*Note: The following is a proposal to clean up various sections of the Memorandum of Understanding (MOU). It is without prejudice to substantive proposals involving the same sections of the MOU.*

### **39.6 Discharge**

An employee may be discharged at any time by the City Manager or the Director of Library Services for employees of the Library, or the Executive Director of the Rent Board. If the probationary period has been completed, then such discharge must be for just cause. Any employee who has been discharged shall be entitled to receive a written statement of the reasons for such action. Said written statement shall be provided simultaneously to the Union.

### **39.8.3 Disciplinary Process: STEP 1 – Department Director**

**39.8.3.1 Skelly Conference:** The Department Director (or his or her designee) or for Library employees, the Deputy Director of Library Services (or his or her designee) or for Rent Board employees, the Executive Director, shall meet with the employee and his or her Union representative, or the affected employee may choose to make an appeal in written form.

The Skelly conference is the employee’s opportunity to present his or her side of the story. The Department Director or his or her designee shall issue a Skelly decision sustaining, modifying or rejecting the discipline within ten (10) working days after the completion of the Skelly conference with the affected employee, or if the employee chose to make an appeal in written form, receipt of the written appeal. This shall conclude Step 1 of the Disciplinary Appeal Procedure.

**For Suspensions of Three (3) Days or Less:** If the employee or their Union do not appeal the decision of the Department Director or their designee resulting from Step 1, the disciplinary action shall be implemented in accordance with the provisions of Section 39.5 (Suspension) and the Disciplinary Appeal Procedure will end here.

### **39.8.4 Disciplinary Process: STEP 2 – Appeal of the Decision**

**39.8.4.1 Appeals Filed With:** If the employee or his or her Union is not satisfied with the Skelly decision in the case of suspensions of three (3) days or less, or Skelly recommendation in the case of suspension of more than three (3) days, of the Department Director or his or her designee resulting from Step 1, the employee or the Union may appeal the Skelly action rendered by the department head to the City Manager. The City Manager or his or her designee shall hear the appeal. In the Library, the Board of Library Trustees may designate the Director of Library Services or other designee as the Discipline Appeal Officer. For the Rent Board, the Board of the Rent Board may designate the Rent Board’s Executive Director or other designee as the Discipline Appeal Officer.

**~~For Suspensions of Three (3) Days or Less:~~** ~~If the employee or his or her Union do not appeal the decision of the Department Director or his or her designee resulting from Step 1, the disciplinary action shall be implemented in accordance with the provisions of Section 39.5 (Suspension) and the Disciplinary Appeal Procedure will end here.~~

**For ~~Disciplinary Action of~~ Suspensions of Greater than three (3) days or Discharge:** If the employee or his or her Union do not appeal the Skelly action rendered by the Department Director or his or her designee resulting from Step 1, the disciplinary actions involving suspension greater than three (3) days, salary reduction or discharge will be referred to the City Manager/Director of Library Services/Executive Director of the Rent Board for review. The City Manager/Director of Library Services may review or modify the Skelly action rendered by the Department Director. If the City Manager/Director of Library Services/Executive Director of the Rent Board does not modify the Skelly action rendered by the Department Director, the Skelly action shall be implemented in accordance with the provisions of the Agreement and the Disciplinary Appeal Procedure will end here.

If the City Manager/Director of Library Services/Executive Director of the Rent Board contemplates modification of the Skelly action rendered by the Department Director, the employee and the Union ~~union~~ will be notified in writing of their right to a disciplinary appeal meeting with the Discipline Appeal Officer. Such notice shall be issued within ten (10) working days of receipt of the Department Director Skelly action. The Discipline Appeal Officer will hold a meeting and issue a decision as provided in Section 39.8.4.3 below.

**39.8.5.2 Filing Period:** Such notification of desire to go to arbitration must be filed in writing with the City Manager/Library Director/Executive Director of the Rent Board within thirty (30) days of the conclusion of Step 3 with a copy to the Director of Human Resources. Provided further that the Union shall forward to the City the Union’s portion of the California State Mediation and Conciliation Services (CSMCS) fee within sixty (60) days of receipt of the City Manager’s response. Failure by the Union to meet either the thirty (30) day or sixty (60) day deadline for both referral to Arbitration and payment of the CSMCS fee shall be deemed as a full and complete waiver by the Union to appeal the City Manager decision to Arbitration and the City Manager decision shall be final and binding on all parties.