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AFSCME PROPOSAL – GRIEVANCE PROCEDURE

Proposed MEF Language:

ARTICLE 20 GRIEVANCE PROCEDURE

20.1 Any dispute between the City and the Union regarding the interpretation or application of the written Memorandum of Agreement, or the interpretation or application of the Employer-Employee Resolution #39367, as amended, shall be considered a grievance. A grievance may be initiated only by the employee directly affected except as otherwise provided herein. Where the dispute directly affects a significantly large group of employees in the representation unit, the ~~appropriate~~ Union may file a grievance on behalf of such employee(s).

20.2 Procedures

20.2.1 Grievances involving the interpretation or application of Resolution #39367, as amended, including any grievance filed pursuant to Section 22 of that Resolution, shall be filed in writing with the Municipal Employee Relations Officer, or designee, and shall be processed in accordance with applicable impasse resolution procedures of that Resolution.

20.2.2 Grievances involving the interpretation or application of this Agreement shall be processed in accordance with the procedures set forth in this Article 20.

20.2.3 Alternative to the Grievance Procedure. As an alternative to the formal grievance procedure, MEF and Employee Relations may, through mutual agreement, meet and attempt to resolve on an informal basis, problems which arise involving contract interpretation, Civil Service rules, or other matters affecting the relationship between the Union and the City.

The Office of Employee Relations and MEF may review an issue on an ad hoc basis on its merits and its relationship to the contract. The result of these discussions may be:

1. To create a side agreement for immediate implementation.
2. To continue the current practice for discussions during the next contract period.
3. To change practice to conform to the contract language.
4. To maintain the status quo.

If the issue cannot be resolved through this process, the Union maintains the option to proceed through the appropriate grievance procedure.

20.3 Step I

20.3.1 An employee may present the grievance orally either directly or through the Union representative to the immediate supervisor. The grievance must be presented within ten (10) working days following the event or events on which the grievance is based**, or the grievant or the Union first became aware of, or should have become aware of the alleged violation of the Agreement**. The immediate supervisor shall

make whatever investigation is necessary to obtain the facts pertaining to the grievance. Within ten (10) working days after receiving the oral grievance, the immediate supervisor shall give the employee a verbal reply.

20.3.2 If the employee is not satisfied with the reply of their immediate supervisor, the employee may appeal the grievance to Step II.

20.4 Step II

20.4.1 If the employee desires to appeal the grievance to Step II, the grievance shall be reduced to writing and presented to the Department Director or designee within five (5) working days following the receipt of the immediate supervisor's verbal reply.

20.4.2 To ensure clear communication and assist in resolving the grievance, the written grievance shall contain the following information:

- A clear statement of the problem.
- The alleged facts upon which the grievance is based.
- The section of the MOA claimed to have been violated and the specific violation claimed.
- The remedy requested by the grievant.

20.4.3 The Department Director or designee, may arrange a meeting between the Director, the employee, the appropriate Union representative, and the immediate supervisor to attempt to resolve the grievance. In any event the Department Director or designee, shall give a written decision to the employee within ten (10) working days following receipt of the written appeal to Step II.

20.4.4 If the employee is not satisfied with the decision, the employee may appeal the grievance to Step III.

20.5 Step III

20.5.1 If the employee desires to appeal the grievance to Step III, the employee shall indicate in writing the reason for the appeal and present it along with the original written grievance to the Municipal Employee Relations Officer or designee within ten (10) working days following receipt of the written decision at Step II.

20.5.2 Within ten (10) working days after receipt of the appeal to Step III, the Municipal Employee Relations Officer or designee shall schedule a meeting with the employee, the appropriate Union representative, and the Department Director or designee to discuss the matter. A written decision shall be given to the employee or the appropriate Employee Organization representative within ten (10) working days following the meeting.

20.5.3 If the decision of the Municipal Employee Relations Officer or designee is unsatisfactory, the appropriate Employee Organization representative may appeal the grievance to Step IV - Arbitration.

20.6 Step IV – Arbitration

20.6.1 If the grievance has been properly processed through the previous steps of the procedure and not resolved, the appropriate Union representative may appeal the grievance to Arbitration. The appropriate Union representative shall notify the Municipal Employee Relations Officer or designee in writing, within ten (10) working days following receipt by the employee of the written answer at Step III.

20.6.2 Within ten (10) working days following the receipt of the notice of appeal to Step IV, a meeting shall be arranged by the Municipal Employee Relations Officer or designee with the appropriate Union representative to prepare a joint statement of the issue, or issues, to be presented to the arbitrator. The employee may also be permitted to attend. If the parties are unable to agree upon the issue, or issues, each party will prepare its statement of the issue, or issues, and jointly submit the separate statement of issue, or issues, to the arbitrator. At the beginning of the hearing referred to herein, the arbitrator shall determine what the issue, or issues, are.

20.6.3 The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Conciliation Service to provide a list of seven (7) persons qualified to act as arbitrators. **Either party shall notify the other that such a request is being made. Any costs associated with obtaining a list from the State of California Conciliation Service shall be divided equally between the parties. The City will process the request after receiving the Union's share of the cost for obtaining the list.**

Proposed CEO Language:

ARTICLE 12 GRIEVANCE PROCEDURE

12.1 Any dispute between the City and an employee, or, where provided, the appropriate representative of the Employee Organization, regarding the interpretation or application of the written Memorandum of Agreement, or the interpretation or application of the Employer-Employee Resolution No. 39367, as amended, shall be considered a grievance. A grievance may be initiated only by the employee directly affected except as otherwise provided herein. Where the dispute directly affects a significantly large group of employees in the representation unit, the ~~appropriate Employee Organization~~ **Union** may file a grievance on behalf of such employee(s).

12.2 Grievances involving the interpretation or application of Resolution No. 39367, as amended, shall be filed in writing with the Municipal Employee Relations Officer and shall be processed in accordance with the applicable provisions of the resolution.

12.3 STEP I

12.3.1 An employee may present the grievance orally either directly or through the Employee Organization representative to the immediate supervisor. The grievance must be presented within ten (10) working days following the event or events on which the grievance is based**, or the grievant or the Union first became aware of, or should have become aware of the alleged violation of the Agreement**. The immediate supervisor shall make whatever investigation is necessary to obtain the facts pertaining to the grievance. Within ten (10) working days after receiving the oral grievance, the immediate supervisor shall give the employee an oral reply.

12.3.2 If the employee is not satisfied with the reply of his/her immediate supervisor, he/she may appeal the grievance to Step II.

12.4 STEP II

12.4.1 If the employee desires to appeal the grievance to Step II, the grievance shall be reduced to writing and presented to the Department Director, or his/her designated representative, within five (5) working days following the receipt of the immediate supervisor's oral reply.

12.4.2 To ensure clear communication and assist in resolving the grievance, the written grievance shall contain the following information:

- A clear statement of the problem
- The alleged facts upon which the grievance is based
- The section of the MOA claimed to have been violated and the specific violation claimed
- The remedy requested by the grievant
- The grievance shall be signed and dated by the employee

12.4.3 The Department Director, or his/her designated representative, may arrange a meeting between himself/herself, the employee, the appropriate Employee Organization representative, and the immediate supervisor to attempt to resolve the grievance. In any event the Department Director, or his/her designated representative, shall give a written decision to the employee within ten (10) working days following receipt of the written appeal to Step II.

12.4.4 If the employee is not satisfied with the decision he/she may appeal the grievance to Step III.

12.5 STEP III

12.5.1 If the employee desires to appeal the grievance to Step III, the employee shall indicate in writing the reason for the appeal and present it along with the original written grievance to the Municipal Employee Relations Officer within five (5) working days following receipt of the written decision at Step II.

12.5.2 Within ten (10) working days after receipt of the appeal to Step III, the Municipal Employee Relations Officer shall hold a meeting with the employee, the appropriate Employee Organization representative, and the Department Director or his/her designated representative to discuss the matter. A written decision shall be given to the employee or the appropriate Employee Organization representative within five (5) working days following the meeting.

12.5.3 If the decision of the Municipal Employee Relations Officer is unsatisfactory, the appropriate Employee Organization representative may appeal the grievance to Step IV - Arbitration.

12.6 STEP IV - ARBITRATION

12.6.1 If the grievance has been properly processed through the previous steps of the procedure and not resolved, the appropriate Employee Organization representative may appeal the grievance to Arbitration. The appropriate Employee Organization representative shall notify the Municipal Employee Relations Officer in writing, within fourteen (14) working days following receipt by the employee of the written answer at Step III.

12.6.2 Within fourteen (14) working days following the receipt of the notice of appeal to Step IV, a meeting shall be arranged by the Municipal Employee Relations Officer with the appropriate Employee Organization representative to prepare a joint statement of the issue, or issues, to be presented to the arbitrator. The employee may also be permitted to attend. If the parties are unable to agree upon the issue, or issues, each party will prepare its statement of the issue, or issues, and jointly submit the separate statement of issue, or issues, to the arbitrator. At the beginning of the hearing referred to herein, the arbitrator shall determine what the issue, or issues, are.

12.6.3 The parties may mutually agree upon the selection of the arbitrator or shall jointly request the State of California Conciliation Service to provide a list of seven (7) persons qualified to act as arbitrators. **Either party shall notify the other that such a request is being made. Any costs associated with obtaining a list from the State of California Conciliation Service shall be divided equally between the parties. The City will process the request after receiving the Union's share of the cost for obtaining the list.**

12.6.4 The parties shall meet at least ten (10) working days prior to the arbitration hearing date for the purpose of pre-arbitration settlement or narrowing issues for arbitration, discussing possible stipulations and exchanging documents intended for use at the hearing.

12.6.5 The arbitrator shall hold a hearing on the issue, or issues, submitted, or as determined by the arbitrator, if the parties have not mutually agreed upon the issue, or issues, and render a written decision and reasons for the decision as soon after the hearing as

possible. The decision shall be binding on both parties, and shall be limited to the issue, or issues, involved.

12.6.6 The decision shall be sent to the Municipal Employee Relations Officer and to the employee or appropriate representative of the Employee Organization.

12.6.7 Each of the parties shall pay for the time and expenses of its representatives and witnesses through all stages of the arbitration procedure and shall contribute equally to the fee and expenses of the arbitrator. The arbitrator's fee shall be determined in advance of the hearing.

12.6.8 The parties agree that the arbitrator shall not add to, subtract from, change or modify any provision of this agreement and shall be authorized only to apply existing provisions of this Agreement to the specific facts involved and to interpret only applicable provisions of this agreement, except that in the event it is a dispute concerning the arbitrability of the grievance, the arbitrator shall have the authority to rule on the issue of arbitrability, to wit: Whether or not the grievance involved an interpretation of the Agreement. However, the arbitrator will have no authority to rule on the issue of whether or not the grievance is a matter that is within the scope of representation, as defined under the Meyers-Milias-Brown Act.

12.6.9 The parties agree that the time limits set forth herein are of the essence of this procedure and are to be strictly complied with. Time limits may be extended only by written mutual agreement of the parties.