Attachment B

City of Phoenix
HUMAN RESOURCES

City of Phoenix Position Statement
Unresolved Negotiations for the 2019-2021 Memorandum of Understanding
With AFSCME 2384 (Unit2)
April 19, 2019

Honorable Mayor and Council Members:

After two months of negotiations between the City of Phoenix and AFSCME 2384 (Unit 2), the parties reached a determination of impasse on March 1, 2019. In accordance with the Phoenix City Code governing our Meet and Confer process, Chapter 2, Article XVII, Section 2-233, the parties proceeded to and completed Fact Finding on March 28, 2019. Following receipt of the Fact-Finding recommendations, the parties have met to continue negotiations but were unable to reach a complete agreement.

The last economic proposal by the City of Phoenix is as follows:

- Contract length of two years
- In Year One of the contract 2% total compensation increase on an on-going basis
- In Year One of the contract 1% total compensation increase on a one-time basis
- In Year Two of the contract 1% total compensation increase on an on-going basis
- In Year Two of the contract 1% total compensation increase on a one-time basis

The last economic proposal by AFSCME 2384 is as follows:

- Contract length of two years
- In Year One of the contract 3.25% total compensation increase on an on-going basis
- In Year One of the contract 1% total compensation increase on a one-time basis
- In Year Two of the contract 2% total compensation increase on an on-going basis
- In Year Two of the contract 1% total compensation increase on a one-time basis

Economics

As presented to City Council in March of 2019, the City Manager's Budget forecast for FY 2019-20 projects a potential $55 million-dollar surplus at year end. This assumes several items, such as no reductions in State revenues or no economic downturn in the next 12 – 15 months.

The City's proposal to all the unions splits the projected $55 million surplus into two major components that represents a balanced use of the funds; employee compensation representing 70% of the surplus (comprised of 60% directly to employee compensation packages and 10% to pension and/or workers' compensation) and citizen service restorations representing 30% of the surplus. The City's proposal is financially sustainable which is another critical factor in the balancing of use of funds while Unit 2's economic proposal is not fiscally sustainable.

While the City has experienced a positive local economy recently, the increase from FY 2007-08 to FY 2017-18 in annual General Fund pension costs has outpaced the annual General Fund revenue growth by approximately $35 million dollars. The pension contribution rate for civilian employees, which the City is responsible for paying, has increased from 12% to 33% during the same time-period. The City has increased its pension amortization period from 20 to 25 years and created a pension reserve fund to assist in managing pension expenses; yet its unfunded pension liability is one of the largest for any major city in the country.

The City's economic proposal, while utilizing a significant percentage of the current surplus for compensation, does not require the City to use contingencies and reserve funds that are needed to be maintained for fiscal integrity and emergencies. The City does not believe that it is prudent to use contingency funds for funding on-going expenses such as employee compensation and a reduction in reserves could negatively impact the City's bond rating. Use of these funds would also give the City less flexibility should there be an economic downturn. During Fact Finding, the Union suggested that the City could use various reserve or contingency funds to pay for employee compensation. However, the Fact Finder rejected this as not being economically prudent.

During Fact Finding, AFSCME 2384 argued that the City's available revenue is a function of political will; that the City could simply raise taxes and fees to increase compensation to employees. The reality is much more complicated and would include required public hearings, meetings, and potentially a public vote to increase existing taxes and fees, or to create new ones. From a budgeting perspective, the City cannot, nor should not rely on the use of potential revenues based on political processes.

The City Council has approved the MOU's for both Unit 1 and Unit 3 employees that included the economic package proposed to Unit 2 employees *except* for the .25% year-one incentive that was offered to all Units that agreed to terms with the City prior to Fact Finding. Unit 1 and Unit 3 negotiation teams did come to terms prior to Fact Finding, and therefore they will receive the incentive. Under these terms, Unit 2 employees are not eligible to receive the .25% incentive offered.

The Fact Finder mischaracterized the City's incentive as only for the first Unit to have a complete contract signed prior to Fact Finding. It was also mischaracterized as a penalty. The City disagrees on both points as this was simply an incentive for all parties to diligently work through the negotiation process to reach a complete agreement and was available to any Unit that did so. The Unit 2 negotiation team failed to do so; therefore, Unit 2 should not be eligible to receive the incentive. The Fact Finder's recommendation was 2.25% ongoing and 1% one-time in year one, and 1% ongoing and 1% one-time in year two, which is consistent with the City's offer had Unit 2 accepted the terms with the incentive. It is worth noting that Unit 2's last offer, received after Fact Finding, exceeded the Fact Finder's recommendation.

Based on current projected budget forecasting that results in a balanced budget, without using reserve funds or predicting any new revenue sources, the City's last economic package offered to Unit 2 employees is recommended for approval by City Council.

Contract Length

The Fact Finder concluded that a two-year MOU would be the "prudent course of action" and found in favor of a two-year contract. The 2020 census will occur during the length of the contract year and could result in Phoenix losing significant state and federal funds. The City, while not budgeting for an economic downturn understands there is a significant amount of economic research and data indicating that there is a potential for a downturn in the next 12-24 months. The City and the Units will have the opportunity to begin negotiating a new contract to begin FY 2021, when both parties will have more certain economic and budget data predicting revenue forecasts. Therefore, Council should approve a two-year contract with Unit 2 employees as they have with Unit 1 and Unit 3 employees. Additionally, since the 1970s the City has had only one three-year contract, the remainder have been two-year contracts.

Unresolved Non-Economic Issues

Prior to the official start of negotiations, management identified areas of inconsistency between the various MOUs. These inconsistencies are burdensome for supervisors and create confusion for employees. Proposals were prepared with the goal of gaining some consistent language in these areas during the negotiation process. Proposals that created consistent contract language were brought to each unit during negotiations. Agreements were reached with Units 1 and 3 which addressed the issues to the satisfaction of both parties. Tentative Agreements were also signed with Units 4 and 5 which addressed the issues to the satisfaction of both parties.

Unlike with the other groups, there was limited success in getting any agreement with AFSCME 2384 regarding the unresolved non-economic issues.

It is the City's position that the Fact Finder did not thoroughly understand these issues or their impact to the City.

"Fair and Impartial" language limiting grievances to content in the MOU

The City asserts that Unit 2 misconstrues and therefore misuse the Fair and Impartial language that was inserted into their 2008-10 contract. It was intended to clarify that employees would be treated fairly and impartially under the specific express terms of the MOU. Unit 2, however, has filed a great deal of MOU grievances using the Fair and Impartial language for non-contractual disputes. There are avenues available for employees to pursue non-contractual grievances. No other unit uses Fair and Impartial contract language to file grievances – much less as the sole basis. The other units clearly understand that this language is limited to the express terms and conditions of the contract.

The City respects the grievance process as a legitimate method of resolving bona fide issues that cannot be solved between an employee and a supervisor. The City should not continue to be forced to participate in a grievance process outside of what was negotiated and that is inconsistent with the process for the other units. This is unfair to other City employees.

An example of misuse involves overall Not Met performance reviews. The City has established appeal procedures allowing employees an ability to address concerns with their director. Unit 2 employees

bypass these procedures through misinterpretation of the Fair and Impartial language in their MOU. Correcting this language would eliminate this work-around and provide Unit 2 employees with the same appeal avenue as all other units.

City's Recommendation:

A. Adopt the City's proposed language, creating consistency between the bargaining groups and matching the language with the actual intent that was negotiated; or,
B. Strike the language in its entirety which would remove Unit 2's perceived ability to file a grievance on endless, non-contractual topics under the heading of "Fair and Impartial."

Grievance Process

While the City has a grievance process defined in Administrative Regulation 2.61, "Grievance Procedure", the City has also permitted the bargaining units to negotiate separate grievance processes in their respective MOUs. The City's grievance proposal was presented to add clarity on what can be grieved under the terms of the MOU in order to better manage the grievance process and assist with limiting items specifically not grievable under the MOU.

The proposal aligns dates to be more consistent with the grievance language being adopted by other units. Aligning grievance dates makes it operationally more efficient for departments and Labor Relations to manage grievances as they move through the process and adds for an improved opportunity to eventually transition from a paper based program to some form of electronic system which will be a benefit for both labor and management. Additionally, having consistency between the grievance contract language makes it much easier for supervisors and managers with employees in multiple units to manage, plus reduces confusion for employees. If the employee is unsatisfied with the proposed resolution of the grievance, they have the ultimate right to continue to the next step of the grievance process without need of management agreement.

The City's proposal also clarifies Unit 2's ability to have a grievance step, which is an informal process directly involving Labor Relations, that the unit and management have been currently utilizing. Management believes this addition to the MOU facilitates employee understanding of the available options in the grievance process.

The final counter made by Unit 2 on Grievance language included binding grievance arbitration that is not permissible under City code or ordinance.

In general, the City's proposal will assist in the management of the grievance process which is a benefit to both labor and management, as well as to employees. The remaining four collective bargaining units have accepted similar language proposed by the City.

City's Recommendation:

A. Adopt the City's proposed grievance language, creating similar grievance language throughout the labor contracts; or,
B. Strike AFSCME 2384's grievance section in the MOU in its entirety, which would result in AFSCME 2384 being bound to the City's grievance process laid out in Administrative Regulation 2.61, "Grievance Procedure."

Overtime Calculation

The City's proposal would calculate overtime on a weekly basis after 40 hours of work versus the current definition for Unit 2 of calculating it on a daily basis. The proposed language would allow employees, with supervisory approval, the ability to flex their time within the work week. It would also permit the City to better prepare for an electronic time and labor system in the future. At some point the City will need to implement a time-entry system that is applicable on a city-wide basis. Unit 2 calculates overtime on a daily basis, when the Fair Labor Standards Act overtime is calculated on a work-week basis. Time and Labor systems mirror the requirements of the FLSA.

City's Recommendation:

Adopt the City's proposal, which would permit flexibility for employees to flex time within their workweek with supervisory approval, and assist the City's efforts to move to an electronic time and labor system in the future.

Side Agreements

The City has a longstanding practice of using side agreements with the unions and associations. A side agreement is an agreement that is not part of the primary MOU, which the parties use to reach agreement on issues the MOU does not cover, to clarify issues in the MOU, or to modify the MOU when needed between negotiations. The City's position is, and industry standard practice supports, that a side agreement expires upon formalization of the next contract unless specifically noted otherwise. The parties have the opportunity, should they so choose, to negotiate any side agreement language they wish to continue into the following contract. Management proposed language to all the bargaining units to add clarity to the side agreement process. The proposal would require a Side Agreement to be incorporated into the MOU, extended by agreement, or expire at the end of the MOU. These requirements would provide a clear policy on the life of a Side Agreement for both the unit and management.

Having hundreds, if not thousands of side agreements since the 1970s remaining in effect is not in the best interest of the parties.

City's Recommendation:

Adopt language that would add clarity that side agreements expire upon ratification of the next labor contract, a recognized best practice.

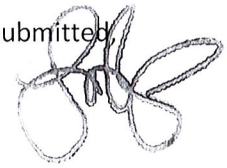
Conclusion

The City of Phoenix values its employees and has agreed that they deserve increases to their compensation package. The compensation package being offered, and formally accepted by two units, provides a balance of providing increases to our employees (70%) and restoring services to our citizens (30%) in a fiscally sustainable manner. As critical as adequate employee compensation is, it is management's responsibility to present a balanced budget that is sustainable using existing revenue sources and not drawing down reserves. Unit 2's economic proposal is neither affordable or sustainable while providing virtually no funds remaining for service restoration for our citizens. ASFSCME 2384 had an opportunity to receive the additional .25% on-going total compensation in year-one, if they were willing to negotiate with management to reach agreement on a contract prior to Fact Finding. Unlike

Unit 1 and Unit 3 negotiation teams that worked effectively with management to reach an agreement prior to Fact finding, the Unit 2 negotiation team did not, and therefore should not be entitled to the .25% incentive.

The City has also collaboratively worked with the majority of bargaining units to agree upon contract language that promotes consistent practices by supervisors minimizes confusion for employees. Formal agreements were reached with Units 1 and 3, plus Tentative Agreements were signed with Units 4 and 5 to address better consistency. These non-economic issues remain unresolved with AFSCME 2384.

Respectfully submitted,



Lori Bays
Human Resources Director

Attachments:

City's Fair and Impartial Proposal to Unit 2

City's Grievance Procedures Proposal to Unit 2

City's Overtime Calculation Proposal to Unit 2

City's Side Agreement Proposal to Unit 2

2019 Negotiations – AFSCME 2384 Unit 2 1/22/19

PROPOSAL	Fair and Impartial Language	Tentative Agreement Item Number	M4
CURRENT Article, Section, Sub-section & page	**Article 1, Section 1-4, Subsection I.**	NEW Article, Section, Sub-section, & page	Same

CURRENT LANGUAGE:

All unit members have the right to be treated in a manner which is fair and impartial. If a unit employee is suspended, it is understood that a suspension day is defined as eight (8) hours. For employees working a compressed workweek, the remaining hours of the workday would be accounted at the sole discretion of management.

NEW LANGUAGE or CHANGE:

All unit members have the right to be treated in a manner which is fair and impartial **in any matter associated with the rights of unit members under the specific expressed terms of the Memorandum of Understanding. No unit employee shall suffer reprisal for the exercise of rights granted by the MOU.**

'f a unit employee is suspended, it is understood that a suspension day is defined as eight (8) nours. For employees working a compressed workweek, the remaining hours of the workday would be accounted at the sole discretion of management.

Intent or problem to be resolved:

The new language provides consistency with the MOU's current definition of a grievance which states in part that a grievance is claiming violations(s) of the specific express terms of the Memorandum for which there is no Civil Service or other specific method of review provided by State or City law. (Article 2 Section 2-1 Subsection B) The intent of the fair and impartial language is to protect employee rights under the terms of the MOU. It also makes clear that unit employees can exercise their rights as granted by the MOU without reprisal.

This clarification will make the processing of grievances more efficient for both Labor and Management.

Example(s) of how new language/change will be applied perhaps as opposed to previous language):

For an employee grievance to move forward it must specify which rights of the employee were alleged to have been violated under the terms of the MOU.

Tentative Agreement:

Employee Union Chief Spokesperson	City Chief Spokesperson
Date	Time

2/19/19

2019 Negotiations – AFSCME 2384/Unit 2

PROPOSAL	**M-11**	Tentative Agreement Item Number	
CURRENT Article, Section, Sub-section & page	Section 2-1 Grievance Procedure Pages 19-24	**NEW** Article, Section, Sub-section, & page	

CURRENT LANGUAGE:

It is understood by the parties that the benefits granted by this Article shall not be interpreted or applied as requiring the City to count as time worked any hours or fractions of hours spent outside the employee's work shift in pursuit of benefits provided by this Article. The City shall count as time worked any hours or fractions of hours spent within the employee's regular work shift in pursuit of benefits provided by this Article.

A. Informal Resolution

The parties agree that the first attempt to resolve employee complaints arising under this M.O.U. will be an informal discussion between the employee and his immediate non-Unit supervisor only.

It is the responsibility of Unit members who believe that they have a bona fide complaint concerning their working conditions to promptly inform and discuss it with their immediate (non-Unit) supervisor in order to, in good faith, endeavor to clarify the matter expeditiously and informally at the employee-immediate supervisor level.

If such informal discussion does not resolve the problem to the Unit member's satisfaction, and if the complaint constitutes a grievance herein defined, the Unit member may file a formal grievance in accordance with the following procedure.

B. Definition of Grievance

A "grievance" is a written allegation by a Unit employee, submitted as herein specified, claiming violation(s) of the specific express terms of this Memorandum for which there is no Civil Service or other specific method of review provided by State or City law.

C. Procedure

In processing a formal grievance, the following procedure shall apply:

Step I

The unit employee shall reduce his or her grievance to writing by completing all parts of the grievance form provided by the City, and submit it to the second line supervisor designated by the City or City designee within fifteen (15) calendar days of the initial commencement of the occurrence being grieved or when the employee had reasonable cause to become aware of such occurrence. **The City will assign a grievance number within ten (10) calendar days.** Either party may then request that a meeting be held concerning the grievance or they may mutually agree that no meeting be held. The second line supervisor shall, within ten (10) calendar days of having received the written grievance or such meeting, whichever is later, submit his response thereto in writing to the Grievant and the Grievant's representative, if any.

Step II

If the response of the first level of review does not result in resolution of the grievance, the grievant may appeal the grievance by completing the City form and presenting it to the second level of review, the Department Head or his designee, within ten (10) calendar days of the grievant's receipt of the level one response. Either party may request that a meeting be held concerning the grievance or may mutually agree that no meeting be held. Within ten (10) calendar days of having received the written grievance or the meeting, whichever is later, the second level of review shall submit his response to the grievance to the grievant and the grievant's representative, if any.

Step III

If the response of the second level of review does not result in resolution of the grievance, the grievant and Union may, within ten (10) calendar days of having received the Step II response, appeal the grievance by completing the City form and presenting it to the Grievance Committee. The Grievance Committee shall be composed of:

Chairman: A member of the City Manager's Office designated by the City Manager.

Member: A City of Phoenix Department Director.

Member: The President of the Local or the President's designee.

At the beginning of each contract year, the Union and the City will each select five Department Directors to serve as Grievance Committee members. No selected Department Director will serve as a committee member when the grievance involves his/her department. Staff support to the Grievance Committee will be provided by the Human Resources Department. The Labor Relations Administrator and/or Department Director in Labor Relations will serve as an advisor to the committee.

The Grievance Committee shall, within ten (10) calendar days of receipt of the appeal, schedule a hearing regarding the grievance at which the grievant shall be afforded the opportunity to fully present his position and to be represented. The Grievance Committee shall, within ten (10) calendar days of the conclusion of the hearing, make advisory recommendation on the grievance and submit it to the City Manager for final determination for those employees who have elected to use this procedure instead of arbitration.

In lieu of such hearing, the grievant and the Union may jointly invoke the following procedure by submitting the written notice to the Labor Relations Division within ten (10) calendar days of having received the Step II response. If the grievant and the Union so elect in writing within the above time limit, in lieu of such Grievance Committee hearing, the grievance may be reviewed by an arbitrator.

The parties or their designated representatives shall agree on an arbitrator, and if they are unable to agree on an arbitrator within a reasonable time, either party may request the Federal Mediation and Conciliation Service to submit to them a list of seven (7) arbitrators who have had experience in the public sector. The parties shall, within seven (7) calendar days of the receipt of said list, select the arbitrator by alternately striking names from the said list until one-name remains. Such person shall then become the arbitrator. The arbitrator so selected shall hold a hearing as expeditiously as possible at a time and place convenient to the parties, and shall be bound by the following:

1. The arbitrator shall neither add to, detract from, nor modify the language of the Memorandum or of Departmental rules and regulations in considering any issue properly before him.

2. The arbitrator shall be expressly confined to the precise issues submitted and shall have no authority to consider any other issue.

3. The arbitrator shall be bound by applicable State and City Law.

The arbitrator shall submit his findings and advisory recommendations to the grievant and the City Manager, or their designated representatives. The costs of the arbitrator and any other mutually incurred costs shall be borne equally by the parties.

Step IV

The City Manager shall, within ten (10) calendar days of the receipt of the arbitrator's written findings and recommendations, make the final determination of the grievance and submit it in writing to the grievant and designated representative.

D. Union Grievance

The Union may, in its own name, file a grievance that alleges violation by the City of the rights accorded to the Union by the specific terms of Article 1, Section 1-3 of this Memorandum. The Union shall file such grievance at Step III of the procedure. All other grievances must be filed and signed by Unit employees subject to the provisions of this Article.

E. Group Grievance

When more than one Unit employee claims the same violation of the same rights allegedly accorded by this Memorandum, and such claims arise at substantially the same time and out of the same circumstances, a single group grievance may be filed in the name of all such employees. Such group grievances shall be filed at the step of this procedure which provides the lowest level of common supervision having authority over all named grievants. Each Unit employee that is a party grievant must be named and must sign such group grievance.

F. Time Limits

Failure of the City Management representatives to comply with time limits specified in Section 2-1 C shall entitle the grievant to appeal to the next level of review; and failure of the grievant to comply with said time limits shall constitute abandonment of the grievance. Except, however, that the parties may extend time limits by mutual written agreement in advance.

G. Notice to Union of Grievance Resolution

The City will put the Union on notice of proposed final resolutions of grievances where the Union has not been designated as the grievant's representative for the purpose of allowing the Union to ascertain that a final resolution will not be contrary to the terms of this Memorandum.

The City will ensure that a copy of every MOU grievance filed by a Unit member, including the response from management, is forwarded to the Union at each step of the process.

H. The City will not discriminate or retaliate against employees because of their exercise of rights granted by this Article.

I. Employer grievances, should they occur as a result of official Union activities or actions, including the failure to act as required under this agreement, will be presented directly to the Union President or any Officer of the Union within ten (10) calendar days of the occurrence prompting the grievance, or within ten (10) calendar days of the date upon which the employer became aware of the situation prompting the grievance. The President, or designee, shall, in each case, provide a written answer within ten (10) calendar days from receipt of the grievance.

Unresolved employer grievances may be submitted to arbitration pursuant to Step III herein; provided that the employer shall bear the cost of the services of the arbitrator.

J. After the department head's decision, but prior to review by the Grievance Committee, the parties involved may mutually agree to submit the grievance to the Labor Relations Administrator. The grievance as originally written and the attached response from the department head must be submitted to the Labor Relations Division within ten (10) calendar days of receipt of the department head's answer. The Labor Relations Administrator shall meet with the department head, the employee, and his/her representatives, if any, in an attempt to resolve the grievance within ten (10) calendar days. The Labor Relations Administrator shall then submit written recommendations for resolution to the employee, his/her representatives, if any, and department head within ten (10) calendar days of the meeting.

If the parties are unable to resolve the grievance in accordance with this section, the employee may appeal the grievance to Step III within ten (10) calendar days from receipt of the Labor Relations Administrator's response.

The Union and the City agree to meet at regular intervals (as defined in Article 2 Section 2-2 Labor/Management Committee) to find ways to improve the grievance procedures.

NEW LANGUAGE or CHANGE:

Section 2-1: Grievance Procedure

It is understood by the parties that the benefits granted by this Article shall not be interpreted or applied as requiring the employer to count as time worked, any hours or fractions of hours spent outside the employee's work shift in pursuit of benefits provided by this Article. The employer shall count as time worked any hours or fractions of hours spent within the employee's regular work shift in pursuit of benefits provided by this Article.

A. **Informal Resolution**

1. **As a matter of good labor-management relations the parties encourage unit members who believe that they have a bona fide grievance to discuss and attempt to resolve it with their immediate non-unit supervisor.**

2. **If the above informal discussion is held and does not resolve the grievance, the unit member may file a formal grievance in accordance with the following procedure.**

B. **Definition of Grievance**

1. **A grievance is a written allegation by a unit member, submitted as herein specified, claiming violation(s) regarding the interpretation and/or application of the specific express terms of this Memorandum for which there is no Civil Service or other specific administrative method of review provided. However, disputes specifically excluded in other Articles of this Agreement from the Grievance and Arbitration procedure shall not be construed as within the definition set forth above and shall not be handled in accordance with this procedure. It is agreed**

that such excluded disputes are not grievable or arbitrable under the terms of this Article or under this contract.

2. The City continues to retain the format used for grievances, including forms, technology, etc.

3. A grievance which does not meet the requirements set forth in this Article shall be null and void, and will not be processed in accordance with this procedure.

C. Procedure

All grievances covered by this Article shall be handled exclusively in the following manner:

A grievance must be reduced to writing, citing the specific Article and Section of this Memorandum alleged to have been violated.

1. Step 1

The unit member shall reduce the grievance to writing by signing and completing the grievance form provided by the City and submit it to the division head, or designee, within 14 calendar days of the initial commencement of the occurrence being grieved.

The division head, or designee, may investigate, further consider, and discuss the grievance with the grievant and the grievant's representative, if any, as deemed appropriate, and shall, within 14 calendar days of having received the written grievance, submit a response thereto in writing to the grievant. The parties by written mutual agreement may move the grievance to Step 2 of the grievance procedure.

2. Step 2

If the written response of the Step 1 does not result in a resolution of the grievance, the grievant may appeal the grievance by signing and completing the City form and presenting it to the department head, or designee within fourteen 14 calendar days of the grievant's receipt of the Step 1 response.

The department head, or designee, may further consider and discuss the grievance with the grievant and the grievant's representative, if any, as deemed appropriate, and shall, within 14 calendar days of having received the written grievance, submit a response thereto in writing to the grievant. The parties by written agreement may move the grievance to Step 3 of the grievance procedure.

3. Step 2.5

After the Step 2 response, but prior to review by the Grievance Committee, the parties involved may mutually agree to submit the grievance to Labor Relations. The grievance, as originally written and Step 1 and Step 2 responses, must be submitted to Labor Relations within 14 calendar days of receipt of the Step 2

response. Labor Relations shall, within 14 calendar days of the receipt of the grievance, meet with the department head, or designee, and the grievant and the grievant's representative, if any, in an attempt to resolve the grievance. Labor Relations shall then submit a written response to all parties within 14 calendar days of the meeting.

4. Step 3

   a. If the written response of the Step 2 (or 2.5 if applicable) does not result in a resolution of the grievance, the grievant may, within 14 calendar days of the Step 2 response, appeal the grievance by signing and completing the City form and presenting it to Labor Relations. A Grievance Committee hearing will be scheduled at which the grievant shall be afforded the opportunity to fully present his position and to be represented.

      The Grievance Committee shall be composed of:

      Chairman – A member of the City Manager's Office designated by the City Manager.
      Member – A City function head on a rotating schedule.
      Member – The Union President, or designee.

      The Grievance Committee shall submit findings and advisory recommendation(s) to the City Manager. The City Manager shall make the final determination of the grievance and submit it in writing to the grievant and his designated representative.

   b. If the grievant so elects in writing within the above time limit, in lieu of such hearing the grievance may be reviewed by an arbitrator. The parties, or their designated representatives, shall agree on an arbitrator, and if they are unable to agree on an arbitrator within a reasonable time, either party may request the Federal Mediation and Conciliation Service to submit to them a list of 7 arbitrators who have had experience in the public sector. The parties shall, within 7 calendar days of the receipt of said list, select the arbitrator by alternately striking names from said list until one name remains. Such person shall then become the arbitrator. The arbitrator so selected shall hold a hearing as expeditiously as possible at a time and place convenient to the parties, and shall be bound by the following:

      i. The arbitrator shall be bound by the language of this Memorandum and departmental rules and regulations consistent therewith in considering any issue properly before him/her.

      ii. The arbitrator shall expressly confine him/herself to the precise issues submitted to him/her and shall have no authority to consider any other issue not so submitted to him/her.

      iii. The arbitrator shall be bound by applicable State and City law.

iv. The cost of the arbitrator and any other mutually incurred costs shall be borne equally by the parties.

The arbitrator shall submit findings and advisory recommendations to the City Manager. The City Manager shall make the final determination of the grievance and submit it in writing to the grievant and his designated representative.

D. Time Limits

Failure of City Management representatives to comply with time limits specified in Paragraph C shall entitle the grievant to appeal to the next level of review; and failure of the grievant to comply with said time limits shall constitute abandonment of the grievance; except however, that the parties may extend time limits by mutual written agreement in advance of the deadline.

E. Union Grievance

The Union may, in its own name, file a grievance that alleges violation by the City of the rights accorded to the Union by the specific terms of Article 1-3 of this Memorandum. The Union shall file such grievance at Step 3 of this Procedure.

F. Group Grievance

When more than one unit member claims the same violation of the same rights allegedly accorded by this Memorandum, and such claims arise at substantially the same time and out of the same circumstances, a single group grievance may be filed in the name of all such members. Such group grievances shall be filed at the Step of this Procedure which provides the lowest level of common supervision having authority over all named Grievant's. Each unit member that is a party Grievant must be named and must sign such group grievance.

G. Employer Grievances

Should they occur as a result of official Union activities or actions, including the failure to act as required under the terms of this Memorandum, employer grievances will be presented directly to the Union president or any officer of the Union within 14 days of the occurrence prompting the grievance. The president, or designee, shall in each case provide a written answer within 14 days from receipt of the grievance. Unresolved employer grievances may be submitted to arbitration pursuant to Step 3.

H. Municipal Court

It is understood concerning the administration of this grievance procedure in the Municipal Court, specifically Step 2 that the designated "Department Head" is the Executive Court Administrator, and the "City Manager's Office" or "City Manager" shall mean the Presiding Judge, or his designee as provided in the procedure.

Intent or problem to be resolved:
To create consistency in the grievance process across all MOUs.

Example(s) of how new language/change will be applied (perhaps as opposed to previous language):

Tentative Agreement:

Employee Union Chief Spokesperson	City Chief Spokesperson
Date	Time

PROPOSAL	Overtime Definition	Tentative Agreement Item Number	M6
CURRENT Article, Section, Sub-section & page	Unit 2 Article 3, Section 3-2 Subsection A	NEW Article, Section, Sub-section, & page	Same

CURRENT LANGUAGE:

Overtime is defined as time assigned and worked beyond the regularly scheduled workweek or daily work shift; it being understood that overtime for Unit members who normally work a daily work shift of eight (8) consecutive hours, including a paid meal period on the job, is defined as time assigned and worked in excess of forty (40) hours in a seven (7) day work period, or eight (8) hours per daily shift including paid meal periods. In addition, when an employee is assigned and works two (2) eight (8) hour shifts, and/or two (2) ten (10) hour shifts, or any combination of the two shifts, the second of which commences less than twelve (12) hours after the regularly scheduled conclusion of the first, that amount of time falling within said twelve (12) hour period is deemed overtime for purposes of Section 3-2 D below, except, however, that such twelve (12) hour rule does not apply to regular shift change situations, relief positions, and positions in the classification of Event Services Worker at the Phoenix Convention Center. The twelve (12) hour rule also does not apply if an employee works less than a full shift either before or after his/her regular shift. **The twelve (12) hour rule will be removed from concessions and restored on July 1, 2017.**

NEW LANGUAGE or CHANGE:

Overtime is defined as time assigned and worked beyond the regularly scheduled work week ~~or daily work shift~~; it being understood that overtime for all unit members who normally work a daily work shift of eight (8) consecutive hours, including a paid meal period on the job, is defined as time assigned and worked more than forty hours in a seven ~~(7)~~ **seven-day** work period, ~~or eight (8) hours per daily shift~~ including paid meal periods. In addition, when an employee is assigned and works two (2) eight (8) hour shifts, and/or two (2) ten (10) hour shifts, or any combination of the two shifts, the second of which commences less than twelve (12) hours after the regularly scheduled conclusion of the first, that amount of time falling within said twelve (12) hour period is deemed overtime for purposes of Section 3-2 D below, except, however, that such twelve (12) hour rule does not apply to regular shift change situations, relief positions, and positions in the classification of Event Services Worker at the Phoenix Convention Center. The twelve (12) hour rule also does not apply if an employee works less than a full shift either before or after his/her regular shift. ~~The twelve (12) hour rule will be removed from concessions and restored on July 1, 2017.~~

Overtime for unit members assigned to a four ten work week schedule is defined as time assigned and worked beyond the regular scheduled forty hours per week.

Employees will have the ability to flex work hours within their forty-hour work week. Hours flexed cannot exceed a full daily shift. Flex time will only be allowed if both parties (employee and supervision) mutually agree and sign a department/city flex agreement

form prior to any flexing of hours. Consistent with the MOU overtime may also be offered if the flex time option is not available or additional hours are required in the employee's work week.

Intent or problem to be resolved:

There are two main issues this proposed TA is trying to accomplish. The first is a recognition that employees and supervisors would like to incorporate some flexibility for all employees during their work week. By calculating overtime after a forty-hour work week will allow employees the ability to flex work hours within the week. To ensure that this Flex time is optional it will only be allowed after the employee and supervision agree and it is documented by signing a department/city flex agreement form.

The second issue the new language addresses is to ensure there is a consistent application of flex time across departments as well as employee Units.

Example(s) of how new language/change will be applied (perhaps as opposed to previous language):

Tentative Agreement:

Employee Union Chief Spokesperson	City Chief Spokesperson
Date	Time

2019 Negotiations – AFSCME 2384 Unit 2

PROPOSAL	Side Agreements M-17 Counter to U-11	Tentative Agreement Item Number	
CURRENT Article, Section, Sub-section & page	**Article 6, Section 6-7, Subsection F.**	**NEW** Article, Section, Sub-section, & page	Same

CURRENT LANGUAGE:

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

NEW LANGUAGE or CHANGE:

This Memorandum constitutes the total and entire agreements between the parties and no verbal statement shall supersede any of its provisions. **All side agreements executed during this MOU contract period will expire on or before the contract end date unless incorporated into the MOU or extended by mutual agreement.**

Any and all side agreements executed by the Union and the City after July 1, 2019 will contain the following:

- **Mutually agreed upon expiration date**
- **Signatures of the Union President and Labor Relations required**

Intent or problem to be resolved:

Side Agreements were developed for Management and Units to agree upon changes to a current MOU at a time other than during Negotiations. Some Side Agreements are used to pilot a change in a policy or a new program with the understanding that after the trial period the Side Agreement would either sunset or be incorporated into the MOU during the next Negotiations cycle. In practice, some Side Agreements that were to remain into effect were not incorporated into the newly negotiated Memorandum. This has created confusion for both Management and Labor.

Example(s) of how new language/change will be applied (perhaps as opposed to previous language):

2019 Negotiations – AFSCME 2384 Unit 2

Tentative Agreement:

Employee Union Chief Spokesperson	City Chief Spokesperson
Date	Time