

1 Najeeb N. Khoury  
2 P.O. Box 67  
3 Montrose, CA 91021  
4 213-304-5286  
5 nkhouryadr@gmail.com

6 IN THE FACTFINDING PROCEEDINGS  
7  
8 PURSUANT TO THE MEYERS-MILIAS-BROWN ACT  
9

10 MANHATTAN BEACH FIREFIGHTERS  
11 ASSOCIATION

12 Association,

13 &

14 CITY OF MANHATTAN BEACH,

15 Employer

Case No.: LA-IM-314-M

FACTFINDING REPORT AND  
RECOMMENDATIONS FOR  
SETTLEMENT

16 Chairperson: Najeeb N. Khoury  
17 Employer Panel Member: Peter Brown, Liebert Cassidy Whitmore  
18 Association Panel Member: Robert Wexler, Rains, Lucia & Stern  
19 Hearing Date: August 5, 2022

20 BACKGROUND

21 The Manhattan Beach Firefighters Association (“Association”) represents firefighters,  
22 engineers and captains employed by the City of Manhattan Beach (“Employer” or “City”).

23 The parties have been bargaining for a successor contract since February 2021, but, to  
24 date, have been unable to reach an agreement. The City declared impasse on April 27, 2022, and  
25 the Association made a factfinding request to the Public Employment Relations Board (PERB)  
26 on May 26, 2022. The parties selected me to serve as the factfinding panel chair. The  
27

factfinding hearing occurred on August 5, 2022 at the Police/Fire Conference Room in Manhattan Beach.

### ANALYTICAL FRAMEWORK

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

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

1. State and federal laws that are applicable to the employer.
2. Local rules, regulations, or ordinances.
3. Stipulation of the parties.
4. The interests and welfare of the public and the financial ability of the public agency.
5. Comparison of the wages, hours, and conditions of employment of the employees involved in the factfinding proceeding with the wages, hours, and conditions 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, vacations, holidays, and other excused time, insurance and pensions, medical and hospitalization benefits, the continuity and stability of employment, and all other benefits received.

1 8. Any other facts, not confined to those specified in paragraphs (1) to (7), inclusive,  
2 which are normally and traditionally taken into consideration in making the findings  
3 and recommendations.  
4

5 Neutral factfinders have typically required the party seeking a change to the status quo to  
6 carry the burden of persuasion, and I will follow that convention in this case. The parties agree  
7 on the following list of comparable agencies: Beverly Hills, Culver City, El Segundo, Newport  
8 Beach, Redondo Beach, Santa Monica and Torrance.

#### 9 ISSUES AND RECOMMENDATIONS

10 Before getting into the specific issues and recommendations, I will briefly summarize the  
11 overall objectives of each side. The City notes that many, if not most, of the highest earners in  
12 the City are members of the Association. The City also notes that its firefighters, engineers and  
13 captains have the highest, or near the highest, take home pay on average of any firefighters,  
14 engineers and captains in the state. The City states this is the result of an inordinate amount of  
15 overtime incurred in the Department. The City seeks solutions that will enable overtime to be  
16 reduced and that will keep the Association's take home pay competitive but not at the very top of  
17 the market.  
18

19 The Association responds that the Department does more with less, noting that the City  
20 has the lowest number of firefighters per resident and per house when compared to comparison  
21 agencies. It also notes that all members of the Association are paramedics, and that this is unique  
22 and beneficial. Indeed, the Association argues that both the City and Association have  
23 historically been proud that the Department has been a model agency. The Association also  
24 argues that the City should not look at average take home pay when comparing pay between  
25 Association members and employees at other agencies. The Association notes that there is little  
26  
27  
28

1 turnover in the Department, which is one reason the average take home pay appears higher than  
2 in other agencies, as an employee who is on payroll for less than a whole year will naturally have  
3 lower take home pay for that year and will bring down the average. The Association believes  
4 that the City has taken a more hostile position against the Association ever since there was a vote  
5 of no confidence against a former Fire Chief.  
6

#### 7 Issue 1: Term and Salary

8 The Association proposes a five-year term (retroactive to July 1, 2020) with a 3% raise  
9 effective April 10, 2022, a 3% raise effective January 1, 2023, a 3% raise effective January 1,  
10 2024, and a 1.5% raise effective January 1, 2025. The Association notes that these are the same  
11 salary increases that other city bargaining units received with the exception that the other  
12 bargaining units had an earlier implementation date of January 1, 2022 for the first raise.  
13

14 The City notes that it would be agreeable to this proposal (with the first raise occurring  
15 upon ratification of the MOU) should the parties reach a comprehensive agreement. However,  
16 because the MMBA only allows it to impose terms for one year, it made its last, best and final  
17 offer for one year.  
18

#### 19 Recommendation:

20 As a factfinder, I am not limited to making one-year recommendations, as I am  
21 recommending a new MOU, not the imposition of terms. For that reason, I recommend the five-  
22 year term with the raises that both sides have deemed acceptable should a global resolution be  
23 reached.  
24

25 The one point of disagreement is on the implementation date of the first raise.  
26 The City proposes that any initial raise would not go into effect until after the MOU's  
27 ratification. The Association proposes an effective date of April 10, 2022. It is common for  
28

1 raises to be retroactively applied when an agreement is reached after the start of a fiscal year. I,  
2 therefore, recommend that any negotiated increase for this fiscal year start on July 1, 2022.

### 3 Issue 2: Constant Staffing

4  
5 The current MOU provides that there should be constant staffing of 8 suppression  
6 personnel. This provision is unique, as it does not provide for a minimum staffing level. Rather  
7 it mandates that staffing levels be at 8 per shift, and the City cannot go above that number. This  
8 requires the City to staff at less than desired levels, which then triggers overtime when  
9 individuals call out. The City proposes changing the MOU provision so that the constant staffing  
10 number becomes a minimum number, not a prescribed number. The Association indicated its  
11 willingness to accept this proposal if the City dropped its proposal that would permit only one  
12 employee off on vacation leave per shift. As I will discuss next, I will not be recommending the  
13 City's proposal regarding limiting vacation leave to one person per shift.  
14

### 15 Recommendation

16  
17 I recommend adopting the City's proposal. This proposal can have a powerful impact on  
18 reducing the need for overtime, as it will allow the City to increase staffing. As mentioned, the  
19 Association does not oppose this recommendation if the City drops its proposal that would  
20 permit only one employee be off on vacation leave per shift.  
21

### 22 Issue 3: Vacation Time Off Limit 1 Per Shift

23 The City proposes that only one employee per shift should be permitted to use vacation,  
24 that employees should be required to request vacation in writing, and that such a request must be  
25 approved in writing before it can be taken. The City believes this would reduce overtime. The  
26 City argues that there are only 8-10 employees on shift at one time, and if, more than one person  
27  
28



1 needs vacation on the same shift, firefighters can engage in shift trading, which would avoid  
2 triggering overtime.

3         The Association responds that no other comparable jurisdiction has such a provision, and  
4 this provision exists in no other City MOU. Moreover, the Association argues this will not  
5 actually help with overtime, as every vacancy requires a backfill and vacation requests are  
6 already vetted by supervisors for coverage and effects on the Department.  
7

#### 8 Recommendation

9         I recommend maintaining the status quo. The main compelling factor against the  
10 proposal is that no other jurisdiction in the list of comparable jurisdictions has such a provision  
11 and no other City MOU has such a provision. The City is understandably trying to address the  
12 overtime issue, and the constant staffing proposal will help address that. The City need not have  
13 all its proposals regarding overtime accepted in order to tackle the overtime issue, and this is an  
14 outlier of a proposal.  
15

#### 16 Issue 4: City's Proposal to Add Two Steps to The Salary Schedule For Employees hired 1/1/22

17         The City proposes adding two steps to the salary schedule for employees hired after  
18 January 1, 2022. This would have some future cost savings for the Department, as it would  
19 increase the time it would take for employees to reach the top step. The City notes that, for Fire  
20 Engineers and Fire Captains, there would be five steps instead of three if its proposal is accepted.  
21 This would still be fewer steps than for most other City employees.  
22

23         The Association responds that this proposal can cost employees between \$21,108 to  
24 \$83,000 of base pay for the first five to six years of service and more in other lost compensation,  
25 that this proposal does not address overtime, and that the City is financially healthy, meaning it  
26 does not need this proposal.  
27

1 Recommendation:

2 I recommend accepting this proposal but making clear it only applies to new employees  
3 hired after January 1, 2022. Therefore, it would not apply to any firefighter promoted to fire  
4 engineer or fire engineer promoted to captain who was employed by the Department before  
5 January 1, 2022. This proposal would not impact current Association members and will have a  
6 long-term savings for the City. New employees will accept offers of employment knowing the  
7 new step schedule, and the increased steps, which only delay reaching the same pay as other unit  
8 members, will not impact the Department's status as a destiny agency.  
9

10 Issue 5: Reducing Paramedic Pay For Employees Hired After January 1, 2022

11  
12 The City argues that the amount current employees at the rank of Fire Engineer and Fire  
13 Captain currently receive for paramedic pay is very high and unusual. It seeks to reduce the  
14 paramedic pay for Engineers and Captains hired after January 1, 2022. The current paramedic  
15 pay is 18.1%, and the City proposes reducing the Fire Engineer paramedic pay of new employees  
16 to 13% and the Fire Captain paramedic pay of new employees to 8%. The Association argues  
17 that this would create an unjust two-tier system in the Department, that the City has the  
18 economic resources to maintain the paramedic pay as is, and that these reductions would make  
19 Manhattan Beach fall behind the comparable agencies in terms of pay.  
20

21 Recommendation:

22  
23 I recommend the status quo. Unlike adding steps, this proposal would prevent new  
24 employees from ever reaching the same compensation level as current employees. Absent some  
25 showing that the Department will not be able to afford operating under the same compensation  
26 levels, such a drastic reduction should not be implemented. Further, this proposal does not  
27 address the most fundamental problem the City has identified, reducing overtime. Finally, the  
28

1 Association has convincingly argued that the rate of pay (as opposed to take home pay) is  
2 currently comparable to that of comparable agencies. There is no reason for the City to seek to  
3 drastically reduce the rate of pay for new Fire Engineers and Fire Captains.  
4

#### 5 Issue 6: Changing Longevity For New Hires

6 Currently, the MOU provides for 5% longevity pay at 3 years, 10% longevity pay at 9  
7 years, and 15% longevity pay at fourteen years. The City proposes that for new employees hired  
8 after January 1, 2022, 5% longevity pay would occur at 15 years, 10% longevity would occur at  
9 20 years, and 15% longevity would occur at 25 years.  
10

11 The City notes that 3, 9 and 14 years are short time frames for longevity bonuses. It  
12 further notes that these figures came into the MOU as a way to address a *DiCarlo* problem.  
13 *DiCarlo* is a court case that found pay based on a combination of education and longevity would  
14 not be pensionable although pay based solely on education or solely on longevity would remain  
15 pensionable. The parties wanted to hold unit members harmless after *DiCarlo*, which is why  
16 they agreed to the short longevity periods. The City also points out that none of the comparable  
17 agencies have longevity at 3 years or have the second level longevity at 9 years.  
18

19 The Association acknowledges that the short longevity periods were agreed to as a way to  
20 address the *DiCarlo* problem. However, it posits that changing the longevity years would create  
21 an unjust two-tier system, and that a look at the comparable agencies shows that the average  
22 longevity pay under the City's proposal would place it below the average for comparable  
23 agencies.  
24

#### 25 Recommendation:

26 I recommend accepting the City's proposal. The parties acknowledge that the short  
27 longevity time periods were recently introduced to address the *DiCarlo* issue. Now that the  
28



1 DiCarlo issue has been addressed, it makes sense to have longevity periods that are longer for  
2 new employees.

#### 3 Issue 7: Civilianize Fire Marshal and Fire Inspector

4  
5 The City proposes to civilianize its Fire Prevention Bureau, namely by making the Fire  
6 Marshal and Fire Inspector civilian positions. The City argues that this is common in other  
7 agencies and that it is a fundamental management right to determine how to staff and run the  
8 Department. The Association responds that this proposal would essentially eliminate two sworn  
9 positions and would exacerbate the staffing and overtime issues. Currently, the Fire Marshal and  
10 Fire Inspector, who work 10 hour, weekday shifts can help cover assignments when firefighters  
11 are absent during those hours; however, this ability would cease to exist if the positions became  
12 civilian. The City responds that it does not intend to eliminate positions from the unit and that it  
13 intends to add staffing to address the overtime issue. There are currently incumbents in the  
14 positions that are assigned to the positions for a set period of time.

#### 15 Recommendation

16  
17 I recommend adopting the City's proposal with two important caveats. First, that the  
18 incumbents serving in the roles of Fire Marshal and Fire Inspector be able to complete their  
19 assignments in those positions. Second, that the City provide some assurances to the Association  
20 that it does not seek to eliminate positions from the bargaining unit and that it will be working on  
21 ways to provide backup coverage equal to or greater to the backup coverage currently provided  
22 by the Fire Marshal and Fire Inspector.

#### 23 Issue 8: Holiday hours

24  
25 The City proposes increasing holiday hours from 96 to 100 but then requiring unused  
26 holiday hours to be paid out instead of being used at a later date. The current practice of  
27

1 allowing holiday hours to be used at later dates has created a significant overtime burden, as the  
2 hours taken at later dates require different firefighters to backfill which generates overtime. The  
3 City notes that 2/3rds of Association members are off on any given holiday. The Association  
4 sees this as a takeaway that is contrary to market trends and that reduces employee flexibility for  
5 time-off. It also points out that no other bargaining unit is being asked for this concession.  
6

#### 7 Recommendation

8 I recommend accepting the City's proposal but increasing holiday hours to 123.4.  
9 Asking the Association to give up a valuable benefit for only 4 additional hours is not  
10 compelling. The City should offer a more substantial increase in holiday hours if it wants to  
11 force those hours to be paid out instead of used when employees work holidays. An increase to  
12 123.4 hours is substantial and comparable to what some comparable jurisdictions offer.  
13 Moreover, battalion chiefs in the Department currently receive 123.4 hours, and it makes sense  
14 to provide the same number of hours to firefighters, fire engineers, and fire captains.  
15

#### 16 Issue 9: Training

17 The City proposes that employees be forced to trade shifts when engaged in annual  
18 employee-chosen voluntary training. The City argues that currently training generates overtime,  
19 and that while training is valuable, it makes sense for employees to shift trade in order to  
20 mitigate the overtime impacts created by training. The Association argues this will discourage  
21 employees from engaging in training and that training provides benefits to the City and  
22 community.  
23

#### 24 Recommendation

25 I recommend accepting the City's proposal. The City is not seeking to reduce training or  
26 prevent on duty training. It is seeking to reduce the overtime impact of on duty training by  
27

1 having employees shift trade. However, the parties should work collaboratively to ensure this  
2 proposal does not decrease the amount of training received by Association members.

#### 3 Issue 10: Sick Leave

4  
5 The City proposes eliminating the Association's ability to convert sick leave. The City  
6 believes sick leave conversion causes manipulation, as sick leave does not count as hours  
7 worked, that converting sick leave causes more vacation and more overtime.

8 The Association notes that this provision exists in all City MOUs and the City is not  
9 asking any other bargaining unit to give up this right. Moreover, the Association notes that the  
10 market generally provides for sick leave incentive benefits.

#### 11 Recommendation

12  
13 I recommend the status quo. It is not fair or equitable to ask the Association to give up  
14 this right if no other bargaining unit has been asked to do the same. Moreover, there are other  
15 recommendations that I am making which should help address the overtime issue. The City need  
16 not have all its proposals accepted on the overtime issue.

#### 17 Issue 11: Reopener

18  
19 The City proposes a reopener to negotiate further on the overtime issue. The Association  
20 argues that after a contentious round of bargaining, the parties should have labor peace for the  
21 term of the MOU and should not reengage in bargaining.

#### 22 Recommendation:

23  
24 I recommend that the parties agree to form a committee to study overtime and the  
25 impacts of the new MOU provisions on reducing overtime. The committee can work  
26 collaboratively on reducing overtime within the parameters of the new MOU, and if the  
27 committee determines that provisions of the MOU are preventing the reduction of overtime, the  
28

1 committee can make recommendations for the parties to consider during the next bargaining  
2 cycle.

3 I sincerely hope that these recommendations assist the parties in reaching a negotiated  
4 settlement.

5  
6 Date: September 9, 2022

7   
8 Najeeb N. Khoury

1 ROBERT M. WEXLER, SBN 170072  
2 RAINS LUCIA STERN  
3 ST. PHALLE & SILVER, PC  
4 16130 Ventura Boulevard, Suite 600  
5 Encino, CA 91436  
6 Tel: (747) 221-7100  
7 Fax: (747) 221-7101  
8 E-mail: RWexler@RLSlawyers.com

9 Attorneys for Manhattan Beach Firefighters Association

10 **IN THE FACTFINDING PROCEEDING**

11 **PURSUANT TO THE MEYERS-MILIAS-BROWN ACT**

12  
13 MANHATTAN BEACH FIREFIGHTERS  
14 ASSOCIATION ,

15 Association,  
16 &

17 CITY OF MANHATTAN BEACH,

18 Employer.

CASE NO. LA-IM-314-M

ASSOCIATION'S CONCURRING AND  
DISSENTING OPINION TO  
FACTFINDING REPORT

19  
20 Factfinding Panel Chairperson: Najeeb N. Khoury Esq.

21 Employer Panel Member: Peter J. Brown (Liebert Cassidy Whitmore)

22 Association Panel Member: Robert M. Wexler (Rains Lucia Stern St.Phalle & Silver)

23 Hearing Date: August 5, 2022.  
24  
25  
26  
27  
28



## I. INTRODUCTION

The Manhattan Beach Firefighters' Association ('MBFA') believes wholeheartedly in the merits of the position it has asserted as regards each of the disputed items in contention. It further believes that pursuant to the criteria in California Government Code, Section 3505.4, upon which the factfinding panel is to consider in making its recommendations, it presented substantial compelling evidence to justify its position on each of the disputed items. That said, MBFA also believes in, and respects, the factfinding process and the perspective of the neutral factfinder that the City and MBFA mutually selected to hear their case and make recommendations for a successor agreement. Accordingly, **MBFA accepts the neutral factfinder's draft recommendations and agrees to incorporate them as the foundation for a successor memorandum of understanding**, subject to concurrence of the City Council and ratification by the parties, so that the parties can create some much-needed labor stability and refocus their efforts on the provision of public safety services. MBFA authors this dissenting and concurring opinion with respect to select issues primarily for public edification since much of the issues in dispute in this process have been publically debated.

## II. DISCUSSION

### A. Holiday Hours

#### a. Neutral Factfinder Recommendation

The neutral factfinder recommended accepting the City's proposal but increasing holiday hours to 123.4. He reasoned that asking the Association to give up a valuable benefit for only 4 additional hours is not compelling. The City should offer a more substantial increase in holiday hours if it wants to force those hours to be paid out instead of used when employees work holidays. An increase to 123.4 hours is substantial and comparable to what some comparable jurisdictions offer. Moreover, battalion chiefs in the Department currently receive 123.4 hours, and it makes sense to provide the same number of hours to firefighters, fire engineers, and fire captains.

1           b. Dissent

2           The MBFA is grateful for the neutral factfinder's recognition that "asking the  
3 Association to give up a valuable benefit for only 4 additional hours is not compelling" and his  
4 recommendation to increase the holiday hours from the 100 hours offered by the City to 123.4.  
5 That said, the MBFA believes that the neutral factfinder's recommendation still falls short  
6 under the criteria in Government Code Section 3505.4.

7           Specifically, of the four principal criteria in Section 3505.4 -- #4 (the City's financial  
8 ability to pay), #5 (Comparison of the wages, hours and conditions of employment to those of  
9 similar positions in the market), #6 (the Consumer Price Index) and #7 (the overall  
10 compensation of the employees) – MBFA believes that each supports either maintenance of the  
11 status quo or the award of a far greater number of holiday hours.

12           At the outset of the factfinding the City acknowledged that its financial ability to pay  
13 was not a material issue guiding the cuts it proposed cuts and the MBFA offered compelling  
14 evidence that the City's General Fund reserve had increased by nearly 25%, even during the  
15 worldwide pandemic. Moreover, it was undisputed that the CPI at the time of the factfinding  
16 was 8.6% and had increased by 19.54% since MBFA received its last salary increase in 2018.

17           But the MBFA believes that the most compelling data is that of the market standards.  
18 Of the 7 agencies in the undisputed applicable labor market, 5 allow employees to use holiday  
19 leave for time off. Thus, the City's proposal, and the factfinder's recommendation, to eliminate  
20 holiday leave as a benefit that can be used for time off with family aligns the MBFA with the  
21 two minority agencies, not the 5 majority agencies.

22           Further, the recommendation to increase the number of holiday leave hours from 96 to  
23 123.4, while appreciated, still places the MBFA at the bottom of the labor market. The  
24 uncontroverted evidence at the factfinding hearing demonstrated that marketplace average  
25 accrual of holiday leave was 142 hours for employees under 20 years' service, and 152 for  
26 employees with over 20 years' service.



AGENCY	HOURS/YEAR
Beverly Hills	132
Culver City	156
El Segundo	140
Newport Beach	144
Redondo Beach	144 (increases to 216 @ 20 yrs.)
Santa Monica	156
Torrance	134
<b>Average</b>	<b>142 (152 @ 20 yrs)</b>

By recommending that the MBFA lose the ability to use holiday leave as time off, thus aligning with only 2 of the 7 surveyed agencies, and increasing the number of holiday hours accrued to a figure that is still the lowest in the market and nearly 20 hours less than the market average, the MBFA believes the neutral factfinder erred.

This factfinding panel member would recommend either maintaining the status quo, or if aligning with the minority of the market by removing the ability to use Holiday leave as time-off, at minimum awarding the MBFA the market average holiday leave accrual rates of 142 hours (under 20 years' service) and 152 hours (20+ years' service).

**B. Civilianize Fire Marshal and Fire Inspector**

a. Factfinder Recommendation

The neutral factfinder recommended adopting the City's proposal with two important caveats. First, that the incumbents serving in the roles of Fire Marshal and Fire Inspector be able to complete their assignments in those positions. Second, that the City provide some assurances to the Association that it does not seek to eliminate positions from the bargaining unit and that it will be working on ways to provide backup coverage equal to or greater to the backup coverage currently provided by the Fire Marshal and Fire Inspector.

b. Dissent

The MBFA again appreciates the obvious consideration the neutral factfinder gave this

1 issue and the measured recommendation he provided. That said, the MBFA believes that  
2 consideration of the criteria in Section 3505.4 merits maintain the status quo.

3 As with each of the City's proposed cuts, the City acknowledges there is no financial  
4 imperative driving its decision. Economically the City is thriving, a fact it did not dispute.

5 Moreover, the majority of City's comparable agencies employ sworn employees in the  
6 Fire Marshall position. And of those, all but Manhattan Beach employ Chief Officers.

7

City	Fire Marshall
Beverly Hills	Sworn (BC)
Culver City	Sworn (BC)
El Segundo	Civilian
Newport Beach	Civilian
Redondo Beach	Sworn (DC)
Santa Monica	Sworn (DC)
Torrance	Sworn (DC)

8  
9  
10  
11  
12  
13  
14  
15  
16 There is valid reason why 5 of the 7 agencies employ sworn personnel in the Fire  
17 Marshall position:

- 18
- 19 • Sworn personnel in the Fire Marshall and Fire Inspector positions bring "field"  
20 experience to their positions in suppression, which enhance the quality of service to the  
21 community.
  - 22 • Sworn personnel working as Fire Marshall and Fire Inspector provide coverage in  
23 emergency situations and in cases of short-notice absences, averting need for overtime  
24 and forced hire backs.
  - 25 • Having sworn personnel on duty in the Fire Marshall and Fire Inspector positions  
26 means there are resources to respond promptly when all other units are tied up on other  
27 calls and/or unable to respond.
  - 28 • Having sworn personnel on duty in the Fire Marshall and Fire Inspector positions  
provide coverage for suppression personnel for attending meetings, training, court

appearances, etc., which averts the need to pay overtime or hire back.

- Having sworn personnel on duty in the Fire Marshall and Fire Inspector positions means there is a coverage when an on-duty engine must suddenly depart for strike team and/or line medic assignments.
- Sworn personnel in fire prevention currently serve a Fire Safety Officer for filming, pyrotechnics and assemblies, which requires a minimum of 2 years' experience as a full-time firefighter, completion of Fire Prevention 1A certification and EMT or CPR training.

Thus, this factfinding panel member would firmly side on maintaining the status quo. If the City Council were to deviate from the tried and test existing practice, then in addition to the two caveats noted in the neutral factfinder's recommendation, this factfinding panel member would also add a third caveat – that the City maintain the existing two sworn positions in 40-hour administrative assignments so their availability to provide the listed benefits, above, is maintained. The current Fire Chief, as well as nearly every one of his predecessors, has advocated for a paramedic coordinator position and training captain positions, which are but two possible options if the council is adamant about converting the fire prevention positions to civilian status.

### III. CONCLUSION

As previously stated, notwithstanding the dissent, above, **MBFA greatly appreciates and accepts the neutral factfinder's draft recommendations and is willing to incorporate them as the foundation for a successor memorandum of understanding**, subject to concurrence of the City Council and ratification by the parties. MBFA looks forward focusing on providing fire safety services to the community in an environment of stability and unity.

Dated: September 8, 2022

Respectfully submitted,

**RAINS LUCIA STERN ST. PHALLE & SILVER, PC**

By: Robert M. Wexler  
Association Factfinding Panel Member



September 8, 2022

**VIA E-MAIL**

**Factfinding Neutral**

Najeeb N. Khoury, Esq.  
P.O. Box 67  
Montrose, CA 91021  
[nkhouryadr@gmail.com](mailto:nkhouryadr@gmail.com)

**Factfinding Panel Member**

Robert M. Wexler, Esq.  
Rains Lucia Stern St.Phalle & Silver  
16130 Ventura Blvd, Ste. 600  
Encino, CA 91436-2553  
[rwexler@rlslawyers.com](mailto:rwexler@rlslawyers.com)

**Re: *City of Manhattan Beach and Manhattan Beach Firefighter's Association,  
IAFF Local 392; PERB Case No. LA-IM-314-M – Factfinding Report***

Dear Mr. Khoury and Mr. Wexler:

The City of Manhattan Beach believes that the positions it asserted during the factfinding hearing on each of the issues are meritorious. However, the City will not submit changes (either concurrences or dissents) to the recommendations of the neutral panel member, Mr. Khoury.

Very truly yours,

LIEBERT CASSIDY WHITMORE

*/s/ Peter J. Brown*

Peter J. Brown

PJB:fg