It is the goal of the City, the Fire Department, and the Union to increase the recruitment of qualified, diverse individuals within the Tempe Fire Department by 150%. The City shall distribute to the United Phoenix Firefighters a check for $15,000 in July of 2005 and $15,000 in July of 2006 to be used solely for diversity recruitment purposes.

The contracts for the above services and performance standards shall be approved by the City Manager.

ARTICLE 27
PROCEDURE FOR ALLEGED BREACH OF MOU

To further enhance and outline the City of Tempe's Claim of Breach Process, the following steps will be used for Section 2-426, J1-3.

If either a designated employee organization or employee claims that the Memorandum of Understanding has been breached, the Parties alleging the breach shall:

1. First, with the objective of resolving the alleged breach, discuss the alleged breach directly with the immediate supervisor outside the designated employee group. If the alleged breach is not resolved with ten (10) days, a written allegation of the alleged breach may be filed with the immediate supervisor, with a copy to the Deputy Human Resources Manager. To be considered, the alleged breach must be timely submitted and contain, at a minimum, the specific contractual provision(s) of this Memorandum of Understanding that is/are alleged to have been violated with facts constituting the alleged violation(s) and relief sought.

2. If, after ten (10) days from the date that the alleged breach was filed with the immediate supervisor, the alleged breach is not resolved, the alleged breach may be filed with the Fire Chief. The Fire Chief or his designee shall schedule a meeting in an attempt to resolve the alleged breach no later than ten (10) days following receipt of the written alleged breach. Each party shall be entitled to bring documents and/or witnesses (at the expense of the Party bringing the witness(es) to the meeting in order to present evidence on their behalf. Each party shall have the right to cross-examine the witness(es) brought by the other party.

3. The Fire Chief or Assistant Fire Chief will have ten (10) days to render a decision. If the alleged breach is not resolved with the Fire Chief's decision, the alleged breach will be submitted to the City Manager.

4. The City Manager has the right to require fact-finding or mediation to resolve the alleged breach. The City Manager shall submit a written response within ten (10) days following:

A. The receipt of the written alleged breach, or

B. The written decision of the mediator or fact-finder.

5. If the Parties are still unable to resolve the matter after the City Manager's review, then all written or relevant materials shall be submitted for resolution to the Mayor and Council within ten (10) days of receipt of the City Manager's written response. The decision of the Mayor and Council shall be consistent with the City Charter, and final and binding upon the Parties and employees.

6. The Parties can mutually waive all time frames listed above.

7. The City Manager, in consultation with the Union President, shall determine the selection process, the format of the meeting, the sharing of costs, and any other issue(s) that may result in utilizing the services of a mediator or fact-finder.

Definitions:

Days shall mean Monday through Friday, not including holidays observed by the City.

ARTICLE 28
COMPLETE AGREEMENT

The Parties agree that this is the complete and only agreement between the Parties once approved by the City Council. Each party has negotiated on all issues identified for negotiations and such negotiations have led to this agreement. No additional negotiations will be conducted on any item, whether contained herein or not, except by mutual agreement of the Parties. This Agreement replaces any and all previous agreements between the Parties.

ARTICLE 29
TERM AND EFFECT

This Memorandum shall become effective July 1, 2005, and remain in full force and effect until June 30, 2007, in accordance with the provisions of Tempe City Code section 2-400 et seq. This Memorandum constitutes the total and entire agreement between the parties and no verbal statement shall supersede any of its provisions. Only by mutual consent of both parties may this agreement be reopened, with the exception of conditions outlined in Proviso for Existing Benefits – Fiscal Crisis.

This Memorandum constitutes the total and entire agreement between the Parties and no verbal statement shall supersede any of its provisions.

IN WITNESS WHEREOF, the Parties have set their hands this

16th day of June, 2005.

CITY OF TEMPE, a municipality

City Manager

Firefighters Unit Representative

APPROVED AS TO FORM:

City Attorney

ATTEST:

City Clerk