CITY COUNCIL AGENDA REPORT

MEETING DATE: August 4, 2009 **ITEM NUMBER:** VIII-2E

SUBJECT: Memorandum of Understanding (MOU) 2007-2013 with the Costa Mesa Firefighters Association (CMFA)

DATE: July 31, 2009

FROM: City Manager's Office, Administrative Svcs. Dept, Finance Dept

PRESENTATION BY: Allan L. Roeder, City Manager
Steve Mandoki, Administrative Services Director

FOR FURTHER INFORMATION CONTACT: Allan L. Roeder, City Manager
(714) 754-5327

RECOMMENDATION:

Approve; authorize staff to finalize Memorandum of Understanding (MOU) for ratification by the City Council or provide direction for further negotiations.

BACKGROUND:

At the Special City Council meeting of April 14, 2009, the City Council considered and adopted a Ten Point Management Budget Strategy in response to current economic conditions and as direction in preparation of the FY 2009-10 municipal budget. Copies of the report and detail on the Budget Strategy are available on the City's website. The plan as adopted by the City Council included a number of strategies that required negotiation with the City's various employee associations.

Of the ten strategies adopted, five of the strategies directly impact members of the Costa Mesa Firefighters Association (CMFA). The CMFA represents all sworn Fire personnel from the rank of Firefighter through Fire Captain for the City of Costa Mesa.

The five strategies that directly impact the CMFA are as follows:

1. Negotiated reduction in employee compensation equating to approximately 5.0% of salary.
2. Reduction of $1 million in non-reimbursable overtime for Police and Fire Departments.
3. Negotiated suspension of minimum manning requirements in the Fire Department in order to accomplish the aforementioned reduction in overtime.
4. Offer PERS Retirement Incentive to create vacancies to (a) reduce the number of personnel that may be laid off as a result of reductions in departmental operating budgets and (b) create additional vacancies needed for budgetary purposes (assumes total of 50 employees opting to retire of which 25 positions would be eliminated).

5. Suspension or termination of the Retiree Health Savings Plan (Contributions are comprised of 1% by Employer and 1% by Employee).

Following adoption of the Management Budget Strategies, City Management initiated meetings with CMFA and other employee organizations to reopen existing labor agreements. Under State Law (Meyers-Millias-Brown Act), the City is legally obligated to meet & confer in good faith any and all changes in existing labor agreements. CMFA, along with the City's other employees associations, agreed to meet and discuss possible changes but did not immediately agree to reopen their existing labor agreement (referred to as a Memorandum of Understanding or MOU). Since that time, City management and CMFA have been meeting to discuss possible changes in the MOU.

Unlike discussions with the City's other four labor organizations which centered on salary reductions/work furloughs; suspension of the Retiree Health Services Plan and initiation of a PERS Retirement Incentive offering, discussions with CMFA also addressed minimum manning provisions and the related issue of overtime. In response, CMFA presented City management with a comprehensive package of changes to the existing MOU. Those changes are summarized in the following:

A. A "No layoff" provision for the term of the MOU.
B. Extension of the term of the MOU for a four year period from July 2009 through July 2013.
C. Adjustment of salaries based on total compensation for the average total compensation of the existing benchmark survey agencies (Fountain Valley, Huntington Beach, Newport Beach, Santa Ana and the Orange County Fire Authority) for the beginning of each pay period that includes the following dates: July 1, 2010, July 1, 2011 and July 1, 20012.
D. A modification to the existing "financial hardship" language regarding the City's ability to grant salary increases in the event of a 3% or greater decrease in the City's leading revenue sources (Sales Tax, Property Tax and Transient Occupancy Tax). The modification includes language that precludes from consideration in the calculation of a "financial hardship" any new revenue sources that may be created and any increases in existing General Fund Reserve Accounts.
E. Extension of the existing $556 per month contribution to the employee's flexible benefit account (health insurance) for the four year term of the MOU.
F. Amendment of the existing CalPERS Retirement Plan for public safety retirement for CMFA members from the existing 3% @ 55 formula to the 3% @ 50 formula. In conjunction with this change in the retirement plan, the CalPERS additional two year service credit option would be offered to all eligible CMFA members with an enrollment date extending 2 weeks beyond the implementation of the 3% @ 50 formula.
G. Effective July 2009 through June 2010, each CMFA member would be responsible for 1% of their base salary towards satisfaction of the City's responsibility to pay retirement contributions to CalPERS on behalf of said CMFA member.
H. Suspension of contributions by the employee and employer towards the Retiree Medical Program during the period from July 2009 to June 2010.
I. Modification of the existing minimum daily staffing levels during the term of the MOU as follows (summarized):
    (1) During the period of July 2009 through December 2009, minimum daily staffing may be reduced from 32 personnel to 31 personnel. This

reduction shall only be accomplished through the reduction of one Firefighter or Firefighter/Paramedic position.

(2) During the period of January 2010 through June 2011, minimum daily staffing may be reduced from 32 personnel to 28 personnel. The reductions are specific to identified equipment and personnel.

(3) During the period of July 2011 through June 2013, minimum daily staffing may be reduced from 32 personnel to 30 personnel. The reductions are specific to identified equipment and personnel.

(4) Effective June 2013, minimum daily staffing shall return to 32 personnel.

(5) Clarification of staffing levels when minimum staffing drops below 32 personnel for vacancy or absence for a period of 8 hours or less.

J. Modification of the existing Certification Program/Monthly Award from fixed dollar awards to percentage awards. Proposed percentages reflect current fixed dollar amounts in relationship to salary.

K. Addition of an award for "Tiller Certification" to the Certification Program in the amount of .75% for designated classifications.

The comprehensive, detailed nature of the CMFA proposal has required substantially greater time & effort in discussions between CMFA and City management than with other represented organizations. As a consequence, it is being presented to the City Council at this time without mutually agreed upon amendments to the MOU subject to resolution of the specific MOU language and/or City Council direction on the specific provisions of the proposal.

ANALYSIS:

The proposal by CMFA has implications that are both financial and operational in nature. Given that the Management Budget Strategy focuses not only on salary and benefit reductions but minimum manning and overtime as well, it is understandable that the CMFA proposal is more complex than those under discussion with other employee groups. In providing the **Analysis**, it is helpful to split the "Operational Proposals" from the "Financial Proposals," keeping in mind that they are not mutually exclusive.

- **Operational Proposals/Modification of Minimum Daily staffing provisions, Overtime and "No Layoff" provision**

  The current MOU includes language that states that a minimum number of Fire personnel (as represented by CMFA) will be on duty each shift. The current minimum is 32 personnel per shift. This provides 4 personnel for each piece of Fire apparatus available for service – typically 1 Fire Captain, 1 Fire Engineer and 2 Firefighter Paramedics. These personnel are deployed at the City's 6 Fire Stations on 8 Emergency apparatus – 5 Engines, 2 Quints and 1 USAR. Attached Exhibit A (entitled Fire Operations Discussion) was prepared as a Power Point presentation to explain in layman's terms the current minimum staffing and that proposed by CMFA.

  When vacancies occur for a variety of reasons (sick leave, vacations, injuries, etc.) and the minimum daily staffing drops below 32 personnel, off duty personnel must be called to work on an overtime basis. Likewise, if there are vacancies that occur through retirement or other separation of service, overtime is required to fill those vacancies. Consequently, in order to address

the desired objective of the Management Budget Strategy of reducing overtime, the matter of minimum daily staffing must be addressed. CMFA has proposed a modification to the current minimum daily staffing that would allow staffing levels to be decreased for periods of time over the proposed four year term of the MOU. Basically, this is accomplished by moving both apparatus and personnel – in some instances the numbers of personnel assigned to specific apparatus – to different Fire Stations within the City. Attached Exhibit A explains how this would be accomplished.

The result of reducing the daily minimum staffing would allow for a reduction in the required amount of overtime and also allow the City not to fill vacated positions (a total of 12 positions) to achieve salary & benefit savings. It bears noting that while the reduction in staffing (to a minimum of 28 per shift) would not impact current response times, it would impact the number of personnel available to provide assistance on some calls. Both CMFA and Fire Management believe this can be adequately managed although the level of manning is less than optimal. This is why the CMFA proposal calls for reduced daily staffing upon initiation of the new MOU but proposes a "recovery" period whereby minimum manning is restored to 32 personnel per shift by June 2013.

A "No Layoff" provision has been proposed by CMFA both to provide security for its membership as well as an assurance that daily staffing does not drop below the minimum.

- **Financial Proposals/CalPERS Retirement Enhancement to 3% @ 50, CalPERS Two Year Service Credit option, extension of current salary/benefit provisions with certain modifications, certification pay changes, "financial hardship" language change**

The financial components of CMFA's proposal are significant in terms of opportunities for substantial savings by the City, benefits to CMFA members by way of enhanced retirement offerings and the long term obligation of the City to pay for those enhanced benefits. In addition, the proposal calls for the extension of the current labor market (Fountain Valley, Huntington Beach, Santa Ana, Newport Beach and the Orange County Fire Authority), extension of the current health benefit contributions by the City; suspension of contributions for a period of one year to the Retiree Medical Program (as identified in the Management Budget Strategy), employee contribution of 1% of base salary to defray the cost of retirement benefits for one year and the conversation of fixed dollar certification awards to percentage awards. Attached Exhibit B provides a detailed review of the fiscal impact, estimated savings and net fiscal impact of the proposal over the four-year term of the MOU. <u>The proposal provides for estimated salary savings over the four year term of $5.4 million dollars and estimated savings of $2.9 million dollars over the same term.</u>

The primary savings involve vacancies created by the Early Retirement Incentive Plan (12 positions) in conjunction with the 3% @ 50 Benefit Enhancement, modification of the minimum daily staffing and the ability to reduce overtime. The Early Retirement Incentive and 3% @ 50 Benefit Enhancement creates the opportunity for twelve vacancies at an annual savings of $1,800,000. The reduced daily staffing level removes the need to fill the 12 vacancies along with

the need to fill those vacancies with overtime. The additional cost of the retirement enhancement based on figures provided by CalPERS is $703,842. In noting this figure, it is important to note that this rate will most certainly increase in ensuing years due to the losses incurred by CalPERS in its investment portfolio as a result of the current recession. The primary savings over the four year term involve salary savings from vacancies less the additional cost of the retirement enhancement along with overtime savings.

As noted earlier, CMFA is proposing a four year term for the MOU. During that timeframe, the existing terms pertaining to market salary adjustments would remain in effect. If there are salary & benefit adjustments granted by those agencies which Costa Mesa uses as its labor market, the City would be obligated to make adjustments as needed to remain at the average of the market. It is important to note that the retirement enhancement is a component of the City's calculation of total compensation. Accordingly, its implementation would largely mitigate salary adjustments during the four year term of the MOU. Were the City and CMFA to make no changes to the current MOU, existing market conditions will require salary increases of at least 4.9% or $661,038 per year. Overtime costs would increase accordingly. The estimated total cost of continuing under the existing MOU is $1,422,785 for the current fiscal year.

The CMFA proposal also includes changes in the certification awards program. "Certification awards" are incentives to personnel to expand their skill, technical knowledge and education to meet the needs of the Fire Department. At present, Certification Awards are a set dollar figure per certification or degree with a maximum total award. CMFA has proposed that the fixed dollar amounts be converted to equivalent percentages of salary. This means that as salaries increase over time, the Certification Award amounts will increase as well. Based on current Department Certifications, this is estimated to cost an additional $6,000 over the four year term of the MOU. The proposal also includes an additional classification for "Tiller Certification." This award would be granted for personnel certified to operate the Tractor Driven Aerial Ladder Truck recent ordered by the City.

Finally, CMFA proposes to modify the existing "fiscal hardship" language by adding two additional criteria. Existing language calls for the MOU to be reopened for the limited purpose of addressing the City's ability to grant wage adjustments when gross general fund revenues including sales tax, property and transient occupancy tax decrease by 3% for the fiscal year based on year-end audited financial statements. The proposed MOU would include provisions that take into account any new revenue sources that may be created and any increases to General Fund Reserves.

Overall, the CMFA proposal addresses the specific objectives of the Management Budget Strategy in terms of reducing salary expenses, suspending minimum manning and reducing overtime. It is for these reasons that City management believes the proposal merits approval. The approval does not come without serious concern with regards to the length of the proposed term (4 years) and the recovery component of the plan to fill all twelve vacancies by the end of the 4 year period. Given the economic uncertainty of the times, there is no certainty at all and much greater apprehension that the economy will substantially rebound over the next 4 years. Taking into account the degree to which the City has had to draw down reserves to maintain services, staffing

reductions across the board, program and service cuts, and deferred maintenance, any "automatic filling" of vacant positions carries substantial risk. It is with this in mind that a shorter term for the MOU without specific terms for recovery of vacancies is advised.

ALTERNATIVES CONSIDERED:

The proposal submitted by CMFA has been reviewed and approved by its membership. Further changes or modifications to the proposal would require reconsideration by Association members. There are almost an infinite number of alternatives that might be considered in the composition of the MOU, all of which would be subject to negotiation.

FISCAL REVIEW:

Attachment B provides the detail of the fiscal review of the proposed MOU. The MOU as proposed is estimated to generate total salary savings of $5.4 million over the four year term with estimated savings from the proposal less the cost of the retirement enhancement of $2.9 million over the corresponding period. If the existing MOU remains in tact, the estimated cost is $1.4 million for the current fiscal year with additional costs for salary adjustments of $661,038 per year over the term of the MOU for a total cost of $2.2 million.

LEGAL REVIEW:

If the City Council is supportive of the CMFA proposal, City management will work with CMFA to finalize a new MOU for review by the City Attorney and submittal to the City Council for ratification.

CONCLUSION:

At is anticipated that representatives of CMFA will be in attendance at the City Council meeting to answer any questions from the City Council regarding their proposal. It is important to keep in mind that the opportunity to accrue savings from salary reductions for the current fiscal year is passing with every day. If the City Council cannot support the proposal as submitted by CMFA or a mutually agreed upon modification of that proposal, it is important for City management to receive direction from the City Council as to what terms would be acceptable.

ALLAN L. ROEDER

City Manager

DISTRIBUTION: Fire Chief
Deputy Fire Chief

ATTACHMENTS: A Fire Operations Discussion
B CMFA Proposal

SUPPLEMENTAL CITY COUNCIL AGENDA REPORT

MEETING DATE: August 4, 2009 **ITEM NUMBER:** VIII-2E

SUBJECT: Memorandum of Understanding (MOU) 2007-2013 with the Costa Mesa Firefighters Association (CMFA)

DATE: August 4, 2009

FROM: City Managers Department, Administrative Services Department
Finance Department

PRESENTATION BY: Allan L. Roeder City Manager
Steve Mandoki, Administrative Services Director
Costa Mesa Firefighters Association

FOR FURTHER INFORMATION CONTACT: Allan L. Roeder, City Manager, (714) 754-5327

Since the July 31, 2009 distribution of the Agenda Report for the above subject item, discussions have continued with representatives of the Costa Mesa Firefighters Association (CMFA). As a result of those discussions, CMFA has indicated its support for further modifications to its proposal. Those modifications are outlined in the following including the original proposal and the updated proposal **(in bold)**:

- No layoff provision for the term of the MOU
- **Removal of layoff language**
- Modification to the existing "financial hardship" language regarding the City's ability to grant salary increases in the event of a 3% or greater decrease in the City's leading revenue sources (Sales Tax, Property Tax and Transient Occupancy Tax). The modification includes language that precludes from consideration in the calculation of a "financial hardship" any new revenue sources that may be created and any increases in existing General Fund Reserve Accounts
- **Agreement to retain the existing fiscal protection language with the clarification that reopening of the MOU pertains to wage adjustments only**
- Suspension of contributions towards the Retiree Medical Program during the period from July 2009 to June 2010 with the employee contribution going to the proposed retirement enhancement
- **Agreement to continue suspension of the Retiree Medical Program if other represented employee groups agree to suspension beyond September 2010. CMFA agrees to continue applying the 1% employee contribution towards payment of the retirement enhancement**

- Modification of the existing minimum daily staffing levels during the term of the MOU as follows (summarized):

  (1) During the period of July 2009 through December 2009, minimum daily staffing may be reduced from 32 personnel to 31 personnel. This reduction shall only be accomplished through the reduction of one Firefighter or Firefighter/Paramedic position.

  (2) During the period of January 2010 through June 2011, minimum daily staffing may be reduced from 32 personnel to 28 personnel. The reductions are specific to identified equipment and personnel.

  (3) During the period of July 2011 through June 2013, minimum daily staffing may be reduced from 32 personnel to 30 personnel. The reductions are specific to identified equipment and personnel.

  (4) Effective June 2013, minimum daily staffing shall return to 32 personnel.

  (5) Clarification of staffing levels when minimum staffing drops below 32 personnel for vacancy or absence for a period of 8 hours or less.

- **CMFA agrees to continue minimum staffing (reduction to 28 personnel) beyond June 30, 2011 based on a review of economic indicators. The specific language operationally defining the economic indicators to be used will be agreed upon prior to submission of the MOU to the City Council for approval**

- Adjustment of salaries based on total compensation for the average total compensation of the existing benchmark survey agencies (Fountain Valley, Huntington Beach, Newport Beach, Santa Ana and the Orange County Fire Authority) for the beginning of each pay period that includes the following dates: July 1, 2010, July 1, 2011 and July 1, 20012

- **CMFA agrees to forgo the marketplace adjustment of July 1, 2009 (3.75%) and the scheduled marketplace adjustment of July 1, 2010 (the amount, if any, to be determined by a benchmark survey at that time) unless market wage adjustments are provided to other employee groups. If a market adjustment is provided the effective date will be September 1, 2010**

- Modification of the existing Certification Program/Monthly Award from fixed dollar awards to percentage awards. Proposed percentages reflect current fixed dollar amounts in relationship to salary

- **Implementation of the proposed changes to the Certification Program/Monthly Award from fixed dollar awards to percentage awards would go into effect September 1, 2011 as opposed to going into effect upon approval of the MOU**

- Addition of an award for “Tiller Certification” to the Certification Program in the amount of .75% for designated classifications

- **Deferral of further discussions between CMFA and the City regarding implementation of a “Tiller Certification” to a later date and at such time as the new apparatus is delivered**

In light of the preceding, the concerns expressed by management in the original staff report dated July 31, 2009 in the **Analysis** section (bottom of page 5) have been addressed by the proposed changes from CMFA. Those concerns involved the 4 year term of the MOU with the recovery provision to return to a minimum manning level of 32 per shift by June 2013. While the term of the MOU is still at 4 years, the recovery language has substantially changed. This will allow for an assessment of economic conditions at the time to ascertain whether the City is in a financial position to increase manning. This change is key in providing the kind of flexibility required in uncertain economic times. Additionally the changes agreed to by CMFA regarding layoffs, the economic uncertainty language, suspension of the Retiree Medical Program and prospective market place adjustments not only provided needed budget relief but are more in-line with labor agreements entered into with other employee groups.

On the strength of the proposed changes to the CMFA proposal, management is fully in support of the recommended action to authorize staff to finalize the Memorandum of Understanding (MOU) for ratification by the City Council at your regular meeting of August 18, 2009. In recognition of the fact that every day that passes without the new MOUs in place means a loss in salary savings towards that needed for the current fiscal year, management recommends that a Special Meeting of the City Council be convened prior to the regular meeting of August 18, 2009 if the final language for the MOU is complete.

ALLAN L. ROEDER	CONCUR
City Manager	Tim Vasin, CMFA President

DISTRIBUTION: Fire Chief Morgan
Deputy Fire Chief Jones