BRAWLEY FIREFIGHTERS ASSOCIATION

Memorandum of Understanding

July 1, 2019 – June 30, 2021

TABLE OF CONTENTS

Basic Rights

Article 1 – Intent 4
Article 2 – Recognition 4
Article 3 – Nondiscrimination 5
Article 4 – Management's Rights 5
Article 5 – Association Rights 6
Article 6 – Savings Clause 7

Salaries

Article 7 – Salaries Schedule 8
Article 8 – Overtime 8
Article 9 – Call-Back Pay 8
Article 10 – Move-Up Pay 8
Article 11 – Step/Merit Increase/Promotions 8
Article 12 – Compensatory Time-Off 9
Article 13 – Education/Training/Certification/Fitness Incentive 9

Fringe Benefits

Article 14 – Holidays 10
Article 15 – Vacation 11
Article 16 – Sick Leave 12
Article 17 – Catastrophic Leave 13
Article 18 – Vacation Leave Buyback 14
Article 19 – Retirement Contribution 14
Article 20 – Blank .....
Article 21 – Group Insurance 14
Article 22 – Workers' Compensation 15
Article 23 – Military Leave 15
Article 24 – Use of City Facilities 16
Article 25 – Access to Work Locations 16
Article 26 – Payroll Deductions 16
Article 27 – Tuition Reimbursement 17

Working Conditions

Article 28 – Safety Equipment 18
Article 29 – Automobile Allowance 18
Article 30 – Leave without Pay 18
Article 31 – Probationary Periods 19
Article 32 – Personnel Lay-off Procedure 19
Article 33 – Basic Work Period 20
Article 34 – Legal Representation 20
Article 35 – Light Duty 20
Article 36 – Outside Employment 20

TABLE OF CONTENTS (Continued)

Article 37 – Exchange of Days off Between Employees..... 20
Article 38 – Annual Physical Examination and Wellness/Fitness Program ... 21

Solving Problems

Article 39 – BFFA/Management Meeting 22
Article 40 – Advance Notice..... 23
Article 41 – Grievance Procedures..... 23
Article 42 – Renegotiation 30
Article 43 – Peaceful Performance of Duties..... 30
Article 44 – Conclusiveness of Agreement 30

Appendices

Exhibit "A" Salary Schedule 32

A. BASIC RIGHTS

ARTICLE 1 – INTENT

1.1 Pursuant to the Meyers-Milias-Brown Act and Employer-Employee Relations Resolutions Of the City of Brawley, California, this Memorandum of Understanding has been entered into the City of Brawley, a municipal corporation, hereinafter referred to as the "City" and the Brawley Firefighters Association, hereinafter referred to as the "BFFA", has entered into this agreement which is to be in effect during the period of July 1, 2019 through June 30, 2021 or until a successor agreement is ratified by both parties. The purpose of this Memorandum of Understanding is the promotion of harmonious relations between the City and the BFFA, the establishment of equitable procedures for the peaceful resolution of differences, and the establishment of rates of compensation, hours of work, and other matters relating to employment conditions.

ARTICLE 2 – RECOGNITION

2.1 The City recognizes the BFFA as the exclusive bargaining agent for the permanent, full-time employees assigned to the classifications listed in Appendix "A". Any additions or deletions to these classifications shall be subject to a meet and confer.

2.2 Agency Shop – the parties acknowledge that the Brawley Firefighters Bargaining Unit has been declared an agency shop in accordance with Government Code Section 3502.5 (a). Designation of an agency shop requires all employees in the bargaining unit to join the recognized association, pay a service fee as determined by the Association, or meet the religious objection requirement per Government Code Section 3502.5 (c).

An employee who is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support BFFA as a condition of employment. In lieu thereof, such employee shall pay sums equal to the dues, initiation fees or agency shop fees to a nonreligious, nonlabor charitable fund exempt from taxation under Section 501 (c)(3) of the Internal Revenue Code, chosen by the employee from a list of at least three of these funds designated herein.

The Burn Institute; The American Red Cross; United Way of Imperial County

Service Fees charged by BFFA to non-members may not exceed that amount devoted to collective bargaining, contract administration, grievances and other matters affecting wages, hours and other conditions of employment.

In light of the decision rendered by the United States Supreme Court in the matter of *Janus v. Am. Federation of State, City, & Municipal Employees, Council 31,* (2018) 138 S.Ct. 2448, the foregoing Service Fees may not be deducted from a non BFFA member's wages unless the non-member employee affirmatively consents to pay. BFFA shall be responsible for obtaining the required consent in writing. Pursuant to Cal. Govt. Code § 1157.2(a), the City shall be entitled to rely on the BFFA's certification that have and will maintain the required authorization, signed by each individual from whose salary or wages that deductions are to be made.

BFFA shall not be required to provide the City with copies of the authorization forms unless a dispute arises about the existence or terms of a particular authorization.

BFFA agrees to indemnify, defend and hold the City harmless against any liability arising from a claim, demand, or other action relating to the City's compliance with the agency fee obligation.

2.2 The City reserves the right to withdraw the recognition of the BFFA in the event that the BFFA disavows its pledge "not to strike against the City".

ARTICLE 3 – NON-DISCRIMINATION

3.1 In receiving the rights afforded by this agreement, no person shall in any way be favored or discriminated against to the extent prohibited by law because of political or religious opinions or affiliations, or because of racial or national origin, or because of age, sex, or disability.

3.2 Neither the City nor the BFFA shall interfere with, intimidate, restrain, coerce, or discriminate against employees covered by this agreement because of the exercise of rights to engage or not engage in Association activity.

3.3 The BFFA shall share equally with the City the responsibility for applying this position of the agreement.

ARTICLE 4 – MANAGEMENT RIGHTS

4.1 Except as otherwise specifically provided in this Agreement, the City has and retains the sole and exclusive rights and functions of management, including, but not limited to, the following:

A. To determine the nature and extent of services to be performed, as well as the right to determine and implement its public function and responsibility.
B. To establish, modify, or change work assignments or standards.
C. To direct the working forces, including the right to appoint, promote, discipline, or discharge.
D. Establish employee performance standards and processes and to require compliance therewith.

E. Implement rules, regulations, and directives consistent with the law and the specific provisions of this Agreement.
F. All rights and responsibilities of the City, not specifically modified by this Agreement, are expressly retained by the City.

ARTICLE 5 -- ASSOCIATION RIGHTS

5.1 Association representatives shall be designated by the BFFA. The number of representatives allowable will be determined in the following manner:

A. The BFFA may designate one representative per shift to perform normal Association representative duties as defined in the contract. Alternates may substitute.
B. The BFFA shall notify the City, in writing, of the names of the representatives and their respective jurisdictional area at least five working days prior to the effective date of any such designation.

5.2 All representatives shall notify their department head each time they wish to conduct Association business and shall be relieved of duty unless operational demands prohibit granting the request. Use of representative's time shall not be abused by the employee, and use of said time will not be unreasonably withheld by the responsible supervisor. An alternative representative may serve in the absence of the designated representative.

5.3 Association business shall include the investigation of potential grievances, representation of employees at any step of the grievance procedure at the department level, informal pre-termination hearings, attendance at BFFA/Management meetings, and negotiation of the Memorandum of Understanding between the City and the BFFA.

5.4 Representatives of the BFFA may communicate with individual employees. The conduct of such business shall be as not to interfere with the individual employee's duties. Said representative must notify the employee's immediate supervisor upon entering the work area in order to identify himself/herself, and to make arrangements to communicate with the particular employee.

5.5 The two members of the BFFA's negotiating committee or their alternates shall be granted leave from duty, with full pay, for all meetings held for the purpose of negotiating the terms of the Contract when such meetings take place at a time when such members are scheduled to be on duty. Only two BFFA members or their alternates may be granted leave, with pay, to attend negotiation sessions.

5.6 The BFFA president shall be scheduled reasonable time off, with pay, to accomplish general Association business. Scheduling of such leave will be at the discretion of the Fire Chief.

5.7 The freedom of employees to assist the Association shall be recognized as extending to participation in the management of the Association in the capacity of an officer or representative including, following consultation with the appropriate management

representatives, presentation of its view to the officials of the City. The City shall not interfere, restrain, or discriminate against any employee exercising his/her rights under this Article.

5.8 The City shall provide bulletin boards for use by the BFFA to enable employees in the bargaining unit to see notices posted thereon when reporting to or leaving their workstations or during their break periods.

5.9 All notices, which appear on the BFFA's bulletin boards shall be posted by and monitored by a designated representative, and shall relate to items of interest to the members. BFFA notices, relating to the following matters, may be posted without the necessity of receiving the City management representatives' prior approval:

A. Association recreational and social affairs.
B. Notice of BFFA meetings.
C. BFFA officers and committee appointments.
D. Notice of BFFA's elections.
E. Result of BFFA's elections.
F. Reports of standing committee and independents arms of the BFFA.
G. Publications, ruling, or policies of the BFFA.

5.10 Any other notices of any kind not covered by "A-G" above, must receive the prior approval of the City Manager. It is also understood that no material may be posted on bulletin boards, at any time, which contain the following:

A. Personal attacks upon any other member or any employee.
B. Scandalous, scurrilous, or derogatory attacks upon the administration.
C. Attacks on/or favorable comments regarding a candidate for office within the City government.

5.11 The BFFA shall notify the City in writing within 15 working days of a change in officers, the notification shall include the name and rank of the new officers.

ARTICLE 6 – SAVINGS CLAUSE

6.1 If any article or section of this Memorandum of Understanding should be found invalid, unlawful, or unenforceable by reason of any existing or subsequent enacted legislation or by judicial authority, all other articles and sections of this Memorandum shall remain in full force and effect for the duration of this Memorandum.

6.2 In the event of invalidation of any article or section, the City will notify the BFFA within 3 working days of such invalidation and the City and the BFFA agrees to meet within 15 working days for the purpose of renegotiating said article or section.

B. SALARIES

ARTICLE 7 – SALARIES SCHEDULE

7.1 The various classifications of employees shall be compensated in accordance with the City Salary Schedules attached as Appendix "A".

ARTICLE 8 – OVERTIME

8.1 For employees working 24-hour shifts, overtime shall be compensated at the rate of time and one-half for all hours over 182 worked in a 24-day work period.

8.2 For purposes of computing eligibility for overtime pay, "hours worked" shall be in accordance with the provisions of the Fair Labor Standards Act (FLSA). Leave hours shall not be counted as hours worked for purposes of determining eligibility for overtime.

8.3 If an employee is required to work on a regularly scheduled day off, he/she shall be compensated at the rate of time and one-half for all such hours worked, unless such time is part of shift trade with another employee.

ARTICLE 9 – CALL-BACK PAY

9.1 Employees covered by the terms of this agreement who are called back to work shall be paid time and one-half for all hours worked. The minimum to be paid is two hours at time and one half. The time the employee is released is at the discretion of the Captain or Officer in Charge.

9.2 Employees required to appear in court on behalf of the City shall be paid in accordance with Article 9.1.

ARTICLE 10 – MOVE-UP PAY

10.1 Any employee who works at a higher job classification shall receive an increase of five percent (5%) in his/her basic rate of pay for all hours worked in that position. All move-up assignments will be specifically designated by the Fire Chief and a record of such assignments will be maintained in each department.

ARTICLE 11 – STEP/MERIT INCREASES/PROMOTIONS

11.1 Step advancement shall be as follows:

Merit / Step Increases Frozen: Effective July 01, 2019 through June 30, 2021, no additional Merit / Step pay increases will be authorized by the City. All pay will be frozen at the employee's rate of pay that is in effect on June 30, 2019. This freeze applies to all Association employees and all ranges therein.

Longevity Pay: a one- time payment of $650 will be paid to each BFFA member on July 1, 2019.

Shared Financial Benefits: BFFA and the City agree that if there are any changes in renewed agreements with other bargaining units as it relates to frozen merits and/or any base rates of pay, the City shall reinstate merits for BFFA and/or apply equivalent base rate of pay adjustments.

11.3 Promotional requirements for Captain per job description.

11.4 All promotions are subject to the availability of budgeted position openings.

ARTICLE 12 – COMPENSATORY TIME OFF (COMP. TIME)

12.1 Authorized overtime shall be compensated in accordance with the provisions of the Fair Labor Standards Act (FLSA). Overtime hours worked may be banked as Comp. Time at the employee's discretion. Grant funded activities are not eligible for Comp. Time. Comp. Time may accumulate to a maximum of one hundred and fifty (150) hours.

12.2 Scheduled use of time off shall not unreasonably interfere with the operation of the department. Scheduled use of comp time-off should not be the cause of incurring overtime.

12.3 Practice of advancing comp time shall not be permitted.

12.4 An employee may use his comp time to extend his vacation with the approval of the Fire Chief. The Fire Chief shall not unreasonably deny use of comp time to extend an employee's vacation period.

12.5 Compensatory time-off will be requested in consideration with the department's schedule.

12.6 Only forty-eight (48) hours of comp time may be "cashed out" at one time (per month).

ARTICLE 13 – EDUCATION/TRAINING/CERTIFICATION/FITNESS INCENTIVE

13.1 Employees represented by this agreement will be compensated for education/training/certificates in the following manner.

A. 7.5% increase of base pay for California State Firefighter's certificate; to be included in the salary schedule (Appendix "A"). Failure to maintain a California State Fire Fighters Certificate will result in a 7.5% reduction in compensation in Appendix "A".
B. 2.5% increase of base pay for designating as Special Duty Assignments as designated by the Fire Chief (i.e., Training Officer).
C. 2.5% increase in base pay for Advance EMT or Advanced Life Support (ALS) certification.
D. 2.5% increase in base pay for Bomb Technician certification;
E. 2.5% Special Duty Pay for employees who perform Fire Engineer duties. No more than one person per station shall serve in this capacity at any one time on any shift.

F. 5% increase of base pay for EMT 1 Certification; to be included in the salary schedule (Appendix "A"). Failure to maintain an EMT 1 State Certificate will result in a 5% reduction in compensation in Appendix "A".
G. 1.5% maximum increase of base pay to be earned by attending and successfully completing 128 hours of fire related courses. Requires the Fire Chief's approval.
H. A one-time incentive bonus of $3,500 with attainment of Advanced Life Support (ALS) certification.
I. A one-time incentive bonus of $1,500 with attainment of Advance EMT certification.
J. 3.5% maximum increase of base pay for State Fire Marshal/NFA certification to be earned accordingly:

For successful completion of the State Fire Marshal/NFA Level I certificate program – 2%

For successful completion of the State Fire Marshal/NFA Level II certificate program – 1 ½%

Education

K. 2.5% increase of base pay for AA/AS degree in Fire Science or related subject;
L. 10% increase of base pay for BA/BS degree in Fire Science or related field;
M. No employee will receive more than 10% increase for education.

Fitness

N. Employees scoring at a level of good outlined in Table 4.1 of NPA Physical Fitness Standards will receive $15.00/month additional pay.
O. Employees scoring at a level of excellent as outlined in Table 4.1 of NFPA Physical Fitness Standards will receive $30.00/month additional pay.

C. FRINGE BENEFITS

ARTICLE 14 -- HOLIDAYS

14.1 All employees working a 24 hour day/56 hour average workweek shall be entitled to the following authorized holidays each fiscal year:

A. January 1 – New Year's Day
B. Third Monday in January – Martin Luther King, Jr. Day
C. Third Monday in February – President's Day
D. Last Monday in May – Memorial Day
E. July 4th – Independence Day
F. First Monday in September – Labor Day
G. November 11th – Veteran's Day
H. Fourth Thursday in November – Thanksgiving Day
I. December 25th – Christmas Day

J. One (1) Floating Holiday (24 hours – not included in the Holiday Bank and shall be used, lost or transferred to a 457 Plan on an annual basis)

14.2 For purposes of computing Holiday pay, the length of a holiday shall be considered as one-fifth of the number of work or duty hours in the established workweek for each employee which is 11.2 hours.

A. **Holiday Leave Bank:** Each month, the following shall be deposited into a Holiday Leave Bank on the first pay period: a sum equal to Holiday Pay (11.2 hours) multiplied by the nine (9) holidays (a total of 100.8 hours), divided by twelve (12) months to give employees Holiday Leave Bank hours of 8.40 hours per month. Accumulated, unused Holiday Bank time will be paid to the employee on the first pay period in December, or the employee may use accumulated time as time off.

14.4 Employee working on a holiday will be paid time and one-half (1/2) of their established hourly rate for each hour worked during the time period from 12:01 a.m. through 11:59 p.m. of the holiday.

ARTICLE 15 - VACATION

15.1 Only full-time, permanent employees listed in Appendix "A" of this MOU shall be eligible for vacation benefits.

15.2 Regular, full-time employees will receive vacation benefits in accordance with the following schedule:

A. All full-time, regular employees of the Brawley Fire Department are eligible for vacation leave accrued upon the length of full-time employment beginning at the date of hire as follows:

(1) The employees with up to five (5) years (60 months) of employment shall be entitled to 144 hours (6 twenty-four hour shifts) vacation leave per year earned in monthly increments at the rate of 12 hours vacation leave per month.

(2) Employees with more than 5 years (61 months) up to fifteen years (180 months) of employment shall be entitled to 216 hours (9 twenty-four hour shifts) vacation leave per year earned in monthly increments at the rate of 18 hours vacation leave per month.

(3) Employees with more than 15 years (181 months or more) of employment shall be entitled to 288 hours 12 twenty-four hour shifts) vacation leave earned in monthly increments at the rate of 24 hours vacation per month.

B. A vacation month is defined as a calendar month regardless of length.

C. Vacation may be requested and granted in increments of 8 hours or greater, subject to the rules and regulations of the department and at the discretion of the Chief or the Chief's designee.

15.3 Vacation may continue to accrue up to two years of an employee's current annual entitlement. In special circumstances the City Manager may approve accrual excess of two years.

15.4 The City shall pay each employee leaving the service of the city a lump sum for all unused vacation at the employee's current hourly rate.

15.5 The purpose of vacation benefits is to allow each employee time away from their job for the rest, recreation, and pursuit of non-employment objectives. Vacation leave shall be determined through the vacation bidding process, seniority based on years of service with no regards to rank. The Fire Chief shall have the ultimate authority on approving vacation requests.

15.6 An employee's vacation shall vest as of the completion of their probationary period. Vacation leave may be granted after a successful completion of probation.

ARTICLE 16 – SICK LEAVE

16.1 Full-time, regular employees listed in this MOU shall earn sick leave for the purposes specified in this Article at the rate of 11.2 hours for each calendar month or on a prorated basis for sick periods of less than one month.

16.2 Sick leave shall not be considered as a right which an employee may use at his discretion. It shall be allowed only in the case of necessity and actual personal sickness and disability.

16.3 The employee shall notify his supervisor of illness at least one (1) hour prior to his scheduled reporting time. Such notification is required to be eligible for sick leave compensation.

16.4 The practice of advancing sick leave shall not be permitted. Upon approval of the Fire Chief or designee, accrued sick leave shall be granted to an employee only:

A. When incapacitated to perform job duties due to illness, injury, pregnancy, or childbirth.
B. When receiving required medical or dental treatment or examination.
C. Upon incapacitating illness, injury, or death in the immediate family. A maximum of three days per fiscal year may be taken for this purpose.

16.5 Sick leave may be used up to a maximum of three 24 hour work days, including the day of the funeral, by employees who are required to absent themselves from work to attend the funeral of a member of the immediate family (defined as a spouse, parent, sibling, child, grandchild, grandparent, mother-in-law, and father-in-law).

16.6 No City employee shall be entitled to sick leave, with pay, while absent from duty for the following reasons:

A. Disability arising from sickness or injury purposely self inflicted or caused by any of his/her own willful misconduct, including intoxication or the result there from.
B. Sickness or disability sustained while on Leave of Absence other that regular vacation leave or sick leave.
C. Disability or illness arising from compensated employment other that the City of Brawley.
D. Termination of the employee's continuous service by reason of layoff, lack of work or funds, shall abrogate all sick leave accrued at the time of termination, regardless of whether or not such person subsequently reenters the City's service. No payment shall be made to any employee for unused sick leave accumulated to his credit at the time of his termination with the City except as covered in the following manner.
    (1) Employees with a minimum of fifteen years of service shall upon retirement receive payment in the amount of 25% of the unused accumulated sick leave. Upon the death of an active employee, with 15 years or more service, 25% of this unused accumulated sick leave shall be paid to his estate.

ARTICLE 17 – CATASTROPHIC LEAVE

17.1 Vacation credits may be transferred from one or more eligible City employees to another eligible City employee, on a hour for hour basis (proration between Local 1967 and other City employees shall be determined and administered by the Director of Finance) in accordance with Departmental guidelines and approval, and upon the request of both the receiving employee and the transferring employee, under the following conditions:

A. The receiving employee is required to be absent from work, due to injury or the prolonged illness of the employee, has exhausted all earned leave credits, including but not limited to sick leave, vacation, and compensatory time, and is therefore facing financial hardship.
B. The transfer must be a minimum of four hours and in whole hour increments thereafter. Transfers may be "metered" by the appointing authority.

C. The total vacation credits received by an employee shall not normally exceed 520 hours; however, if approved by his/her appointing authority, the total vacation credits may be up to 1040 hours. Total vacation credits in excess of 1040 hours will be considered on a case-by-case basis by the appointing authority subject to the approval of the City Manager.

D. The transfers are irrevocable, and will be indistinguishable from other vacation credits belonging to the receiving employee. Transfers are subject to all taxes required by law.

E. Transfers shall be administered according to the rules and regulations of the City's Director of Finance and made on a form prescribed by the Finance Director. Approval of the appointing authority will be provided on such forms.

ARTICLE 18 – VACATION LEAVE BUY BACK

18.1 The Vacation Buy Back Program shall be provided to employees who elect for the City to buy back accrued vacation time at the maximum amount of 56 hours, or one work week, per year. To be eligible, an employee must utilize at least 56 hours of vacation time in the preceding 12-month period and retain a minimum balance of 56 hours of vacation time accrued. In June of each year, the City's Finance Department shall provide Vacation Leave Buy Back notices to eligible employees. Employee payments shall be made in July of each year. Employees may deposit the proceeds in a 457 Plan.

ARTICLE 19 – RETIREMENT CONTRIBUTION

19.1 Effective August 1, 2012 all BFFA members began paying the employee portion (9%) PERS contribution, at which time each classification received a 7% salary increase.

19.2 All full-time regular employees hired prior to January 1, 2013 shall receive the P.E.R.S. 3% @ 50 Local Safety Members plan with one-year final compensation. All full-time regular employees hired after January 1, 2013 are subject to the new CalPERS PEPRA rules concerning retirement. Those without prior membership in a CalPERS or reciprocal agency are subject to the retirement formula of 2.7% @ 57. Employees subject to this formula are to match the City's normal cost.

ARTICLE 21 – GROUP INSURANCE

21.1 July 1, 2019 through December 31, 2019: The City will pay monthly up to the following amounts toward the cost of health insurances for all regular full-time employees;

Employee Only	$441.77
Employee + One	$717.19
Employee + Two or More	$871.60

21.2 Effective January 1, 2020, insurance premium costs shall be divided between the City and the employee as follows: 1) the City shall pay 75% of the employee chosen medical plan premium, 2) the employee shall pay 25% of the employee chosen medical plan premium and any other benefit plan the employee chooses. The City no longer offers cash in lieu of medical benefits.

21.3 A flexible benefits plan, which shall be in accordance with Section 125 of the Internal Revenue Code, is available.

21.4 All regular full-time employees are eligible for health insurance on the first of the month following their date of hire.

ARTICLE 22 – WORKERS' COMPENSATION

22.1 All regular full-time firefighters who become injured or ill arising from their duties shall be entitled to benefits under Section 4850 of the Labor Code without loss of salary, for the period of disability, not to exceed one year.

22.2 During this period, employee shall continue to accrue sick leave and vacation time and all other benefits earned as a full-time employee.

22.3 Baseline physicals shall be available for full-time firefighters on an annual basis through the County of Imperial, Health Services Department. The cost of such physicals shall not exceed $325 per full-time firefighter. The Fire Chief shall be required to authorize such physicals.

ARTICLE 23 – MILITARY LEAVE

23.1 Military leave shall be granted in accordance with the provisions of State law. Every employee entitled to receive the benefits of military leave shall give the Fire Chief the opportunity, within the limits of military necessity, to determine when such leave shall be taken.

23.2 Any employee of the BFFA who is or becomes a member of any Military Reserve or California National Guard shall be given time off without loss of pay to attend their Reserve two-week annual active duty requirement.

23.3 When an employee is required to attend monthly military reserve meetings, said employee's work schedule shall, as manpower needs permit, be arranged so that he/she will be able to work his/her shifts (56 hour average work week) and still attend said reserve meeting.

ARTICLE 24 – USE OF CITY FACILITIES

24.1 The BFFA may, with the prior approval of the City Manager or written designee be granted the use of City facilities for meetings of City employees, provided space is available, and provided further that such meetings are in accordance with the Association Rights Article. The City reserves the right to assess reasonable charges for the use of such facilities. The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs, ash trays, and blackboards is strictly prohibited. The presence of such equipment is an approved City facility notwithstanding.

ARTICLE 25 – ACCESS TO WORK LOCATIONS

25.1 Reasonable access to employee work locations shall be granted to officers of the Association and their officially designated representatives, for the purpose of processing grievances or contacting members of the organization concerning business within the scope or representation. Such officers or representatives shall not enter any work location without notifying the Fire Chief or City Manager. Access shall not unduly interfere with the normal operations of the department or with established safety or security requirements.

25.2 Solicitation of membership and activities concerned with the internal management of an employee organization; such as collection of dues, campaigning for office, conducting elections, and distributing literature, shall not unduly interfere with the normal operations of the department or with established safety and security requirements.

ARTICLE 26 – PAYROLL DEDUCUTIONS

26.1 BFFA Association dues shall be deducted by the City from the salary of each employee who has filed a written authorization with the BFFA on the appropriate Association form, that such deduction be made. Pursuant to Cal. Govt. Code § 1157.2(a), the City shall be entitled to rely on the BFFA's certification that have and will maintain an authorization, signed by each individual from whose salary or wages that deductions are to made. The BFFA shall not be required to provide the City with copies of the authorization forms unless a dispute arises about the existence or terms of a particular authorization. An employee may cancel his/her dues deduction at any time by filing a written authorization that such deduction be discontinued. An employee that wishes to cancel his/her dues deduction shall file the written authorization that such deduction be discontinued with the BFFA. Upon receipt of such an authorization, the BFFA shall immediately notify the City of the same and the City shall discontinue deductions on the next pay period following receipt of the notification from the BFFA.

26.2 The City agrees not to honor any check-off authorizations or dues deductions authorizations executed by an employee in the bargaining unit in favor of any other labor organization or organization representing employees for purposes of negotiation for wages, hours, and working conditions and other fringe benefits for its members.

26.3 The BFFA agrees to indemnify, defend, and to hold the City harmless against any and all claims or suits that may arise out of or by reason of action taken by the City in reliance upon any requests for members' dues by the BFFA to the City. The BFFA agrees to refund the City any amounts paid to it in error on account of the payroll deduction provision upon presentation of proper evidence of error or mistake. The City agrees to refund, in cash, or apply any overcharges to future dues payments upon presentation of proper evidence of error or mistake.

ARTICLE 27 – TUITION REIMBURSEMENT

27.1 Eligible employees will be reimbursed 100% for tuition, textbooks, and supplies (under certain conditions), up to a limit of $750 per fiscal year for professional and technical courses offered by accredited colleges, universities, business, trade, or correspondence schools or by an otherwise accepted trade professional association or institute, as determined by the City that leads to a degree in fire science or related field.

Conditions under which reimbursement may be approved are as follows:

A. The course work must relate to the applicant's present position or must be beneficial to the employee's City related professional development, or must enhance career advancement potential with the City as follows:
   (1) An improvement in skills or knowledge required by the present position.
B. Requests for reimbursements must be approved by the Fire Chief and the City Manager before enrollment in the course.
C. Reimbursement will be made for tuition fees and/or required textbooks as verified by the Fire Chief and the City Manager by receipts, etc., upon completion of the course with a grade of at least "C", "Satisfactory", "Pass", or the equivalent.
D. The employee must have completed six months of City service in a regular budgeted City position.
E. The employee must not be receiving funds for the same from any source, such as veterans' benefits, scholarships, etc.

D. WORKING CONDITIONS

ARTICLE 28 – SAFETY EQUIPMENT

28.1 The City agrees to provide safety equipment to full-time firefighters of the Brawley Fire Department, including but not limited to turn-out equipment, coats, pants, boots, helmets, gloves, and two pairs of safety shoes. Safety equipment shall be replaced prior to the expiration date, upon damage or when worn out. The Fire Chief shall determine when safety equipment in unserviceable.

28.2 Upon separation from the Brawley Fire Department, the employee agrees to return all safety equipment, radio receivers, badges, and other items that may have been issued. Badges may be kept by signing the Fire Badges Waiver of Liability. Only employees who have successfully completed their probationary period and have separated from the Fire Department in good standing, or have been promoted or retired are eligible to keep their badge.

28.3 Each employee, regardless of rank or assignment, shall receive a clothing allowance of $950.00 in July.

ARTICLE 29 – AUTOMOBILE ALLOWANCE

29.1 Any employee who is required to use his/her personal automobile in the course of his employment with the City shall be reimbursed for each mile actually traveled on official business in any one calendar month at the existing rate of reimbursement for all city officials and employees according to the City's current travel policy.

29.2 Any officer or employee who is required to travel in the performance of his duties or to attend an authorized meeting or conference outside of Imperial County, which is of benefit to the City, shall be reimbursed for reasonable expenses incurred for transportation, meals, lodging, and incidentals.

29.3 No allowance shall be made for transportation between the employee's home and the place where such person is normally employed by the City.

29.4 All travel and reimbursement expenses must be approved, on the form prescribed, in advance, by the Fire Chief and the City Manager.

ARTICLE 30 – LEAVE WITHOUT PAY

30.1 Leaves of Absence without pay not to exceed ninety (90) calendar days may be granted upon establishment of reasonable justification in instances where the work of the City will not be handicapped by the temporary absence of the employee. Request for such leaves must be in writing. Granting such leave will depend upon all relevant circumstances including length and suitability of performance, prior leaves, attendance

records, employee evaluations, and the operating needs of the department. A second ninety (90) day leave may be extended in extraordinary circumstances. Leave will not be approved for an employee for the purpose of seeking employment outside the service of the City. Leave without pay may not be granted until all accumulated annual leave and compensatory time is used.

ARTICLE 31 – PROBATIONARY PERIODS

31.1 Probationary periods for new employees and new promotions will be for six (6) months, or longer, as specified at the time of appointment. This is to permit both the supervisor and the employee to become acquainted, to determine the adaptability and fitness of the employee to perform the assigned work, and to reject any employee whose performance does not meet the required work standards.

31.2 All employees will be evaluated twice during the probationary period, at the mid -point of probation, prior to the end of probationary period, and annually thereafter.

ARTICLE 32 – PERSONNEL LAY OFF PROCEDURE

32.1 If the City finds it necessary to impose layoffs then the order of those layoffs shall follow the following order:

1. All part-time employees in the Department shall be laid off first.

2. All probationary employees shall be laid off beginning with the employee with the least amount of Classification Seniority.

3. Regular full-time employees shall be laid off beginning with the employee with the least amount of Classification Seniority.

Classification seniority is defined as the total time served in the current classification and higher classifications within the department.

Bumping Rights: An employee who is laid off from a higher class may return to a previously held position based on Classification Seniority. An employee shall have seven (7) days to exercise their right to bump.

Rehire List: All employees laid off shall remain on a rehire list with the City for a period of two (2) years. Rehires shall be done by inverse seniority. Upon rehire the employee shall be placed at their former seniority as if the layoff had not occurred.

Separation under this Article shall require a two (2) week notice to the employee and the Association, or payment in lieu of notice, of an equivalent amount of the employee's current salary.

ARTICLE 33 - BASIC WORK PERIOD

33.1 The work period for 24-hour shift employees is 24 days, during which time each employee shall normally be scheduled to work eight (8) 24-hour shifts.

33.2 All employees shall work the 48/96 work schedule.

33.3 Assignment to Shifts shall be reviewed on an annual basis in June. The Fire Chief shall assign personnel to their shifts.

ARTICLE 34 – LEGAL REPRESENTATION

34.1 Upon request of an employee and subject to any limitations provided by law, the City will provide for the defense of any civil action or proceeding initiated against the employee by a person or entity other than the City in a court of competent jurisdiction, on account of any act or omission occurring within the course and scope of his employment as an employee of the City.

34.2 Nothing herein shall be deemed to require the provision of such defense where the discretion to provide or not to provide such defense is vested in the City pursuant to the provision of the California Government Code, or where the act or omission was not within the scope of the employee's employment, or the employee acted or failed to act because of actual fraud, corruption, or actual malice, or where the provision of such defense would create a conflict of interest between the City and the employees.

ARTICLE 35 – LIGHT DUTY

35.1 Light Duty is limited to employees receiving on-the-job injuries.

35.2 The City may provide light duty or alternative jobs but only when medically permissible and operationally possible.

ARTICLE 36 – OUTSIDE EMPLOYMENT

36.1 No employee may engage in outside employment unless such employment is approved by the City Manager. Each employee engaged in outside employment shall file a Notice of Intent to continue such employment prior to December 31st of each year.

ARTICLE 37 – EXCHANGE OF DAYS OFF BETWEEN EMPLOYEES

37.1 It shall be the policy of the Brawley Fire Department to allow employees to exchange days off under the following conditions:

A. Both parties to the exchange must be willing to make the exchange and must submit their request, in writing, to their immediate supervisor for his approval or denial.
B. The written request must be submitted to the supervisor as soon as possible and no later than 24 hours prior to the effective date of the request, except in case of emergency.
C. For the position of Firefighter, the shift Captain is the immediate supervisor and has the authority to approve or deny the written request. In the absence of the Captain, the Fire Chief is the approving authority.
D. For the position of Captain, the Fire Chief has the authority to approve or deny exchange requests.
E. For all other positions, including special duty assignment, the Fire Chief has the authority to approve or deny the requests.
F. The BFFA agrees that exchange of duty shift shall not be the cause of overtime, as set forth in Article 8.
G. An employee must report to work for the exchange days off. With the exception of illness, any employee who fails to report shall be considered to be on unauthorized leave.

ARTICLE 38 – ANNUAL PHYSICAL EXAMINATION AND WELLNESS/FITNESS PROGRAM

38.1 Intent. The City of Brawley will offer a fitness incentive program to all firefighters covered by this MOU. The goal of this program is to have healthier, better appearing officers; less lost time due to illness; improved morale; and better compensation to firefighters with direct benefit to taxpayers in return. The fitness testing procedure and standards will be those developed and validated by National Fire Protection Association task force on Physical Fitness.

38.2 Fitness Test Components. Eight components will make up the battery of fitness tests that will measure a firefighters overall fitness as described in Chapter 4 of Physical Fitness for Public Safety Personnel.

A. Test 1: Resting heart rate has direct relationship to the amount of blood the heart can pump per minute and the reserve capability of the heart for vigorous activities and emergencies.
B. Test 2: Diastolic Blood Pressure. Blood pressure measures the pressure of the blood against the arterial walls. On the average a resting blood pressure will generally indicate approximate condition of the blood vessels.
C. Test 3: Aerobic Capacity (US Forestry Step Test). The step test is a relatively accurate test of the ability to take in, transport, and use oxygen (aerobic fitness).

D. Test 4: Percentage of Body Fat. The measurement of body composition refers to the ratio of body fat to lean body mass. Determining an individual's [percentage of body fat and percentage of lean (muscle and bone) body mass is the best way to determine his/her ideal body weight.

E. Test 5: Muscular strength (Push-ups).

F. Test 6: Muscular Endurance (Sit-ups).

G. Test 7: Flexibility (Sit and Reach). The test will measure the flexibility of the torso and hamstrings. The importance of flexibility in these areas cannot be overemphasized because the majorities of lower-back problems, as well as many athletic injuries, result from inadequate flexibility.

H. Test 8: Lifestyle Appraisal (Health Risks). Most health experts agree that major health problems and cause of death result from healthful lifestyles and environment. In many cases, an individual can do little to change environmental factors. Those lifestyle risks that are under the control of individuals, however, can present the greatest risk.

The lifestyle evaluation questionnaire does not require professional interpretation. It merely identifies a number of major health risks.

38.3 Minimum Standards. Certain points will be scored for each individual test component. Employee's fitness level for each test will result in a score from 0-20 points. Minimum passing score will be a combined 70 points for all 8 tests as defined in Table 4.1 (Personal fitness Profile).

38.4 Employees who do not meet the minimum passing standard of 70 will be assessed on a quarterly basis until they have achieved a passing score. There will be no disciplinary action taken for below 70 overall score on fitness appraisal.

38.5 The first fitness appraisals will occur within 60 days after ratification of this agreement. All subsequent fitness appraisals will become a part of the annual performance evaluation process (i.e. Table 4.1 will be attached to existing employee performance evaluation forms).

38.6 Annual fitness appraisal will be administered confidentially by health care professional.

E. SOLVING PROBLEMS

ARTICLE 39 – BFFA/MANAGEMENT MEETINGS

39.1 A committee of the City and the BFFA (not to exceed three employees) may meet on mutually agreed dates and shall be for the purpose of:

A. Discussing the administration of this agreement.

B. Exchanging general information of interest to the parties.

C. Giving the BFFA's representatives the opportunity to share the views of their members and/or make suggestions on subjects of interest to their members.

39.2 As a courtesy and to facilitate the adjustment of work schedules, the BFFA's representatives will personally notify their immediate supervisors of the dates and times of such meeting immediately upon the parties reaching mutual agreement as to the date of any such meeting.

39.3 BFFA committee members shall not lose pay nor be eligible for any overtime payment for time spent in any meetings authorized by the provisions of this Article.

ARTICLE 39 – ADVANCE NOTICE

40.1 The City shall give reasonable advance written notice to the BFFA of any proposed change or new ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council or by any board or commission of the City, and the BFFA shall be given the opportunity to meet with the City Manager or his representative prior to adoption.

ARTICLE 40 – GRIEVANCE PROCEDURES

41.1 A grievance is a disagreement over the interpretation and application of the express, written terms of this Memorandum of Understanding, personnel ordinances, resolutions, rules, regulations, policies, practices, or procedures affecting the working conditions of City employees.

41.2 This section shall be used to resolve every grievance for which no other method of solution is required or provided by law.

41.3 This grievance procedure is established to accomplish the following:

A. To settle the disagreement at the employee-supervisor level, if possible.
B. To provide an orderly procedure to handle the grievance through each level of supervision, if necessary, with final decision vested in an impartial third party.
C. To resolve the grievance as quickly as possible.
D. To correct, if possible, the cause of the grievance to prevent future similar complaints.
E. To reduce the number of grievances by allowing them to be expressed, thereby adjusting and eliminating grievances.
F. To promote harmonious relations among employees, their supervisors, and the department staff.
G. To insure fair and equitable treatment of all employees.

41.4 INFORMAL COMPLAINT PROCEDURE. Informal complaint disposition shall precede the use of the formal grievance procedure. The employee who has a complaint shall discuss his complaint with his immediate supervisor no later than ten (10) working days after the occurrence of the incident causing the complaint. If the immediate supervisor fails to reply to the employee within five (5) working days after the complaint is discussed, or the employee is not satisfied with any decision, the employee may utilize the formal grievance procedure.

41.5 FORMAL GRIEVANCE PROCEDURE:

A. The formal grievance procedure shall be initiated no later than ten (10) working days after the cessation of informal complaint disposition.
B. The formal grievance shall be initiated by the filing of a written grievance, the time period set forth above, on a form provided by the City Manager for this purpose. The form shall contain:
   (1) Name of grievant.
   (2) Class title.
   (3) Department
   (4) Grievant mailing address.
   (5) A clear statement of the nature of the grievance, citing applicable ordinance, rules, regulations, or action.
   (6) The date upon which such grievance occurred.
   (7) The action taken as a result of the informal complaint procedure.
   (8) A proposed solution to the grievance.
   (9) Date of execution of the grievance form.
   (10) Signature of the grievant.
   (11) The name of the organization or individual, if any, representing the grievant, followed by the signature of said organization or individual.
C. Said written grievance shall be filed with the Fire Chief, and he shall investigate the grievance and shall confer with the grievant, his representative, and any other employee or employees involved, in an attempt to resolve the grievance. Within ten (10) working days after the written grievance is first submitted to the Fire Chief, said Fire Chief shall make and file decision in writing.
D. If the grievance is not resolved by the Fire Chief to the satisfaction of the grievant, he may within no more than five (5) working days from receipt of the Fire Chief's decision, request consideration of the grievance by the City Manager by so notifying the City Manager in writing.
   (1) Within ten (10) working days after such notification the City manager shall investigate the grievance, confer with the persons affected and their representatives, and render a decision in writing.

E. If the decision of the City Manager resolves the grievance to the satisfaction of the grievant, said decision shall bind the City of Brawley, the City Council thereof, and the individual involved.

41.6 APPEAL PROCEDURE:

A. Duties and Powers of the Firefighter Employee Relations Commission. The duties and powers of Commission shall be those prescribed by law and these rules.

General duties of the Commission are to:

(1) Be the administrative appeals body in firefighter personnel matters authorized by these rules. Said appellate authority includes appeals from actions involving:

a) Discipline of classified firefighters with regular status.

b) Issuing final administrative rulings upon the appeal of a firefighter disciplinary matter.

(2) Be the final arbitrator of a firefighter employee grievance pursuant to the grievance procedure set forth in the Memorandum of Understanding between the City of Brawley and the BFFA.

The Commission shall have the power to:

a) Administer oaths;

b) Subpoena witnesses and materials;

c) Make necessary orders, in conjunction with an appeal, including but not limited to, back pay and classification adjustments;

d) Upon appeal, to affirm, revoke, or modify any disciplinary order, and may make any appropriate orders in connection with appeals under its jurisdiction. The Commission's decision shall be final and shall be followed by the City and the BFFA unless overturned by the Superior Court or Court of Appeal. The Commission shall not have the authority to increase a proposed discipline of a firefighter employee.

B. Organization of the Commission. The Firefighter Employee Relations Commission will consist of three persons who shall be residents of the City of Brawley. The City shall appoint one Commissioner and one commissioner shall be appointed by the BFFA. The third Commissioner shall be appointed at the sole discretion of the two commissioners appointed by the City and the BFFA.

Each commissioner shall serve a two year term beginning with the first Monday after ratification of this agreement by both parties and will continue to serve

until the appointment and qualification of a successor or upon change as negotiated in subsequent agreements.

Any Commissioner may be removed only for cause. A Commissioner shall be removed upon the conviction of any felony or crime or moral turpitude. Further, a Commissioner shall be removed upon two consecutive unexcused absences from noticed Commission meetings.

Any vacancy on the Commission shall be filled within thirty (30) days of its occurrence by the party having the power to appoint a Commissioner to the vacant position for the unexpired term.

C. Officers of the Commission. At the first meeting in July of each year, the Commission shall elect one member to act as Chairperson and one member to act as Vice Chairperson.

D. Absence of Chairperson. During the absence of the Chairperson, the Vice Chairperson may temporarily serve as Chairperson.

E. Quorum. Two Commissioners shall comprise a quorum to transact business at any meeting.

F. Minutes of Meetings. The minutes of the proceedings of the Commission shall be prepared and maintained by a Commissioner appointed by the Chairman on behalf of, and subject to the approval of the Commission. The following shall be recorded in the minutes:

(1) The time and place of the meeting:
(2) The names of the Commissioners present;
(3) All official acts of the Commission and votes given by the Commissioners, except when the action is unanimous.
(4) A Commissioner's dissent with the supporting reasons, when requested by the dissenting Commissioner.

The minutes, or a true copy thereof, may be examined by interested parties at times and conditions proscribed by the Chairperson.

G. Communications and Request to the Commission. Communications and requests to the Commission shall be made in writing and the substance of such request and the action taken by the Commission recorded in the minutes.

H. Meetings of the Commission. The Commission may convene the following type of meetings:

(1) Regular meetings
(2) Appeal hearings

All regular meetings of the Commission shall be open to the public. All appeal hearings shall be closed to public except on the express waiver of the appellant.

I. Place of Meetings. The place or regular meeting and appeal hearings shall be at a place provided by the City.
J. Regular Meetings. Regular meetings of the Commission shall be held after public notice at the conscience of the Commission.
K. Appeal Hearings. Appeal hearings shall be called by the Chairperson within thirty (30) days of the filing of an appeal by an aggrieved employee or the Association.

41.7 GRIEVANCE APPEAL FOR A CLASSIFIED SERVICE

A. Classified Service. This rule shall be applicable to persons in the classified service to the terms of the Memorandum of Understanding between the Brawley Firefighters Association and the City of Brawley, appointed to regular positions from eligible list, who have successfully completed the probationary period for that position, including promotions.

(1) Any of the following shall be deemed sufficient cause for suspension, demotion, transfer, or removal of any person:
a) That the employee is guilty of incompetency;
b) That is the employee has been guilty of inefficiency;
c) That is the employee has been guilty of insubordination;
d) That the employee has been guilty of dishonesty;
e) That the employee has been guilty of discourteous treatment of the public or other employees;
f) That the employee has been convicted of a criminal offense involving moral turpitude, where the conviction shall be construed to be a conviction shall be construed to be a conviction by a verdict, by pleas of guilty, upon judgment against the employee, upon a demurrer, or upon a judgment of court, a jury having been waived, without regard to subsequent disposition of a case by suspension of sentence, probation or otherwise; including criminal convictions which or responsible relative to his/her position of regular employment. This section shall not apply to a conviction upon a plea of nolo contendere. The phrase "moral turpitude" shall be construed to mean any act of baseness, vileness, or depravity or any act contrary to justice, honesty, or good morals; or any act done with deception or though corrupt motives.
g) That the employee, through negligence or will full misconduct, has caused damage to public property or waste of public supplies;

h) That the employee has been absent without leave, contrary to the rules of the Fire Department, or has failed to report after leave of absence has expired, or after such leave of absence has been disapproved by the City; provided however that if such absence or failure to report is excusable, the Commission may dismiss the charges.

i) That the employee has been convicted of a felony in furtherance of, or while participating in a riot, or civil disorder;

j) That the employee has been convicted of a felony of negligence resulting in significant harm or significant risk of harm to the public or public service;

k) That the employee engages in conduct unbecoming a firefighter while employed by the Brawley fire Department;

l) That the employee is found to be in violation of any verbal or written policy or procedure, memorandum, general order, or directive established by the Brawley Fire Department.

B. Before the Appointing Authority files any order in writing proposes a punitive action against a fire employee, the pre-removal safeguards to the extent required by Skelly v. State Personnel Board (1975) 15 Cal. 3d194 shall be followed. The pre-removal must include:

1. Notice of proposed action;
2. Reasons therefore;
3. A copy of the charges;
4. An opportunity to examine any material upon the action is based and the right to respond either orally or in writing to the Appointing Authority imposing discipline. Pre-removal hearings shall be before the City Manager or Assistant City Manager. At the employee's option, he may waive the right to a hearing before the Fire Chief. Such notice shall be given a reasonable period of time prior to the date the discipline is to be imposed.

1. Notice Given

a) Before a person may be removed, suspended, or reduced in rank or compensation, the Appointing Authority shall serve on the person a written order stating the specific reasons for the disciplinary action. Said order shall contain specific charges set forth clearly and with such particularity as will enable the employee to understand the charges and answer them.

b) Each order of removal, suspension, or reduction in rank or compensation, shall contain in substantially the following language, notice of the employee's right to appeal to the Commission.

"If you wish to appeal this order to the Brawley Fire Employee Relations Commission, you must file such an appeal in writing with the commission within twenty (20) days after this order is presented to you. Such an appeal must be in writing and delivered o the City Clerk at the Clerk's Office at City Hall."

C. Request for a Hearing. An employee who has completed the required probationary period, who is removed, suspended, or reduced in rank or compensation, may, within twenty (20 calendar days after presentation of the order of removal, suspension, or reduction as herein before provided, appeal to the Brawley Firefighters Employee Relations Commission from such order.

D. Within twenty (20) days after notice of the disciplinary action has been served of the employee, an employee who wishes to appeal must file an answer to the charges with the Commission.

E. Time for Hearing. The Commission shall, within thirty (30) days from the filing of said appeal, notice a date of hearing thereof, and shall, without delay, fully hear and determine the matter and either affirm, modify, or revoke such order, including dismissal of the discipline imposed, provided, however, the Commission shall not have the authority to increase any discipline that is set for hearing upon an appeal.

F. Conduct of Hearing. The appellant shall be entitled to appear personally, produce evidence, and to have counsel in a public hearing. The Appointing Authority may also be represented by counsel. All hearings shall be governed by these rules of practice and procedures. Technical rules of evidence shall not apply to such hearings, except that any evidence presented by either party shall be relevant to the issues before the Commission.

G. Record. The proceedings will normally be tape recorded, however, either party at their own expense, may cause a court reporter to record the proceedings. Payment for the production of transcript will be pursuant to Code of Civil Procedure Section 1094.6.

H. Subpoenas. The Commission has the power to issue subpoenas and subpoenas duces tecum. The Chairperson or the Vice Chairperson of the Commission shall also sign such subpoenas for witnesses for the employee, upon employee's written request.

I. An employee who has appealed to the Commission, or an attorney admitted to the practice of law in this state, and designated by such employee, or a designated employee representative, shall have the right to inspect any documents in the possession of or under control of the Appointing Authority which are relevant to such appeal and which would lead to admissible evidence at a hearing on such appeal (excluding information or materials considered

confidential). The employee, or employee's attorney or employee representative, shall have the right to interview other employees having knowledge of the acts or omissions upon which the removal, suspension, or reduction in rank was based. Interviews with other employees and inspection of documents shall be at times and places reasonable for the employee and Appointing Authority.

J. Burden of Proof. The Appointing Authority shall have the burden of proof. The Appointing Authority shall go first in presenting evidence and the appellant shall have right to cross-examine any witnesses presented. The appellant shall then have the right to produce any evidence in his or her behalf, and the Appointing Authority shall have the opportunity to cross-examine witnesses presented. All evidence presented must be relevant and a decision by the Commission cannot be based solely on hearsay evidence. Upon the completion of evidence, the Appointing Authority shall have the opportunity to make final argument, followed by final argument by the appellant.

K. The findings and decisions of the Commission shall be final, and shall be certified to the Fire Chief from whose order the appeal is taken and shall forthwith be enforced and followed. The decision shall give notice of the time limits for judicial review as set forth in Code of Civil Procedure Section 1094.5.

ARTICLE 42 – RENEGOTATION

42.1 In the event that the BFFA or the City desires to "meet and confer" in good faith on the provisions of a successor Agreement, it shall serve upon the other party its written request to commence meeting and conferring in good faith. Negotiations shall begin at a time mutually agreeable to the parties.

ARTICLE 43 – PEACEFUL PERFORMANCE OF DUTIES

43.1 The BFFA and the employees covered by this MOU recognize and agree that the rendering of services to the community cannot under any circumstances or conditions be withheld, interrupted, or discontinued, and that to do so would endanger the health, safety, and welfare of the inhabitants thereof.

During the term of this MOU, neither the BFFA nor its agents nor any employee, for any reason, will authorize, institute, aid, condone, or engage in a slow down, work stoppage, strike, or any other interference with the work and statutory functions or obligations of the City.

The BFFA agrees that the City's rights to deal with any violation of this section include, without limitation, the administration of discipline, including discharge or suspension,

and instituting an appropriate action at law on any or all employees participating therein.

During the term of the MOU, neither the City nor its agents for any reason shall authorize, institute, aid, or promote any lockout of employees covered by this MOU.

ARTICLE 44 – CONCLUSIVENESS OF AGREEMENT

44.1 This Memorandum of Understanding contains all of the agreements of both parties, and may be amended or modified only by an agreement in writing signed by both parties. It is acknowledged that during the course of negotiations, both the City and the BFFA have had a full right and opportunity to make demands and proposals with respect to wages, hours, and other terms and conditions or employment.

CITY OF BRAWLEY

Rosanna Bayon Moore, City Manager

BRAWLEY FIREFIGHTERS ASSOCIATION

Ricardo Jasso, President

ATTEST:

Alma Benavides, City Clerk

STATE OF CALIFORNIA
COUNTY OF IMPERIAL
CITY OF BRAWLEY

I, ALMA BENAVIDES, city clerk of the City of Brawley, California, do hereby certify the within to be a true and correct copy of the original instrument on file in my office.

IN WITNESS Whereof, I have hereunto set my hand and affixed the official seal of the City of Brawley, California this 19th day of June 2019.

Alma Benavides, City Clerk

The City Council unanimously ratified agreement between City of Brawley and Brawley Firefighters Association on June 18, 2019. m/s/c Nava/Hamby 5-0