

**City of El Segundo and El Segundo Firefighters Association
PERB Case No. LA-IM-315-M**

Factfinding Report and Recommendations

Tony Butka, Factfinding Chair
Nate J Kowalski, Employer Panel Member
Jacob Kalinski, Firefighters Assn Panel Member

Procedural Background

During the course of negotiations for a successor agreement between the Firefighters Association and the City of El Segundo, on December 8, 2021 the City proposed a sole carve-out proposal referred to as "Browning-Out Engine 32 for a 6-month Trial Period.

In the overall bargaining history, the parties met 11 times prior to a declaration of Impasse on May 11, 22 by the Firefighters Association on the sole issue of Browning-out Engine 32. On May 31st the Association filed for factfinding with PERB.

The overall negotiations for a successor agreement continued on a separate track, ultimately resulting in a separate request for factfinding. PERB granted that request as Case No LA-IM-311-M, which is entirely separate from this proceeding.

Factfinding

The request for sending the single issue matter to a factfinding panel went to PERB, and they ultimately approved the request as PERB Case No. LA-IM-315-M. The parties jointly selected Tony Butka as Factfinding Chair, with Nate J Kowalski as Panel member for the City, and Jacob Kalinski as Panel member for the Firefighters Association.

The factfinding hearing was scheduled on September 7, 2022, at the City Hall Chambers in El Segundo, starting at 10 am. All parties were afforded full opportunity to present evidence and argument, with each party providing binders and video presentations.

The hearing concluded at approximately 2 pm, with the factfinding Chair agreeing to provide a draft report to the panel members, review their input thereafter, to be followed by a final report and recommendations.

Criteria

Pursuant to Government Code 3505.4, there are eight (8) criteria to be considered by the Panel in arriving at findings and recommendations.

- (1) State & Federal Laws
- (2) Local rules, regulations, or ordinances

(3) Stipulations of the parties

(4) The interests and welfare of the public and the financial ability of the public agency

(5) Comparisons of the wages, hours, and conditions of employment for the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing similar services in comparable public agencies

(6) The Consumer Price Index for goods and services, commonly known as the cost of living

(7) The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

The City's Position

Both the City and the FFA articulated their positions through written, oral, and video submissions, and both did an excellent job.

It appears that the handling of the "Browning-Out Engine 32 Plan" was more contentious than the City anticipated. In their Powerpoint presentation, Slide 3 *Overview of Bargaining History*", states that

"Parties met and City provided the "Browning-Out Engine 32" plan (Exhibit 12). FFA presented a counter offer. Discussedf Brown-Out and the belief that there was already an agreement on the Brown-Out based on FFA members inputs/edits to Chief Lee's decision to Brown-Out-Engine 32 (safety (safety valves for mental health))."

About a week later the parties met again on this issue, and the Firefighters Association advised that they were in opposition to the Browning-Out Engine 32 proposal.

In any event, from the standpoint of the employer, there should be no controversy that the decision to Brown-Out Engine 32 is not subject to factfinding. Indeed, the Firefighters Association tacitly agreed. As presented to the Panel, the issue is defined as a *"6 month trial so that the City can "assess the benefits of Browning-Out Engine 32 without jeopardizing the safety of FFA members or the public."*

To further their position, the City provided two documents. The first is titled "City of El Segundo Brown-Out Plan", delineating the scope of the trial, and stating that "City staff will assess the impact on the level of service to City residents from the six-month brown-out of Engine 32 and submit a report to the City Council for consideration of further action, if any." The document parallel's the City's last, best, and final offer.

The Firefighters Position

In late January 2022, the Firefighters Association met with the City, and formally

rejected the City's Browning-Out Engine 32 Plan, ultimately resulting in this hearing.

The Firefighters argue that there will be two major impacts to the Study; Firefighter Safety and Increased Workload. In terms of Safety, they believe that by having to rely on outside Fire Engines, response time to a structure fire will be slower than using Engine 32, and according to NPFA studies, "every minute the fire burns, it doubles in size".

With respect to increased workload, the Firefighters argue that under the terms of the Browning-Out Engine 32 Plan, the work force is reduced from 13 to 10 firefighters per day, a reduction of 23%.

The City's response was that the statistics used by the Firefighters relied on data for inspections only. To that end, they agreed that if members are unable to complete inspections during the trial period, "they will not be subject to discipline if goals for building inspections are not met."

Ultimately, the FFA proposed a new staffing model for the period of the trial and beyond. It was called an "Ambulance Operator Program:". They indicated that this proposal would generate at least \$1 million in savings per year. It seems that the basis for this proposal was using the El Segundo Fire Department Annual Reports from 2012-2022 (attachment 9 in the FFA Binder).

Analysis and Recommendation

As the City pointed out, the NPFA study refers to structure fires in slide 9, for major incident fires, only a fraction more than 2% of the major incidents actually involved fires. in the last three years (2018-2020) It is difficult to really assess the statistics, since one huge structure fire with slower response times is one too many.

Although specifics were not provided, the Firefighters also included a number of other functions which would there would be increased workload per employee; emergency responses/employee, increase in staffing assignment duties, increase in station and equipment maintenance duties, and an increase in training hours for the 'new operational model'.

While the "Ambulance Operator Program" is intriguing, it goes beyond the scope of a six-month Browning-Out Engine 32 Plan and effects bargaining. In upcoming negotiations, it would be appropriate.

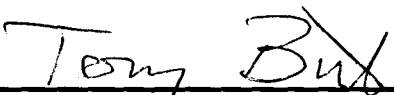
Going back to what is in front of the Factfinding Panel, the sole issue in question is the City's sole carve-out proposal referred to as "Browning-Out Engine 32 for a 6-month Trial Period.

Ultimately, I can find nothing in the MMBA which precludes the employer from conducting a 6-month trial program. The decision to perform such a trial is clearly within the City's authority.

To further their position, the City provided two documents. The first is titled "City of El Segundo Brown-Out Plan", delineating the scope of the trial, and stating that "City staff will assess the impact on the level of service to City residents from the six-month brown-out of Engine 32 and submit a report to the City Council for consideration of further action, if any." The document parallel's the City's last, best, and final offer.

I mention the MMBA because the parties bargaining history makes it clear that the City has absolutely no interest in bargaining over the Unions proposals, nor is there any indication that they are willing to consider any modifications to the trial program.


So long as the City sticks to the terms of their trial, I believe they are within their rights.



Tony Butka, Factfinding Chair

10/3/22

Jacob Kalinski, Firefighters Assn Panel Member



Nate J. Kowalski, City of El Segundo Panel Member

10/03/2022

**City of El Segundo and El Segundo Firefighters Association
PERB Case No. LA-IM-315-M**

Factfinding Report and Recommendations

Dissenting Opinion

The City of El Segundo (“City”) proposes to “brown out” Fire Engine 32 on a six month trial basis. Although the City did not clearly articulate its justification for the brown out, it is without doubt an effort to save money at the expense of safety. The idea for the brown seems to have begun with the observation that calls for service declined during the pandemic. Despite being presented with more recent data showing that, in 2022, the Fire Department is on pace for its highest volume of calls for service on record, the City trudges on **jeopardizing the safety of its citizens and its employees in a misguided attempt to save money.**

The Majority opinion authored by Factfinding Chair Tony Butka blesses the brown out on a trial basis, concluding, “Ultimately, I can find nothing in the [Meyers-Milias-Brown] Act] which precludes the employer from conducting a 6-month trial program. The decision to perform such a trial is clearly within the City’s authority. So long as the City sticks to the terms of their trial, I believe they are within their rights.”

Inherent in that conclusion is a fundamental misunderstanding of the factfinding process. The purpose of factfinding is not to ascertain whether the City is within its rights to implement the brown out. Moreover, the El Segundo Firefighters Association (“Association”) did not argue at the hearing that the City was legally prohibited from doing so; nor is this the proper forum to adjudicate whether the City is or not within its rights to implement a particular action. Such a determination is squarely within the jurisdiction of the Public Employment Relations Board (PERB). (See Government Code section 3509, subdivision (b).)

Rather, the purposes of factfinding are simply to “find facts” and provide recommendations as to what changes should be made given those factual findings using the criteria set forth in Government Code 3505.4 as follows:

- (1) State & Federal Laws
- (2) Local rules, regulations, or ordinances
- (3) Stipulations of the parties
- (4) The interests and welfare of the public and the financial ability of the public agency**
- (5) Comparisons of the wages, hours, and conditions of employment for the employees involved in the factfinding proceeding with the wages, hours, and conditions of employment of other employees performing

similar services in comparable public agencies

(6)The Consumer Price Index for goods and services, commonly known as the cost of living

(7)The overall compensation presently received by the employees, including direct wage compensation, vacation, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

(8) Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive, which are normally or traditionally taken into consideration in making the findings and recommendations.

(Emphasis added.)

As to comparisons of wages, the consumer price index, and the overall compensation presently received by the employees, Neutral Factfinder Najeeb Khoury has already recommended the employees represented by the Association receive salary increases of 4.5% in this year and the next. A true and correct copy of his recommendation is attached hereto as Exhibit 1 and incorporated herein by reference. The City apparently has no plans to provide any salary increases.

With respect to the criteria, “interests and welfare of the public and the financial ability of the public agency”, the City did not present any evidence of its financial position.

However, the Association presented a wealth of evidence showing that the City’s proposal is not in the best interest of the public as it has significant effects on the safety of the public and safety of its firefighters.

The Association quoted an industry standard from the National Fire Protection Agency, “every minute a fire burns, it doubles in size.” As such, even a delay of minutes tremendously increases the hazard to the public and to the firefighters attempting to suppress the fire.

In what seems obvious, the Association showed that eliminating one of the two fire engines servicing the City would cause delays in response to fires within the City which would allow a fire to spread more rapidly, thereby causing significantly more danger to the firefighters as well as to the citizens of El Segundo and their property.

For example, if a structure fire burned in Fire Station 2 District, which is currently serviced by Fire Engine 32, there would be a delay in the initial response. If there was a fire in Fire Station District 1, currently serviced by Fire Engine 31, there would be a delay in the arrival of the second engine. Because the fire engines are only staffed with 3 firefighters and 4 are necessary to enter the scene of a structure fire, even in District 1, the delay in arrival of the second engine will greatly increase the spread of the fire.

The Association also established that, in the absence of Engine 32, the City would have

to rely on resources from Manhattan Beach (3.2 miles away), Los Angeles City (3.7 miles away), Los Angeles County (3.7 or 5.1 miles away), or Redondo Beach (7.0 miles away), all of which are stationed further from Engine 31 than Engine 32. Furthermore, those resources are dedicated to other jurisdictions so it is unknown whether they will be available to respond within the City.

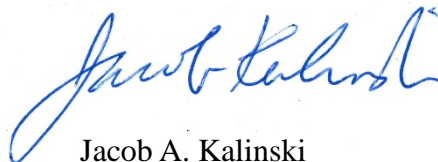
The City claimed throughout the hearing that the Association's safety concerns were speculative and that it needed 6 months to see what the effects of longer response times would be. No rational person needs to test the hypothesis that resources stationed in the City will respond more quickly than those stationed outside its limits. If the City believes that its citizens are just as safe relying on resources from outside the city as in it, it should be transparent and have the bravery to tell its citizens as much. I for one seriously doubt that the City's leaders will tell its citizens what its representatives were asked to convey to the factfinding panel.

As the Majority opinion reflects, "Ultimately, the FFA proposed a new staffing model for the period of the trial and beyond. It was called an 'Ambulance Operator Program'. They indicated that this proposal would generate at least \$1 million in savings per year. It seems that the basis for this proposal was using the El Segundo Fire Department Annual Reports from 2012-2022 (attachment 9 in the FFA Binder)."

However, the Majority opinion ultimately dismisses the Ambulance Operator Proposal, without any legal authority or analysis, on the grounds that it "goes beyond the scope of a six-month Browning-Out Engine 32 Plan and effects bargaining." If the City is attempting to save money through the brown out proposal, which it assuredly is, the Ambulance Operator Proposal accomplishes this goal without any decrease to safety. On that basis, I would recommend adoption of the Ambulance Operator Proposal.

Dated September 23, 2022

RAINS LUCIA STERN
ST. PHALLE & SILVER, PC



Jacob A. Kalinski
Association Panel Member

Attachment 1

1 Najeeb N. Khoury
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3 Montrose, CA 91021
4 213-304-5286
5 nkhouryadr@gmail.com

6 IN THE FACTFINDING PROCEEDINGS
7 PURSUANT TO THE MEYERS-MILIAS-BROWN ACT

8 EL SEGUNDO FIREFIGHTERS'
9 ASSOCIATION, IAFF, LOCAL 3682

10 Association,

11 &

12 CITY OF EL SEGUNDO,

13 Employer

Case No.: LA-IM-311-M

FACTFINDING REPORT AND
RECOMMENDATIONS FOR
SETTLEMENT

14
15 Chairperson: Najeeb N. Khoury
16 Employer Panel Member: Steven Berliner, Liebert Cassidy Whitmore
17 Association Panel Member: Robert Wexler, Rains, Lucia & Stern
18 Lead Advocate For the Association: Jacob A. Kalinski, Rains, Lucia & Stern
19 Lead Advocate For the Employer: Irma Rodriguez Moisa, Atkinson, Andelson, Loya, Rudd &
20 Romo
21 Hearing Date: June 8, 2022
22

23 BACKGROUND

24 El Segundo Firefighters' Association, IAFF, Local 3682 ("Association") represents
25 firefighters, engineers and captains employed by the City of El Segundo ("Employer" or "City").
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1 El Segundo is a city located near Los Angeles International Airport (“LAX”). The cost of a 1%
2 salary increase for this unit is \$97,900.

3 The parties have been bargaining for a successor contract, but, to date, have been unable
4 to reach an agreement. A declaration of impasse was made on March 21, 2022, and the
5 Association made a factfinding request to the Public Employment Relations Board (PERB) on
6 April 5, 2022. The parties selected me to serve as the factfinding panel chair. The factfinding
7 hearing occurred on June 8, 2022 at El Segundo’s City Hall. Both parties presented through their
8 designated advocates and provided documents supporting their respective positions.
9

10 ANALYTICAL FRAMEWORK

11 Unlike interest arbitration, where a third-party neutral sets the terms of a new contract, a
12 third-party neutral chair in a Meyers-Milias-Brown Act (MMBA) factfinding simply provides
13 recommendations. In essence, this makes factfinding an extension of bargaining. Ultimately,
14 the parties must persuade one another of their positions, and the neutral factfinder simply
15 provides an outside perspective to help the parties along.
16

17 As set forth in California Government Code Section 3505.4(d), the MMBA requires
18 factfinders to “consider, weigh, and be guided” by the following criteria:
19

- 20 1. State and federal laws that are applicable to the employer.
- 21 2. Local rules, regulations, or ordinances.
- 22 3. Stipulation of the parties.
- 23 4. The interests and welfare of the public and the financial ability of the public agency.
- 24 5. Comparison of the wages, hours, and conditions of employment of the employees
25 involved in the factfinding proceeding with the wages, hours, and conditions of other
26 employees performing similar services in comparable public agencies.
27
28

1 administration of claims and seeks to manage the risk of “run away” jury verdicts; and that this
2 provision already exists in the City’s non-safety MOUs. The Association vehemently opposes
3 this proposal. It notes that no other public sector agency has such a clause; that the City should
4 focus on eliminating bad employment practices rather than limiting the rights of employees to
5 bring claims; that the City is seeking to have the Association waive rights that are statutorily
6 created and not created by the MOU; and that the City cannot legally impose this proposal.
7

8 Recommendation:

9 I do not recommend the City’s proposal with regards to having employment related
10 claims be subject to mandatory arbitration. There are three reasons for my recommendation.
11

12 First, a criterion that the MMBA requires me to consider is a “comparison of the wages,
13 hours, and conditions of employment of the employees involved in the factfinding proceeding
14 with the wages, hours, and conditions of employment of other employees performing similar
15 services in comparable public agencies.” (*emphasis added*). The City can point to no other fire
16 agency in the state that requires employees to submit non-MOU related claims to binding
17 arbitration. This requested change in the status quo is unprecedented among fire agencies, which
18 weighs strongly against recommending it.
19

20 Second, it simply makes no logical sense to require a union to bargain away statutory or
21 common law rights that do not arise from the collective bargaining process. There is a long
22 practice and history of arbitration being required for workplace disciplinary actions and disputes
23 arising from collectively bargained agreements. This widespread practice makes logical sense.
24 In the private sector, it is the collectively bargained agreement that normally turns an at will
25 employment situation into a just cause one; therefore, it is proper for a contractually created
26 process—arbitration—to decide whether just cause exists for discipline in a unionized context.
27
28

1 In the public sector, arbitration for discipline arises when the parties have negotiated arbitration
2 as the method for deciding just cause discipline in lieu of using a civil service or other hearing
3 officer model. Similarly, it makes sense for non-disciplinary related contractually created rights
4 to be decided through a contractually created arbitration process. Put differently, because it is
5 the union and employer that negotiate the disciplinary process and the collectively bargained
6 contractual rights, the union and employer logically negotiate the method for adjudicating those
7 issues—namely, arbitration. A union, on the other hand, does not negotiate statutory or common
8 law tort rights for the employees it represents. And while it is true that arbitration seeks to
9 change the forum for deciding disputes but does not extinguish claims, the right to a jury trial is
10 not an insignificant right. Moreover, the Association rightly points out that many of these
11 statutory claims are brought by lawyers on a contingency basis, and pushing these claims into the
12 arbitration forum may effectively, if not legally, prevent them from being pursued.
13
14

15 Finally, California, through AB 51, has expressed a public policy preference against
16 allowing employers to condition employment on employees entering into mandatory arbitration
17 agreements. While AB 51 continues to be litigated with complex preemption questions at play,
18 the state has clearly expressed its displeasure with employers requiring employees, as a condition
19 of employment, to submit claims to arbitration.
20

21 For these reasons, I recommend not accepting the City’s proposal of requiring the
22 Association to waive its members’ rights to jury trials for employment related claims.
23

24 I do recommend that the parties adopt the City’s proposal regarding disciplinary appeals
25 being decided through arbitration rather than through the Los Angeles County Civil Service
26 Commission. It is unusual for a different jurisdiction’s civil service commission to decide
27 disciplinary appeals for an employer. Moreover, it is very common for public sector disciplinary
28

1 appeals to be decided through the arbitration process. The Association provided no reason why
2 this change should not occur.

3 Issue 2: Residency Requirement

4 The City proposes a residency requirement with a 100-mile radius for 1) current members
5 who already reside within 100 miles; and 2) those hired after the adoption of the provision. The
6 City argues employees who live over 100 miles away are less likely to respond to the City when
7 someone gets injured or calls in sick, and that this places a greater burden on employees who live
8 closer to El Segundo. The City posits that this change in the status quo advances its interest of
9 maintaining the safety of residents and businesses by ensuring employees are not overworked
10 and have a proper opportunity to rest on their days off.

11 The Association responds that this proposal is unduly restrictive, that the cost-of-living
12 within 100 miles of El Segundo is high, that its members are not complaining about any alleged
13 uneven distribution of overtime, that no other agency in the list of comparable agencies used by
14 the parties has a residency requirement, and that the City provides no specific incident of a
15 bargaining unit member failing to timely respond to an emergency.

16 Recommendation

17 I do not recommend that the parties accept this provision as proposed, although I strongly
18 recommend that the parties consider the concept if it were to be limited only to future employees.

19 First, one compelling factor against the proposal is that no other jurisdiction in the list of
20 comparable jurisdictions has such a residency requirement.

21 Nevertheless, the City raises some legitimate concerns about wanting employees to be
22 available for unexpected work shifts, and some other fire agencies do have residency
23 requirements. However, given that the City is proposing a change in the status quo, I believe
24

1 more specific examples need to be presented of bargaining unit employees failing to respond to
2 overtime directives before a firm recommendation is made to implement such a restrictive
3 provision.
4

5 If the City had presented concrete examples, I still would have limited my
6 recommendation so that the residency requirement applies only to prospective employees. A
7 current employee who lives within a 100-mile radius should still be able to move outside that
8 radius, and should not have to choose between his/her job and moving outside a 100-mile radius
9 when there was no such limitation when he/she took the job. This concern would not exist for
10 new employees who, upon accepting offers of employment, would already be aware of the
11 residency requirement.
12

13 While I am not recommending this proposal, the Association should be willing to
14 seriously consider further discussions on such a provision for future employees, as it may lessen
15 the load on the current membership and would help address a legitimate concern raised by the
16 City.
17

18 Issue 3: Across-The-Board Salary Increases

19 The parties have been negotiating a three-year contract that would have a term from
20 October 2021-July 2023. The City proposes a zero percent increase for October 2021-June 2022,
21 a 3% increase for July 2022-June 2023,¹ and a 3% increase for July 2023-June 2024. The
22 Association proposes a zero percent increase for October 2021-June 2022, a 5% increase for July
23

24
25
26
27 ¹ The City proposes that any raises would not go into effect until a deal is reach. However, it is common for raises
28 to be retroactively applied when an agreement is reached after the start of a fiscal year. I, therefore, recommend that
any negotiated increases start on July 1, 2022 even if the agreement is reached after July 1, 2022. I do this mainly
because the Association has already agreed to a 0% increase for the current fiscal year.

1 2022-June 2023, and a 5% increase for July 2023-June 2024. The Association further seeks
2 additional contingent increases dependent on City revenue.

3 The parties agree on a list of comparable agencies to be used in looking at salaries. The
4 list includes Los Angeles City, Los Angeles County, Manhattan Beach, Redondo Beach,
5 Torrance, Culver City and Santa Monica.

6 The Association's survey of the comparable agencies concluded that El Segundo
7 firefighters are 24.4% below the mean, that El Segundo engineers are 11.1% below the mean,
8 and the El Segundo captains are 9.8% below the mean. The City's survey presented at the
9 hearing showed that El Segundo firefighters are 3.65% above the mean, that El Segundo
10 engineers are 5.5% above the mean, and that El Segundo captains are 3.7% above the mean.
11 However, on June 27, 2022, the City submitted a revised study showing that El Segundo
12 firefighters are 2.68% below the mean, that El Segundo engineers are 4.76% below the mean,
13 and that El Segundo captains are 4.83% below the mean. On July 1, 2022, the City indicated that
14 the June 27, 2022 submission had errors and provided a corrected study that showed firefighters
15 are 3.99% above the mean, that El Segundo engineers are 6.26% above the mean, and that
16 firefighter captains are 4.37% above the mean.

17 There are multiple reasons for the different figures between the City and the Association.
18 The Association argues that even applying the City's methodology shows that firefighters are
19 7.87% below the mean when one utilizes a Tier 2 employee, expresses the percentage as a
20 percentage of El Segundo compensation required to reach the mean, and corrects for various
21 issues in the City's study.

22 The Association notes that the Los Angeles Area CPI-U was 7.9% as of April 2022 and
23 has only increased. The Association also points to the City's healthy General Fund Reserve. The
24

1 Association believes that the City historically has over budgeted expenses and under budgeted
2 revenues.

3 The City responds that its long-term economic forecast is troubling. The City depends
4 heavily on hotel tax revenue, and most El Segundo hotels cater to business travelers. Unlike
5 tourist travel, business travel is still significantly down from pre-pandemic levels. The City also
6 notes that in Fiscal Year 2021-2022, the City's operations and revenues were impacted by the
7 pandemic, that the CARES act funding helped balance the 2021-2022 budget, but that the
8 CARES Act funding is one-time revenue and was used in part to address related pandemic
9 expenses. Moreover, while revenues have increased from the pandemic lows, the City is still
10 worse off in its projected revenues compared to its pre-pandemic expectations. While the City
11 maintains a healthy general fund balance, that balance is projected to decreased through the year
12 2031. This is because the City projects appropriations exceeding revenues in the foreseeable
13 future. For thes reasons, the City argues it is constrained in what economic enhancements it can
14 offer and has already stretched itself to offer a 6% increase during the life of the agreement.

18 Recommendation

19 I recommend a zero percent increase for October 2021-June 2022, a 4.5% increase for
20 July 2022-June 2023, and a 4.5% increase for July 2023-June 2024. I make this recommendation
21 for several reasons. First, the MMBA requires me to consider CPI. The CPI has increased at an
22 extremely high pace in the past twelve months. Indeed, inflation at its current pace outpaces
23 even the Association's proposal. Also, the MMBA requires me to compare El Segundo
24 firefighters to firefighters in other jurisdictions. The data supports finding that the highest paid
25 firefighters in other jurisdictions are paid more than Tier 2 firefighters in El Segundo, and most
26 firefighters in El Segundo are Tier 2 employees. The Association posits that even accepting the
27

1 City's methodology but adjusting for some of its errors shows that the El Segundo firefighters
2 are 7.87% below the mean. The City acknowledges that unit members are below the mean but
3 disagrees with the Association's numbers. My recommendation would have El Segundo
4 firefighters approach and possibly surpass the mean (depending on what the comparable
5 jurisdiction do in terms of pay during the term of this Agreement and on which parties' numbers
6 are relied upon) by providing a 9% raise over the life of the contract. I also believe it makes
7 sense to concentrate the most dollars into across-the-board increases.
8

9
10 However, I also recognize the City's financial concerns. CARES funding is one-time
11 money and that City faces an uncertain economic future post pandemic. The City rightly wants
12 some stability in budgeting its expenses. Therefore, I am not recommending that the City
13 provide additional compensation increases based on the City's future revenues. Moreover, as
14 discussed below, I am not recommending any other economic enhancements outside of increases
15 to health insurance, optical, dental and life insurance contributions. My recommendation against
16 other economic enhancements is driven in large part by the City's concern that it will have future
17 budget deficits that will lessen its reserves.
18

19 Issue 4: Health Insurance Increases

20 The City proposes increasing its contribution to health insurance costs to \$1,725 a month
21 starting on January 1, 2023 and \$1,775 a month starting on January 1, 2024. The Association
22 proposes a contribution rate of \$1,800 starting on January 1, 2023 and \$1,850 starting on January
23 1, 2024. The City points out that this bargaining unit receives higher health insurance amounts
24 than other units, and the City wants to level out the amounts it pays across units. The
25 Association argues that the mean contribution from the comparable jurisdictions is over \$1,800;
26 the Association also notes that it did not receive an increase in the contribution rate for 2022.
27
28

1 The City responds that the data used by the Association includes dental and vision contributions,
2 which are disaggregated in El Segundo. The City did not provide figures for how much health
3 insurance costs are projected to increase 0in 2023 and 2024.
4

5 Recommendation:

6 I recommend that the contribution rate be \$1,775 for January 1, 2023 and \$1,800 for
7 January 1, 2024. I make this recommendation to both get the Association closer to the mean
8 level but to also account for the fact that the City disaggregates its dental and vision
9 contributions, which suggests that the real figure to get the Association to the mean is lower than
10 \$1,850.
11

12 Issue 5: Increases In Maximum Contribution to Optical, Dental & Life Insurance

13 The parties agree on the dollar figure of \$184.25 for this issue. The disagreement is over
14 whether the new figure will be implemented on January 1, 2022 (retroactively) or July 1, 2022.
15

16 Recommendation

17 I recommend an implementation date of July 1, 2022. I do this mainly for administrative
18 ease.

19 Issues 6 & 7: Elimination of Educational Pay in Exchange for an Across-The-Board Increase of
20 \$1,059.02 per month and Reimbursement for Educational Expenses.

21 The contract currently has two tiers for educational pay. Employees hired before
22 November 28, 2015 receive between \$211.36 per month to \$1,059.02 per month of pensionable
23 pay depending on their educational level and classification; employees hired after November 28,
24 2015 receive either \$500 per month if they have a BA or \$900 per month if they have an MA of
25 non-pensionable pay. The Association wants to eliminate this disparity and proposes to
26 eliminate the educational pay in exchange for an across-the-board increase of \$1,059.02 a month.
27
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1 This proposal has a yearly cost of \$219,901.22 or the cost equivalent of a roughly 2.25% across-
2 the-board salary increase (\$219,901.22/\$97,900). The proposal would raise the starting salary in
3 excess of the across-the-board economic impact as it would have a larger impact on new
4 employees which would help attract firefighters to El Segundo. The City responds that it wants
5 to concentrate dollars on base wages and it cannot afford a salary increase on top of the across-
6 the-board increases that are being negotiated. The Association also proposes allowing for a
7 \$2,000 a year reimbursement for educational costs from an accredited institution for course work
8 taken toward a BA or MA degree. The Association proposes this in conjunction with its
9 proposal to eliminate the educational pay as a way to continue encouraging unit members to
10 pursue educational opportunities.
11

12
13 Recommendation:

14 I recommend maintaining the status quo. As discussed above, I recommended a figure
15 closer to the Association's proposal on across-the-board raises in hopes of getting the El
16 Segundo firefighters closer to the mean for the comparable group. I noted that the City does have
17 legitimate financial concerns and that I would not recommend significant economic
18 enhancements over and above the across-the-board raises. Because I do not recommend
19 eliminating the educational pay, I also do not recommend the reimbursement proposal as that
20 was tied to the elimination of the educational pay.
21

22
23 Issue 8: Leaves of Absence Hours Counted As Hours Worked for Overtime Purposes

24 In a previous bargaining cycle, the parties bargained for language that excluded leave
25 time from being counted as hours worked for overtime purposes. The Association points out that
26 none of the comparable jurisdictions has such a provision. In Manhattan Beach, vacation, holiday
27 and IOD are counted as hours worked and in Redondo Beach all paid leave except sick time is
28

1 counted as hours worked. There was some confusion at the factfinding hearing as to whether El
2 Segundo's practice is to only preclude counting sick time from being counted as hours work for
3 overtime purposes.

4 Recommendation:

5
6 I recommend clarifying that only sick time should be excluded from being counted as
7 hours worked for purposes of triggering overtime. Individuals who are asked to work extra
8 hours during periods when they have pre-planned vacations or when there are holidays should
9 not be paid less for the inconvenience of having to work outside their normal shifts. This would
10 also place El Segundo in line with some of the comparable jurisdictions on this point.

11 Issue 9: Length of Time Needed to Be In Acting Shift To Receive Acting Pay

12
13 The parties have agreed that employees who are assigned to work in higher
14 positions/classifications on a temporary basis shall receive 5% acting pay. The dispute is over
15 how long the employee must be acting to receive the pay. The Association proposes an
16 employee in the position for four hours receives the pay; the City responds that the pay should
17 only be triggered if an employee is assigned the higher work for a full shift. The Association
18 argues that all work should be paid; the City responds that logistically it would be difficult to
19 track and pay for work that occurs for only a few hours.

20
21 Recommendation:

22
23 First, I note that it is unlikely that individuals would be assigned higher duties for less
24 than a shift and so this should not be an issue that arises frequently. Second, it is important to
25 note that shifts are usually twenty-four hours in length. I can see how tracking assignments for a
26 few hours could be a logistical challenge. However, it should not be as much of a challenge to
27

1 track assignments that last at least twelve hours. For this reason, I recommend that employees be
2 paid the acting pay when they are assigned the work for at least twelve hours.

3 Issue 10: Require Promotional Testing At Least Once Every Two Years

4
5 The Association proposes that the City commence a testing process for the ranks of Fire
6 Paramedic, Fire Engineer, Fire Captain, and Battalion Chief at least once every two years
7 regardless of available positions. The Association states that this will ensure that there are
8 always active promotional lists, and it will make the promotional process more efficient. The
9 City counters that this would create unnecessary work when there are no vacancies to fill.

10 Recommendation

11
12 Given the minimum cost of this proposal and the importance of the issue to employees, I
13 recommend adopting this proposal.

14 Issue 11: Team Assignment and Special Assignment Pay

15
16 The Association proposes team assignment and special assignment pay for multiple
17 assignments. The City opposes these cost items, as it wants to focus on across-the-board
18 increases.

19 Recommendation:

20
21 I do not recommend accepting these proposals. As explained above, I believe the parties
22 should focus on across-the-board increases, which is why I recommend the 4.5% across-the-
23 board increases for each of the next two fiscal years.

24
25 I note that the parties have indicated that there is cleanup language on which they are
26 principally in agreement. I encourage the parties to continue to work on those language issues.

1 I sincerely hope that these recommendations assist the parties in reaching a negotiated
2 settlement.

3 Date: July 15 , 2022

4 
5 _____
6 Najeeb N. Khoury