ORDINANCE NO. O19-44

AN ORDINANCE OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AMENDING GLENDALE CITY CODE, CHAPTER 2, ARTICLE III BY AMENDING DIVISION 3 RELATING TO THE MEET AND CONFER PROCESS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

SECTION 1. That Glendale City Code, Chapter 2, Article III is hereby amended as follows:

DIVISION 3- MEET AND CONFER PROCESS

Sec 2-76.- Purpose

The purpose of this division is to establish a process by which recognized employee organizations can meet and confer with the city manager on behalf of an employee group regarding issues such as wages, hours, non-healthcare related benefits and working conditions of mutual interest as provided in this Division.

Sec 2-77. – Conflicts

(a). In the event of a conflict between (i) the City of Glendale’s Human Resources policies and procedures and/or the city manager’s directives and (ii) any memorandum of understanding that results from this meet and confer process, the City of Glendale’s Human Resources policies and procedures and the city manager’s directives will govern; except that any existing provision of a memorandum of understanding will continue to be applicable if the policies and procedures or directives are promulgated after the effective date of a memorandum of understanding.

(b). In the event of a conflict between (i) a City resolution reached as a result of Glendale Employee Involvement Initiative the Meet and Confer Process (as defined below and which shall be promulgated and from time to time modified by the city manager), and (ii) and codified in a city policy or city manager’s directive, and this division, the provisions of this division will prevail. In the event of a conflict between any other City of Glendale code provisions and this division, the provisions of this division will prevail.

(c). In the event of a conflict between (i) other City of Glendale code provisions and (ii) this division, the provisions of this division will prevail.

[Additions are indicated by underline; deletions by strikeout.]
Sec 2-78.- Definitions

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. All other words shall have the meaning ascribed to them by section 1-4 of this Code.

**Budget Proposal:** Budget Proposal means the cumulative proposal prepared and agreed to by the City Manager and employee association for presentation and final consideration by the City Council.

**Budget year:** Budget year shall mean the period for which the council appropriates city funds during its budget process.

**Certification:** Certification is the designation by the city manager of an employee organization as the exclusive representative of an employee group for the purpose of meeting and conferring with the city manager about the subjects specified in this division.

**Decertification:** Decertification is the removal by the city manager of an employee organization as the exclusive representative of an employee group.

**Employee involvement initiative meet and confer process:** The employee involvement initiative meet and confer process is an initiative of the city manager that establishes the organizational cooperative process and which may be modified by the city manager from time to time as determined to be in the best interests of the city.

**Employee group:** An employee group is a defined set of employees who (1) are regularly assigned to one department or division of the city, and (2) to the extent they are represented, are represented by members who have been recognized by the city manager to have fulfilled organizational cooperative process, and (3) are specifically designated by this division as an employee group.

**Employee organization:** An employee organization is an organization in which city employees within an employee group participate and which exists for the purpose, in whole or in part, of meeting and conferring with the city manager about the subjects specified in this division.

**Organizational cooperative process:** Organizational cooperative process is a Meet and Confer process: The process by which departmental issues are addressed in an organized and channeled manner that calls upon employees and management to jointly reach solutions to departmental issues. The organizational cooperative process shall be further defined in the employee involvement initiative meet and confer process and administrative and personnel policy issues.

Sec. 2-79.- Employee groups

(a) The meet and confer process outlined in this division shall be limited to a total of two (2) employee groups. They shall include:

(1) Regular, nonprobationary city firefighters, in all classifications up to and including the rank of Captain.

(2) Regular, nonprobationary city police officers, in all classifications up to and including the rank of Sergeant.

[Additions are indicated by underline; deletions by strikeout.]
(b) The following personnel are ineligible for representation under the meet and confer process:

1. Regular, nonprobationary city firefighters above the rank of Captain.
2. Regular, nonprobationary city police officers above the rank of Sergeant.
3. Probationary or temporary city firefighters and police officers.
4. All other city employees.

(Ord. No. 2433, § 1, 5-10-05)

Sec. 2-80.- Representation process

(a) Certification an employee group shall be determined by the following process:

1. An employee organization seeking authorized recognition as the exclusive representative of an employee group shall file with the city manager:
   a. The name and address of the employee organization;
   b. A copy of its charter, constitution and by-laws, if such documents exist;
   c. The names, titles, addresses and telephone numbers of all of its duly elected officers;
   d. In the event not so designated in the charter, constitution, or by-laws of the employee organization, the name, title, address and telephone number of one duly elected officer who shall have full authority to legally bind the employee organization to any agreement, memorandum of understanding, contract, or other such document;
   e. Cards signed by at least fifty (50) percent plus one of the employees in the employee group that is requesting a representation election.

2. The city manager will verify that the signatures on cards submitted by the employee organization are those of employees in the employee group. If the city manager determines that at least fifty (50) percent plus one of the employees in an employee group have requested a certification election, a secret ballot certification election will be held in accordance with the provisions of this division.

3. If at least seventy (70) percent of the employees in the employee group who vote in the certification election vote in favor of representation by the employee organization, then the city manager will designate the employee organization as the official and exclusive employee organization for purposes of the meet and confer process.

(b) Members of the employee group who will act as official representatives during the meet and confer process must have served actively for a minimum of one year on behalf of the city department in which the employee group exists, on a committee or on committees designated by the city manager as part of the organizational cooperative process. The minimum of one year of service must have been completed by the time the cards requesting an election are submitted to the city manager.

[Additions are indicated by underline; deletions by strikeout.]
Sec. 2-80. - Decertification process

Once an employee group selects an employee organization to serve as its exclusive and official employee organization for purposes of meeting and conferring, decertification of that employee group may be accomplished by a secret ballot decertification election that will be held if the city manager receives cards signed by at least thirty (30) percent of the employees in the employee group requesting a decertification election. If at least fifty (50) percent of the employees who vote in the decertification election vote in favor of decertification, the city manager will decertify the employee organization and it shall no longer be the official and exclusive employee organization for purposes of meeting and conferring.

Sec. 2-82. – Certification and decertification elections procedures.

(a) Elections will be conducted by secret ballot.

(b) Certification elections will only be held between July 15th and September 1st and the city manager must receive the cards in support of an election by July 1st. The cards must be signed and dated not more than ninety (90) days before they are submitted to the city manager. No more than one certification election may be held within any employee group during any twelve-month period. Notwithstanding the above, certification elections may be held at any other time upon mutual agreement of the city manager and the employee organization.

(c) Decertification elections may be held at any time upon receipt by the city manager of sufficient cards calling for a decertification election, as provided above.

(d) The city manager will oversee the conduct of elections. The procedures for the elections and matters related to the elections will be specified by the city manager.

Sec. 2-83. - Rights of employees and employee organizations

(a) Employees have the right to participate on behalf of, or engage in activities on behalf of, an employee organization and have the right to refrain from such activity. Employees will be free from any interference, restraint, or coercion by any employee, supervisor, or manager for or against employee organizations. Violations will necessitate disciplinary action.

(b) There can be only one official and exclusive employee organization for each employee group for purposes of meeting and conferring. Nothing in this division will prohibit any employee not within an employee group represented by a designated employee organization from exercising any rights the employee may have to meet with the city manager or other city official consistent with personnel rules and regulations or any city manager directive.

(c) Meeting and conferring will be conducted through the defined process with the city manager. Violation of this process may result in Decertification by the city manager.
(d) Designated employee organizations will have the right to biweekly dues deductions, if properly authorized by the members of the organization.

(e) Dues deductions for a designated employee organization from the paycheck of any participating employee must be authorized by each individual employee on the appropriate form provided by the human resources division.

(Ord. No. 2433, § 1, 5-10-05)

Sec. 2-84. - Scope of Meet and Confer

(a) The meet and confer process may encompass certain wages, hours, benefits (excluding healthcare benefits), and working conditions which may include are directly related to: salary or wage rates or other forms of direct monetary compensation and direct cost subjects; paid time off. All other items shall be subject to the merit systems policies and procedures; leaves of absence; non-healthcare related benefits; compensation studies; professional employment growth incentives; total hours of work required of an employee on each workday or workweek, including overtime, compensatory time, rest and meal periods and call-in call-back; health and safety; training; retirement incentives; distribution of information; meet and confer procedures not eligible for; procedure for employee grievances; rights of the employee organization and inclusion in the city; and items mutually agreed upon by an employee organization and the city manager budget proposal.

(b) The following are examples of items that will not be included in the meet and confer process: healthcare related benefits; discipline of employees; hiring; discharging; promotions; demotions; transfers; and suspensions. Thus, any aspect of the hiring, promotion or transfer of employees, the types of discipline, or the grounds for demotion, discharge, suspension or discipline will not be part of the meet and confer process.

(b) (e). Working condition items that are non-monetary, including work schedules, rest and meal periods, employee grievances, discipline, promotional process and other related matters may be discussed in a manner acceptable to the City Manager, subject to the merit system and not eligible for inclusion in the budget proposal. These items may be addressed through city manager directives, human resource policies and procedures or departmental general orders.

(c). City will maintain the right of determination as to the purpose of each of its departments, agencies, boards and commissions, and set standards of service to be offered to the public and shall exercise complete control and discretion over its organization and operations. For example:

(1) The city will direct its employees, take disciplinary action, relieve its employees from duty because of lack of work or for other legitimate reasons, determine whether goods and services shall be produced or provided by city employees, purchased or contracted for, and determine the methods, means, and personnel by which the city's operations are to be conducted.

(2) The city has the right to take all necessary actions to maintain uninterrupted service to the community.
(3) The city manager may consult with the city's employees, or their authorized representatives, about the direct consequences that decisions on these matters may have on wages, hours, and working conditions.

(4) The enumeration of the above rights is illustrative only and is not to be construed as being all-inclusive.

(Ord. No. 2433, § 1, 5-10-05)

Sec. 2-85. – Meet and Confer process

(a) The employee organization may Employee organizations receiving a majority vote of all employees in a designated group shall submit proposals regarding those items within the scope of the meet wages, hours, benefits and confer process (as defined by this division) that affect the employee group it represents working conditions to the city manager. All proposals submitted to the city manager by the employee organization must be in writing and shall specifically delineate the issues that will be discussed in the meet and confer process. Proposals shall be submitted City Manager no later than September 15th for the following budget year 15 prior to each budget year.

(b) Upon receiving a proposal from an employee organization, the city manager will The City Manager may also submit a written response proposals to the employee organization, generally within thirty (30) days regarding no later than September 15 prior to each budget year.

(c) Generally within ten (10) days from the receipt of the city manager's response, representatives of the employee organization and the city manager will begin “meeting and conferring”

(b) All proposals must be in writing and in a private session at mutually agreed upon times and places within the city, for the purpose of entering form, which can be incorporated into a written memorandum of understanding relating to proposals. Only those issues identified in the employee organization's initial proposal and those raised in the city manager's response shall be discussed during the meet and confer process, unless otherwise mutually agreed. Meeting ground rules shall be mutually agreed upon and will be adhered to while meeting and conferring budget proposal.

(d) Unless otherwise provided in this division article, during the meet and confer process, all negotiations, proposals submitted by the employee organization and all counter-proposals submitted by the city manager will shall remain confidential except that they will shall be available to the city manager City Manager, the employee organization representatives, the employees within the employee group, and others as designated by the city manager City Manager.

(e) Upon agreement by the city manager and employee group as to the issues addressed in the meet and confer process, the city manager will cause to be prepared a memorandum of understanding, which shall be signed by the city manager and the designated representative of the employee group. This memorandum will be presented to mayor and council for their consideration during the budget process for the following budget year.

(f) The party receiving a proposal shall submit a written response to the proposal within forty-five (45) days of receipt. Failure to provide a response shall be deemed agreement to include the budget proposal in the City Manager's annual budget estimates submitted to city council on February 15.
(d). Upon receipt of a response, representatives of the employee organization and the City Manager or his designated representative shall begin “meeting and conferring” at mutually agreed upon times and places in Glendale, for the purpose of entering into a written “budget proposal” relating to the proposals. Meeting ground rules shall be promulgated by the City Manager and shall be adhered to while meeting and conferring.

(e). If agreement has not been reached by February 15, The City Manager and the employee organization may continue to meet and confer. However, as set forth in the charter, the City Manager shall submit the city manager’s annual budget estimates to the council.

(f) If agreement has not been reached by December 15th, either party may request a neutral mediator. If the other party consents to the involvement of a mediator, arrangements will be made to involve a mediator from the federal mediation and conciliation service or a non-employee of the city that is mutually agreed upon by the city manager and the representative of the designated employee organization. All costs associated with the neutral mediator will be equally shared between the city and the employee organization. February 15, the City Manager will

(g) If agreement has not been reached by February 1st, the city will present a final offer to the representative of the employee organization. The employee organization may prepare written comments concerning the final offer. If the employee organization prepares written comments, such comments must be submitted to the city manager by February 21st. The final offer and association written comments, if any, will be presented by February 28th no later than the last council business meeting in April for consideration. The Mayor and Council may accept, reject or modify the proposed Budget Proposal or may take whatever action they feel appropriate consistent with the City Charter. Final action by the council upon the issues raised during the meet and confer process will serve as Mayor and Council shall be incorporated into the memorandum of understanding for the following the annual budget year.

(g). All matters

(Ord. No. 2433, § 1, 5-10-05)

Sec. 2-86.---Resolution of claims of breach of a memorandum of understanding.

(a) In the event that the employee organization claims that there is a breach of a memorandum of understanding, and the employee organization and the city have been unable to informally resolve the matter, the employee organization may use the following exclusive process to resolve the matter:

(1) Within forty-five (45) days of the first occurrence of any event which constitutes all or part of the alleged breach, the employee organization shall give written notice to the city manager. The notice shall specify the provision(s) allegedly breached, the facts and evidence demonstrating or supporting the breach, and the date(s) of the alleged breach;

(2) A written response to the alleged breach shall be submitted by the city manager to the employee organization within ten (10) days of the written notice;

[Additions are indicated by underline; deletions by strikeout.]
(3) Within fourteen (14) days of the city manager’s written response, the employee group and the city manager shall meet and attempt to resolve the matter; and

(4) The employee group and the city manager shall sign a written agreement intended to reflect a resolution of the matter, which shall be approved by the city attorney; however, any resolution that requires council action will only be effective after approval by the council is secured.

(b) If the employee group and the city manager are unable to resolve the matter, or approval as required above is not secured, the employee organization may submit the claim of an alleged breach to arbitration. The employee organization must notify the city manager of the submission to arbitration in writing within thirty (30) days of the city manager and employee group meeting to resolve this matter. The city manager and representative of the employee organization shall select an arbitrator to hear and decide the matter. Should the employee organization and the city manager be unable to agree upon an arbitrator, an arbitrator with public sector labor experience will appointed by the federal mediation and conciliation service.

(c) The arbitrator shall set a hearing on this matter within sixty (60) days of selection or appointment. The city attorney or legal counsel appointed by the city attorney shall represent the city at the hearing.

(d) The city and the employee group shall present to the arbitrator their position on the breach and the requested resolution. The arbitrator shall render a decision only by acceptance of one of the presented positions and resolutions. Should the dispute encompass more than one alleged breach, the city manager and employee group shall agree upon the separate designation of each breach and present its position and resolution of that breach separately, whereupon the arbitrator shall render a separate decision as to each breach only by acceptance of one of the presented positions and resolutions related to each breach. Should the city manager and employee group not agree upon the separate designations, the issues shall be submitted to the arbitrator for separate designation, which decision shall be final for the purposes of the arbitration.

(e) The decision of the arbitrator will be final and binding on the parties, so long as the decision does not add to, subtract from, or modify the provisions of the division dealing with this subject or the memorandum of understanding; and so long as the decision does not require the city to commit any resources not specifically budgeted by the council.

(f) The city and the employee group shall bear equally the costs associated with the arbitrator.

(g) The timeframes in this section can be mutually changed by a written agreement of the parties. The employee organization’s failure to allege a breach by the date set forth in this section shall be deemed a waiver of any right to allege the breach thereafter.

Related to any financial commitment, appropriation, expenditure or budget line item for Employees represented by Employee Organizations such as salary, wages, specialty pay, and nonhealthy related benefits shall only be considered, proposed and adopted as part of the annual budget submitted to the City Council. The decision of the City Council to adopt a budget including the salaries, benefits and any other compensation for the represented employees is final and not reviewable.

(h) The City Manager and employee association may present a budget proposal that has a
monetary impact greater than the current budget year. However, the Mayor and Council may accept, reject or modify the proposed budget proposal or may take whatever action they feel appropriate consistent with the City Charter and not be obligated to act upon the budget proposal beyond the current budget year.

(Ord. No. 2433, § 1, 5-10-05)

Sec. 2-87. – Solicitation and distribution.

(a) Solicitation of members, dues and other internal employee organization business shall be conducted only during non-duty hours and shall not interfere with work.

(b) Solicitation of members and dues and other internal employee organization business shall take place in non-working areas. Notice of employee organization meetings and agendas may be posted in the city's e-mail meeting folder at the membership's cost.

(Ord. No. 2433, § 1, 5-10-05)

Sec. 2-88. - Delegation.

The city manager may delegate any of his duties and responsibilities under the meet and confer process and may appoint personnel to assist in the performance of those duties and responsibilities.

Secs. 2-89, 2-90 Reserved.

SECTION 2. That the provisions of this ordinance shall become effective thirty (30) days after passage of this ordinance by the Glendale City Council.

(Signatures on the following page)

PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 14th day of May, 2019.

Mayor Jerry P. Weiers

ATTEST:

Julie K. Bower, City Clerk (SEAL)

[Additions are indicated by underline; deletions by strikeout.]
APPROVED AS TO FORM:

______________________________
Michael D. Bailey, City Attorney

REVIEWED BY:

______________________________
Kevin R. Phelps, City Manager