

**MEMORANDUM OF UNDERSTANDING**

**This MEMORANDUM OF UNDERSTANDING made and entered into this 1<sup>st</sup> day of JULY, 2012.**

**BY AND BETWEEN**

**CITY OF SAN DIEGO**

**AND**

**LOCAL 127, AMERICAN FEDERATION OF STATE,  
COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO**

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## Preamble

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This Memorandum of Understanding (MOU) entered into on **INSERT DATE** by **and between** the City of San Diego “City,” and Local 127, American Federation of State, County, and Municipal Employees, AFL-CIO “Union,” **and** has as its purpose the promotion of harmonious labor relations between the City and the Union.

## ARTICLE 1 - Parties to the Agreement

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This MOU is entered into this 1st day of July **2012**, by and between the City and the Union.

## ARTICLE 2 - Term of Agreement

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The term of this MOU shall commence at 12:01 a.m. on July 1, **2012**; provided, however, that the effective date of all changes affecting payroll shall **commence the first full pay period that begins on or after July 1, 2012**. This MOU shall expire and otherwise be fully terminated at **11:59 p.m.** on June 30, **2013**.

## ARTICLE 3 - Recognition

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- A. Recognition:**  
The City recognizes the Union as the exclusive representative of employees in the Maintenance, Labor, Skilled Trades and Equipment Operator Unit pursuant to the provisions of the Employer-Employee Relations Policy of the City, and applicable state law.
- B. Coverage of Employees**  
This MOU applies to all classifications listed in Exhibit A, and to any new classifications added to Exhibit A during its term.
- C. Union Security**  
No classification shall be removed from the bargaining units exclusively represented by the Union during the term of this MOU, and the City shall not entertain any employee petition which seeks removal from this “represented” status.

## ARTICLE 4 - Provisions of Law

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- A.** This MOU is subject to all current and future applicable federal, state and local laws and regulations. Provided, however, no local law which is enacted in contravention of the provisions of the Meyers-Milias-Brown Act (**MMBA**) shall affect the provisions of this MOU. Departments will not enact regulations which contravene the Articles of this MOU.
- B.** If any part or provision of this MOU is in conflict or inconsistent with applicable provisions of federal, state or local laws or regulations, or is otherwise held to be invalid or unenforceable by any tribunal **or court** of competent jurisdiction, **those** parts or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of **this** MOU shall not be affected.

## ARTICLE 5 - Implementation

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This MOU constitutes a mutual recommendation by the City and the Union, to be jointly submitted to the **San Diego City Council** (City Council) and/or the Civil Service Commission. It is agreed that this MOU shall be binding upon the parties upon:

- A. Ratification by the Union as soon as practicable, following completion of negotiations. The City shall permit employees a reasonable amount of paid time off in order to vote on ratification of negotiations only during the scheduled work day. The Union shall notify Management of the result of the ratification process for the modification and extension of the **MOU** no later than thirty (30) **calendar** days after the conclusion of the meet and confer process.
- B. The City Council's and Civil Service Commission's formal approval by majority vote of the Articles of said MOU as appropriate. However, it is recognized that those articles requiring a change or alteration by the City Council or Civil Service Commission to ordinances, resolutions, rules, policies and procedures shall be given effect only upon completion of the required adoption procedure.

#### **ARTICLE 6 - Reasonable Notice**

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- A. A reasonable effort will be made to provide sixty (60), but not less than thirty (30) calendar days written notice to the Union **of** any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted by the City Council, by the Civil Service Commission or by appointing authorities and the Union shall be given the opportunity to meet with **the appropriate** body or person prior to adoption **as required by law**.
- B. Prior to implementation of any new programs, when it is practical and feasible, the City will give the Union sixty (60), but not less than thirty (30) working days advance notice in writing so that the parties may meet and consult or meet and confer as required by law with the Union on the impact of any such **changes to** programs on wages, hours, and **other terms and conditions of employment**.
- C. In cases of emergency pursuant to the San Diego **City Charter (Charter)**, when the City determines that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with the Union, the City Council or the board or commission of the City shall provide notice and opportunity to meet **with the Union** at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

#### **ARTICLE 7 - Side Letters**

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- A. The current MOU will represent all agreements between the Union and the City including agreements in effect at the departmental level.
- B. All agreements, including department level agreements, from July 1, 1994, to June 30, 2010, will remain in effect.
- C. Effective July 1, 2010, any additional agreements may be made in writing between the Union and the City, only with the approval of the Mayor or designee and the President or designee of the Union.

#### **ARTICLE 8 - Renegotiation**

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- A. In the event the Union desires to meet and confer in good faith on the provisions of a successor **MOU**, it **will** serve upon the City **its written request to commence meeting and conferring in good faith, as well as its written proposals for successor MOU** by January 16 of the final year of this MOU. Upon receipt of **the** written notice and proposals, meet and confer **will** begin no later than February 15, **2013**.

- B. The City agrees to notify the Union by February 3 of the final year of this MOU, of its non-economic proposals and will submit its economic proposals no later than February 15, of the final year of this MOU. If federal or state governments take action that has a direct effect upon the areas which fall within **the scope of representation**, the City may submit proposals concerning these areas at later dates. The parties agree that this MOU **will** be reopened for purposes of negotiating regarding the **Flexible Benefits Plan** value. Any terms and conditions of **this** MOU, not subject to this reopener provision shall remain in force and effect. The impasse hearing will take place in advance of the first reading of the salary ordinance for Fiscal Year **2014**.
- C. The City will request the City Council to schedule an impasse hearing if necessary after 5:00 p.m. on a regular work day in order to permit Union **Bargaining Unit** members the opportunity to attend and testify.
- D. Unless otherwise agreed to, the parties agree that final offers by both parties will be made no later than April 2, **2013**. If an impasse hearing **before** the City Council is necessary, it will be scheduled for April 9, **2013**. The Union agrees to provide the City a written statement of its positions regarding any issues at impasse on April 5, **2013**.
- E. **During the course of this MOU, the City will meet and discuss changes to make DROP “cost free” as defined by the City.**
- F. During the term of this MOU, the parties agree to reopen negotiations when the City proposes a new Long Term Disability Plan.

#### **ARTICLE 9 - Modification and Waiver**

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- A. Laws, regulations, or rules proposed during the life of this MOU shall be reviewed by the City and the Union to determine their effect on this MOU.
- B. It is agreed and understood that each party shall not be required to meet and confer with respect to any matter covered **in** this MOU, except as noted in Article 8 and Article 55 and other portions of the MOU, or when ballot proposals are introduced or considered for introduction, which would have an effect on meet and confer matters, or unless required by a federal or state law which mandates action by the City affecting the provisions **in this MOU**.
- C. Any agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained **in this MOU** shall not be binding upon the parties unless agreed to in writing by all parties, and if required, approved and implemented by the appropriate body.

#### **ARTICLE 10 - Preservation of Unit Work**

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- A. Transfer of Bargaining Unit Work

Except as prohibited by Article 3, Recognition, the City’s decision to transfer unit work for reasons other than labor costs to other employers, to other bargaining units or to other City employees is not subject to meet and confer. However, if the decision to transfer unit work is based on labor costs, then the City will provide the Union with notice and opportunity to meet and confer on both the decision to transfer Unit work and the impact of the transfer on mandatory subjects **of bargaining**. In either instance, prior to implementing the plan to transfer **Bargaining Unit** work, the City will provide the Union with notice and opportunity to negotiate the impact on mandatory subjects **of bargaining**.

## ARTICLE 11 - Management Rights

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- A. The rights of the City include, **but are not limited to:**
1. The exclusive right to determine the mission of its constituent departments, commissions, and boards;
  2. Set standards of service;
  3. Determine the procedures and standards of selection for employment and promotion;
  4. Direct its employees **and** take disciplinary action for just cause;
  5. Relieve its employees from duty because of lack of work or for other lawful reasons;
  6. Maintain the efficiency of governmental operations;
  7. Determine the methods, means and personnel by which government operations are to be conducted;
  8. Take all necessary actions to carry out its mission in emergencies; and
  9. **Exercise** complete control and discretion over its organization and the technology of performing its work.
- B. The exercise of **these** rights **does** not preclude the Union from consulting with management representatives about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment. Management decisions shall not supersede the provisions of this MOU.

## ARTICLE 12 - Copies of the Agreement

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**The City shall provide the Union with an electronic copy of this MOU no later than the effective date of this MOU.** The City agrees to provide one thousand (1,000) free copies of the MOU to the Union **no later than ninety (90) calendar days after the MOU's effectiveness.** The Union may obtain additional copies from the City by reimbursing the City for their cost.

## ARTICLE 13 - Appendices

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The Union may append any Civil Service Commission Rules or Personnel Manual sections it wishes to **this MOU that** it may distribute to its members.

## ARTICLE 14 - Salaries

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- A. General Salary Adjustments Increase
1. Amount of Salary Adjustments  
The parties agree that the salary schedule for Fiscal Year 2010 will be maintained, without any increase or decrease, for **Fiscal Year 2013.**
- B. Special Assignment Pay
1. Special Assignment Pay shall only accrue while the employee is actually performing this special duty, and not while on light duty. **The parties agree there will be no increases to Special Assignment Pay during Fiscal Year 2013.**

2. Sanitation Truck Drivers, who are working alone without a partner and assigned to a one-person (1) route, shall receive, in addition to regular salary, an additional \$2.00 per hour for such assignment. Sanitation Driver I, II, and III's in paid OCA status as a Sanitation Driver II or above shall not be eligible for Special Assignment Pay. Special Assignment Pay shall only accrue while the employee is actually performing this special duty, and not while on light duty or any other assignment.
3. A \$1.25 per hour Special Assignment Pay shall be paid to Painters I during any pay period in which Management assigns lead paint abatement work to be performed.
4. A \$1.25 per hour Special Assignment Pay shall be paid to employees assigned to perform confined space entries. Such Special Assignment Pay shall be for each pay period in which the employee was required to perform one or more confined space entries.
5. A \$1.25 per hour Special Assignment Pay shall be paid to employees, except Pesticide Applicators I, who are assigned to perform duties requiring a Pesticide Applicator's license. Special Assignment Pay shall be for each pay period in which the employee was required to apply pesticides.
6. Employees of the Mount Hope Cemetery who are directed to perform disinterments shall receive \$125.00 Special Assignment Pay for each occurrence.
7. Equipment Operator I's in Public Utilities Department, Wastewater Division, Collection Division, Sewer Maintenance Section who are directed to perform sewer main cleaning shall receive 5% Special Assignment Pay when actually performing sewer main cleaning.
8. Effective July 1, 2010, due to the current economic conditions facing the City and the projected deficit in the General Fund balance in **Fiscal Year 2011** and **Fiscal Year 2012**, the City and the Union agree that the following pay adjustments, which have been negotiated, will not be implemented during the term of this MOU and their implementation will be the subject of future negotiations
  - a. Boat Operator/Senior Boat Operator: 7.5% Special Assignment Pay full-time for U.S. Coast Guard License – Coastal Waters only.
  - b. Electrician and Plant Process Control Electricians: 5% Special Assignment Pay full-time for all persons that hold state certification. Employee is required to obtain license and may use tuition reimbursement as appropriate.
  - c. Fleet Employees Class B License: Special Assignment Pay shall apply on a full-time basis for all other Union employees in the Fleet Division who have obtained a Class B license, are medically certified and are in the Department of Transportation (DOT) Program.
  - d. Mobile Crane Operator: 5% Special Assignment Pay per pay period for licensed persons when directed to perform function by authorized supervisor. Employee is required to obtain and maintain license and may use tuition reimbursement as appropriate.
  - e. Greens Keeper: 9% Special Assignment Pay full-time to avoid attrition and movement to Grounds Maintenance Worker classifications.



- f. Nursery Gardener: Five percent 5% Special Assignment Pay full-time.
- g. **Fleet Technicians:** 5% Special Assignment Pay per pay period when assigned by supervisor to utilize the Incident Management Recovery truck.
- h. Communications: Tower Climbing assignments will receive 5% Special Assignment Pay when performing tower climbing duties per pay period when directed to perform function by authorized supervisor.

C. New Employee Salary Schedule

Employees hired on or after July 1, 1994, will move from “A” step to “C” step after one (1) year at which time an approximate 10% increase will be granted. This salary schedule will remain in place for the duration of the employee’s tenure with the City. Current employees will continue with the present five (5) step salary schedule.

D. Voluntary Certification Pay

1. **Employees in classifications which require a Certified Distribution Operator certification from the State of California, Department of Health Services will not be eligible for certification pay for Certified Distribution Operator certification at the level required for their position/classification.**

2. Certified Distribution Operator Certification Pay

a. Employees in the Public Utilities Department, Water Branch in the classifications listed below under “Eligible Classifications” at the end of this Section (a) who obtain and maintain a Certified Distribution Operator certification, from the State of California, Department of Health Services will be compensated at the following rates:

- D3: \$.30/hour
- D4: \$.55/hour
- D5: \$.80/hour

Eligible Classifications:  
 Assistant Reservoir Keeper  
 Equipment Technician I, II, III  
 Laborer  
 Plant Technician I, II, III  
 Reservoir Keeper  
 Tank Service Technician I, II  
 Utility Worker I  
 Water Utility Worker

b. Employees in the Public Utilities Department, Water Branch in the classifications listed below under “Eligible Classifications” at the end of this Section (c) whose positions require a Certified Distribution Operator (CDO) Grade D2 certification from the State of California, Department of Health Services, and obtain a CDO certification higher than that required for their position, will be compensated at the following rates:

D3: \$.30/hour

D4: \$.55/hour

D5: \$.80/hour

Eligible Classifications:

Water Systems Technician I

Water Systems Technician II

Water Systems Technician III

- c.** Employees in the Public Utilities Department, Water Branch in the classifications listed below under “Eligible Classifications” at the end of this Section (d) whose positions require a CDO certification, Grade D3, from the State of California, Department of Health Services, and obtain a CDO certification higher than that required for their position, will be compensated at the following rates:

D4: \$.55/hour

D5: \$.80/hour

Eligible Classifications:

Assistant Water Distribution Operator

Water Distribution Operator

Water Distribution Operator Trainee

- d.** To receive CDO certification compensation, employees must hold permanent, full time status and meet employee performance standards at the time the certification pay is awarded.
- e.** Employees who hold either Temporary or Interim Distribution Operator certification from the State of California, Department of Health Services will not be eligible for compensation.
- f.** Employees in the Public Utilities Department, Water Branch must maintain a CDO, Temporary or Interim certification from the State of California, Department of Health Services as required for their positions or classifications. Employees with interim certifications must become CDO at the level appropriate for their classification **or** position no later than January 1, 2007. The parties agree to a joint study on issues related to the D2 certification and employees who do not achieve the certification as required by the state. No adverse action to current employees who have not yet obtained the D2 certification until the study is completed.
- g.** Employees who are under filling a position will not be eligible for compensation for obtaining the CDO certification required for the journey (top) level of their classification series.
- h.** Employees in the Public Utilities Department, Water Branch are required to provide a copy of their CDO certification from the State of California, Department of Health Services, to the appropriate staff as defined in Public Utilities Department policies to be eligible for and receive voluntary certification pay. Employees whose certifications expire will not be paid certification pay until a copy of the renewed CDO certification is presented to the appropriate staff.

2. The City agrees to implement Voluntary Certification Pay (VCP) for employees in the Plant Technician series. Employees in the Plant Technician series who successfully complete Mechanical Technology Certification from the California Water Environment Association (CWEA), shall receive the following certification pay:

Grade II Certification	=	\$.55/hour
Grade III Certification	=	\$.80/hour
Grade IV Certification	=	\$1.05/hour

3. Employees in the classifications listed in Exhibit B (excluding those in Sections 4 and 5 below) who obtain and maintain a Grade II certification in a job-related specialty from the CWEA will be eligible for an additional compensation of \$.55 per hour. Employees who obtain and maintain a Grade III certification will be eligible for \$.80 per hour maximum compensation. Employees who obtain and maintain a Grade IV certification will be eligible for \$1.05 per hour maximum compensation.
4. Employees in the classification of Instrumentation and Control Technician in the Public Utilities Department, Water Branch, or any other division within the Public Works Business Center in which the certificate is deemed job-related by Management, who obtain and maintain a Level I certification from the International Society of Measurement and Control will be eligible for \$.55 per hour additional compensation. Employees who obtain and maintain a Level II or Level III certification will be eligible for additional compensation of \$.80 per hour and \$1.05 maximum compensation respectively.
5. Employees in the Power Plant Operator series will be eligible for \$.55 per hour compensation for the possession of the Class II Stationary Engineer Certification issued by the National Institute for Uniform Licensing of Power Engineers. \$.80 an hour maximum compensation will be paid to employees who obtain and maintain the Class I certification. Employees who obtain and maintain the Chief Stationary Engineer Certification will be eligible for additional compensation of \$1.05 per hour.
6. In order to be eligible for the additional compensation listed in one (1) through five (5) above, employees must hold permanent status (have passed initial City-wide probation), and meet employee performance standards at the time the differential is awarded.
7. Possession of the Level II certification from the International Society of Measurement and Control may be required for classes listed in Section four (4) above, three (3) years from the date of implementation, prospectively from that date for new employees.
8. Possession of the Class I Stationary Engineer certification for classes listed in Section five (5) above, may be required within three (3) years from the date of implementation, prospectively from that date for new employees.
9. The City agrees to make available to employees study materials and provide reasonable assistance necessary for the successful acquisition and maintenance of certifications.
10. During the term of this MOU the City and the Union will jointly study health and safety issues related to employees who are required to enter confined spaces. The study will include consideration of “confined spaces entry” certification for future inclusion into this program, as well as recognition of these duties through existing City recognition and awards programs.

11. Compensation may be provided for multiple certifications subject to the following :
  - a. The employee must request approval for multiple certification in writing to the Human Resources Director, via his or her Deputy Director;
  - b. The request must describe the responsibilities and duties of his or her position that would be directly and significantly enhanced by multiple certification;
  - c. The Human Resources Director will respond with an approval or denial. The decision of the Human Resources Director will be final.
12. Employees in the **Master Fleet Technician, Fleet Technician, Motor Service Technician** and **Assistant Fleet Technician** classifications shall be compensated incrementally for obtaining and maintaining their ASE certifications. The employee shall receive a total of \$.55 per hour upon obtaining the first two certifications toward the completion of the master level; a total of \$.85 per hour upon completing the next two, and a total of \$1.15 per hour after completing the next two. Upon obtaining the master level ASE certification for auto/light trucks or medium/heavy trucks, the additional pay shall be a total of \$1.75 per hour.
13. Employees in the Public Utilities Department, Water Branch who obtain and maintain the Backflow or Cross Connection certification shall be eligible to receive the additional compensation of \$.50 per hour. Employees must use the certification as part of their employment as determined by the department to be eligible for the additional compensation.
14. Painters in the Public Utilities Department and in the **Public Works** Department who perform corrosion control painting and who obtain and maintain the Corrosion Control Painter certification shall receive additional compensation of \$.75 per hour.
15. Wastewater Plant Operators in the Public Utilities Department, Wastewater Branch who obtain and maintain the CWEA Grade III, IV or V certification shall be eligible to receive additional compensation of \$.50, \$.75 and \$1.00 per hour respectively. Employees receiving this certification pay must agree to accept mandatory out of class assignments.
16. Water Plant Operators in the Public Utilities Department, Water Branch who voluntarily obtain and maintain a Certified Treatment Operator T-4 or T-5 certification from the State of California, Department of Health Services, shall be eligible to receive additional compensation of \$.75 and \$1.00 per hour respectively. Employees receiving this certification pay must agree to accept mandatory out of class assignments.
17. Welders who obtain and maintain certification from the American Welding Society, or any other nationally recognized certification agency, shall be eligible to receive additional compensation of \$.55 per hour for each “process.” Upon completion of all three “processes” the additional compensation shall be a total of \$1.75 per hour.
18. Body and Fender Mechanics and Equipment Painters who obtain and maintain the ASE certification for Collision Repair/Refinishing shall be eligible to receive additional compensation of \$.40 per hour for each of the four (4) certifications/tests. Upon obtaining all four (4) certifications, which is the Master’s level, the compensation shall be a total of \$1.75 per hour. Body and Fender Mechanics and Equipment Painters who

obtain and maintain the ASE certification for Damage Analysis & Estimating shall be eligible to receive additional compensation of \$.45 per hour.

19. **Fleet Technicians** in the **Public Works** Department who obtain and maintain the California Fire Mechanic Academy Master's certification Level III, shall be eligible to receive additional compensation of \$.50 per hour.

20. Employees must use the certifications or be in a position where it may be utilized in the performance of their duties as determined by the department to be eligible for the additional compensation.

21. The parties agree to re-open this MOU for the sole purpose of considering a future Union proposal on certification pay for the classification of Electrician, with the understanding that any agreement between the parties would require authority from the Mayor and/or City Council.

E Bilingual Pay - \$.70 per hour in addition to regular salary; refer to the Annual Salary Ordinance and Personnel Manual Index Code H-1.

F. Shift Differential - 5% (general) and 10% (special); refer to Personnel Manual Index Code H-6.

G. Stand-By Pay - 5%; refer to Personnel Manual Index Code H-7.

**H.** A \$.50 per hour special assignment pay shall be paid to any employee who is directed to obtain a Class B license or who possesses a Class B license and is directed to drive a commercial vehicle requiring the Class B license when the possession of a Class B license is not a minimum requirement for the employee's classification. Employees in the Public Utilities Department, Water Branch Water Systems Technician series will not be eligible for the Special Assignment Pay as the Class B License is a requirement of the classifications and compensation for the license is included on the base salary. The special assignment pay shall be paid for each day the employee was directed to and did drive a commercial vehicle. The City agrees to pay for the medical and licensing fees required to obtain the Class B license. This section shall also apply to the class A license. Motor Sweeper Operators are eligible to receive this pay. **Fleet Technicians**, Motive Service Technicians and **Assistant Fleet Technicians** will receive Class B license pay on a full-time basis.

## **ARTICLE 15 - Out-of-Class Assignments**

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**A.** Employees represented by the Union shall be compensated for out-of-class assignments (OCA) on the thirty-first (31<sup>st</sup>) continuous day of assignment or on the thirty-first (31<sup>st</sup>) day of cumulative OCA in the same classification. Out-of-class assignments shall accrue on a fiscal year basis only. Accumulated days will not be carried into the next fiscal year.

**B.** Appointing Authorities should take into consideration all OCA time worked in a class when considering at what step to place an employee who is permanently promoted to a higher classification.

**C.** The City agrees that all OCA, regardless of **the** number of hours worked in a pay period, will be recorded in the employee's personnel file.

**D.** Appointing Authorities will give first consideration for appointment to an OCA to employees on the eligible list for the class in which a vacancy occurs, except in those cases in which the

specialized needs of the assignment or a requirement for an employee with specialized skills necessitates appointment of an employee not on the eligible list.

- E. The City has discretion to determine when OCA will be made. The City agrees to provide equal opportunity on a rotational basis for OCA to persons on the eligible list and will consider the seniority, availability, training and job performance of employees when making such assignments. In the event that there is no eligible list, the Appointing Authority will provide equal opportunity on a rotational basis to eligible employees and will consider seniority, availability, training, and job performance in making **OCA**. If the OCA lasts over five (5) days, an employee's current shift or station assignment shall not preclude their eligibility for OCA.
- F. **OCA may** not exceed thirty (30) consecutive **calendar** days nor shall a series of OCA to any one vacant position exceed thirty (30) calendar days without approval by the Personnel Director. The Personnel Department (**Personnel**) shall provide notice to the Union of assignments that are expected to last longer than thirty (30) days when **OCA** impact Union represented employees. OCA shall not be made **to** avoid filling a position **with** a limited or permanent appointment.
- G. Eligible City employees who are performing and compensated for OCA both the last scheduled workday before and the first scheduled workday after a fixed holiday shall be compensated **for the holiday** at the **appropriate OCA rate of pay**.

#### **ARTICLE 16 - Asbestos Containment Team**

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- A. Employees assigned to the Asbestos Containment Team (**Team**) shall receive additional **compensation of \$1.25** per hour while performing asbestos containment work. **Time spent in training and team meetings is considered asbestos containment work**. Assignments to the Team will be made on a voluntary basis. Members of the Team will receive the above premium pay for the entire pay period when assigned to **asbestos containment work**. An officer of the Union Executive Board will be provided with input in the development of an Asbestos Containment Program and an opportunity to monitor the work of the Team on an occasional basis.
- B. Employees performing technical work only in an established containment area shall wear respiratory protection and any other safety equipment **required** by the Asbestos Containment Program staff. In addition, assignments made under **these** conditions shall be mandatory and said employees shall be eligible for the additional pay for time worked in containment areas. Prior to wearing a respirator, all employees shall receive respirator training and a medical clearance.
- C. In addition, employees performing technical work only in non-containment areas where asbestos is present shall wear respiratory protection and any other safety equipment **required** by the Asbestos Containment Program staff. These employees will be compensated the additional pay, and assignments will be mandatory.

#### **ARTICLE 17 - Hazardous Duty**

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- A. The City shall abide by all OSHA, CAL-OSHA and all other applicable federal and state codes relating to employee safety while on the job.
- B. No employee will be disciplined for reasonably refusing to perform an unsafe act or job.
- C. Upon the request of the Union, the City's Safety Officer shall make **a copy of all applicable safety rules and regulations** available to the Union.

- D. The City agrees to provide to the Union **copies** of any changes in written policies related to employee safety within ten (10) working days of the effective date of the change. Copies may be provided sixty (60) days prior to the effective date of the changes when it is practical and feasible to do so.
- E. Within the guidelines of federal, state and City safety regulations and operational requirements, the City agrees to make reasonable accommodations for currently bearded employees in assignments designated as “respirator needed.”

## **ARTICLE 18 - Stadium Stand Moves**

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- A. Available positions on the stadium stand **moves** will be made on the following basis: full-time status will have priority over hourly; past experience on stand moves; attendance and job performance; and seniority at the Stadium.
- B. All full-time employees who work a full stand move (one-way move of the stands) shall receive fifteen (15) hours of regular time plus seven and one half (7.5) hours of premium time for a total of twenty-two and one-half (22.5) hours. Employees who do not work a complete stand move shall be paid for the actual hours worked plus the appropriate premium overtime, except employees who are late.
- C. Hourly employees will receive fifteen (15) hours **of straight pay** and the standard procedure for calculating premium overtime shall be **used**, i.e. if **an** employee works more than forty (40) hours in the work week then **he or she** will receive premium time.
- D. Employees shall be provided a meal and a one (1) hour meal break. Employees are not permitted to leave the Stadium premises during this meal break or at any other times **while they are working on a stand move**.
- E. Employees shall be provided with safety shoes, hard hat, and gloves and **are** required to wear them at all stand moves. Employees must also wear long pants. Failure to be properly dressed or follow proper safety procedures will result in appropriate disciplinary action being taken. Employees shall immediately report any unsafe conditions to the Stand Move Manager(s).
- F. **Wherever possible**, employees scheduled to work a stand move may have their regular work schedule adjusted so that they do not work at least eight (8) hours prior to or eight (8) hours after a stand move. This may result in an employee being scheduled to work four/ten (4/10) hour days.
- G. All employees who are on the stand **move** crew shall be required to work all of the stand moves, except in the case of illness which is covered in **section J**. Employees who fail to report for a stand move shall be given appropriate disciplinary action which may include removal from all future stand moves. Employees may request to be excused from a stand move provided that five (5) days notice is given, however the final determination shall be at the sole discretion of the Stand Move Manager(s).
- H. The work performance of an employee during a stand move shall be reflected on an employee’s regular performance evaluation. Employees shall follow and take direction from the Stand Move Manager(s) and the appointed crew leader. Any employee **who** displays behavior that is disruptive to the stand move shall be appropriately disciplined.
- I. Stand move employees shall report to work at the East Tunnel field floor entrance at the assigned time and shall sign in with the Stand Move Manager(s). Employees who are late more than one

(1) hour and eventually report to work may be sent home without pay, or may be given a written reprimand that shall be placed in their personnel file, or may have the number of hours paid for the stand move reduced. The number of hours to be reduced shall be a ratio of the time late to the actual hours worked on the stand move multiplied by the standard fifteen (15) hours pay.

- J. Employees who are ill and cannot report to work must contact the Stadium Security Office at **(619) 525-8267** and speak with either the Stand Move Manager(s) or the Stadium General Manager as soon as possible. Employees who are ill, and do not give at least eight hours notice prior to the start of the stand move, and **for whom** this is the second **absence due to** illness, must provide a doctor's note to the Stand Move Manager(s) when they return to work which indicates that they were unable to work on that day. Failure to bring in a doctor's note will result in an employee being given appropriate disciplinary action which may include removal from all future stand moves.
- K. Employees shall not leave the field area until the Stand Move Manager(s) have determined that all work has been completed. Employees will be required to sign out.

## **ARTICLE 19 - Employee Incentives**

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### A. Exceptional Merit Cash Payment

1. The City may grant an **Exceptional Merit Cash Payment** to any employee at "E" step that meets standards on **his or her** most recent **Performance Evaluation**. It is understood and expressly agreed to by the parties to this MOU that any employee receiving a payment under this provision shall not acquire any future rights to receive any future payment beyond that employee's base salary.
2. The Union may discuss problems in the Exceptional Merit Cash Payment Program with the Human Resources Department.

### B. Exceptional Merit Increase

Employees with a meets standards performance report may be granted an Exceptional Merit Increase to any step within the salary range.

### C. Discretionary Leave

The Appointing Authority may grant an employee with a meets standards **Performance Evaluation on his or her** most recent performance report up to three (3) Discretionary Leave days in recognition of **exceptional** performance.

## **ARTICLE 20 - Call Back Pay**

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An employee, who has been released from work and has left the work premises and is called back to duty, shall be paid for the reasonable estimate of the time required for **the** employee to travel from and to his or her residence and the work area and for the time the employee actually works. The total time of call back pay, including travel time, shall not be less than four (4) hours, and shall be computed at the employee's premium overtime rate. This section does not allow for the stacking of pay for multiple calls back to duty within a single four hour period.



## **ARTICLE 21 - Payroll Deductions**

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- A. It is agreed that Union dues shall be deducted bi-weekly by the City from the **salaries** of employees when **the deductions are** authorized by **City Council Policy 300-06**, Employee-Employer Relations Policy, section VI (B). Remittance of the aggregate amount of all **deductions** shall be made to the Union by the City bi-weekly at the conclusion of each pay period in which **Union** dues and deductions were deducted.
- B. Dues deduction **are** for a specified amount and shall be made only upon the voluntary written authorization of the member. Dues deduction authorization or cancellation shall be made **on** clearly marked cards provided by the City or the Union. If an employee submits a payroll deduction authorization change to the City which has not been processed by the Union, the City will forward a copy of the notice to the Union promptly. The City shall continue to deduct dues until such time that the Union notifies the City of a deduction change authorization.
- C. **Payroll authorization forms may, at the election of the Union, include a provision that the authorization is for a specific term. The responsibility to enforce this provision lies solely with the Union. The City will assume all costs for design and printing of the form with Union concurrence and make available sufficient quantities at the Union's request.**
- D. When a member is in a nonpay status for an entire pay period, no dues **deduction** will be made to cover that pay period from future earnings nor will the member deposit (with the City) the amount that would have been withheld if the member had been in a pay status during that period. In **the** case of an employee who is in a nonpay status during only a part of the pay period and the salary is not sufficient to cover the full **dues amount**, no deduction shall be made.
- E. The Union shall indemnify, defend, and hold the City harmless against any claims or suits instituted against the City contesting the check-off of Union dues. In addition, the Union shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.
- F. During the term of this MOU, the City and the Union shall collaborate and cooperate to encourage employees to fully utilize electronic deposit of their paychecks.
- G. The City shall instruct its departments to issue payroll checks and statements in a confidential manner.

## **ARTICLE 22 - Annual Leave and Compensatory Time**

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- A. Both parties agree to the current regulations provided in Personnel **Manual Index Codes I-2** and **I-3**.
- B. Employees on authorized leave shall have the option of using accumulated compensatory time prior to charging any time off with pay to any other account.
- C. Management approval of leave requests shall be reasonable in order to allow employees to utilize accrued leave as time off from work.
- D. Once a vacation has been requested and approved it shall not be changed except by mutual agreement or in case of emergency. In the case of rescheduling due to an emergency, the vacation will be rescheduled immediately.

- E. In the event the employee terminates for any reason, the employee shall be paid in full for all unused annual leave credits. Unused accrued leave shall be paid to employees on the next scheduled pay day following employment separation.
- F. Employees on approved annual leave, compensatory time off, or industrial leave, shall have **leave** time counted as time worked for purposes of benefit computations.
- G. If a department approves a scheduled leave request and subsequently **rescinds the approval**, resulting in an employee losing leave credits because of going beyond the accrual limit, credits lost would be reinstated for a period of three months during which **time** the department would mandate a leave for the employee.
- H. As **far as** practicable, employees should be permitted to schedule annual leave at times most acceptable to the employee. In larger departments or divisions, the choice of vacation times should be **scheduled** according to seniority.
- I. Overtime will be paid or compensatory time given at the discretion of the Department Head subject to the availability of funds and workload considerations, and in accordance with the provisions of Personnel **Manual Index Code H-4, Overtime Compensation..**
- J. Should the City for good and sufficient reason, judge that an employee is abusing the sick leave or family leave provision, the City may request a bona fide doctor's statement from the employee to substantiate an illness. The parties agree that the City will apply this sick leave policy in a fair and equitable manner City-wide.
- K. **Compensatory time may be accumulated up to a maximum of one hundred and twenty (120) hours during the fiscal year. However, accrued** compensatory time shall be reduced to forty-five (45) hours **on June 30 of** each year unless an exception is granted by the Human Resources Department. This time frame may be modified in exceptional circumstances. However, based on workload and operational considerations, Department Heads or **their** designees may set a lower mid-year accumulation limit after meeting and discussing the proposed limit with the Union. **Overtime** will be paid or compensatory time given as outlined in **paragraph I**. Compensatory time may be accumulated beyond forty-five (45) hours during the fiscal year as long as the above provisions are complied with. The parties agree to study, during the term of the MOU, the equitable application.
- L. The maximum accumulation of annual leave for employees with fifteen (15) or more years of service is seven hundred (700) hours. The maximum accumulation of annual leave for employees with less than fifteen (15) years of service, whose hire date is prior to July 1, 1993, is six hundred (600) hours. For employees hired on or after July 1, 1993, the maximum accumulation of annual leave is three hundred and fifty (350) hours.
- M. Employees may receive maximum pay-in-lieu of annual leave of one hundred and twenty-five (125) hours per fiscal year.
- N. Employees who reach their maximum permitted accumulation of annual leave on their anniversary date shall cease to accrue additional annual leave. Employees who expect to be in this situation may submit a written plan by which to reduce excess leave which will include time off and pay-in-lieu up to one hundred and twenty-five (125) hours per fiscal year as necessary. If the Appointing Authority denies the specific time off requested and provides no alternative time off which is acceptable to the employee, this cease to accrue provision shall not apply until such time as the employee is granted and takes the time off. It is the City's intent to accommodate

employees' requests to use annual leave and avoid any loss of this benefit. Once an employee reduces his or her annual leave to a level below the maximum permitted on **his or her** anniversary date, he or she shall immediately begin to accrue additional leave.

- O.** Leave provisions included under **paragraphs P and Q** will be accounted for separately.
- P.** Pre-approved annual, sick, or compensatory leave properly used for personal, family or dependent illnesses should not be subject to disciplinary action.
- Q.** Approved unscheduled annual or sick leave properly used for family, dependent or **domestic partner** illnesses shall be considered as a separate category when reviewing employee performance with regard to attendance and/or absenteeism issues. Should the City, for good and sufficient reason, determine that an employee is abusing this leave provision, the City may request a bona fide doctor's statement from the employee to substantiate illness.
- R.** Employees are covered under the Family Medical Leave Act (FMLA) effective February 5, 1994. Eligible employees are entitled to take up to twelve (12) weeks of leave each year for medically related reasons such as the birth or adoption of a child, to care for an immediate family member with a serious illness, or for the employee's own serious illness. Eligible employees are those with twelve (12) months of cumulative service with the City who have worked at least half time for the past year. All FMLA eligible absences from work will count against the twelve (12) week period. The City will be required to provide group health coverage to the employee at the same level and conditions as for similarly situated active employees. Hourly employees do not receive paid health benefits.
- S.** The City agrees to conduct a comprehensive review of the current sick leave use policies in consultation with the Labor Management Committee, with a goal of improving consistency and equity.

#### **ARTICLE 23 - Vacation Schedule**

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- A.** Appointing Authorities are responsible for arranging vacations so that adequate personnel are available to carry on necessary City work.
- B.** Insofar as is practicable, employees should be permitted to schedule vacations at times most acceptable to the employee. Vacations shall be selected by employees within each division, section, or unit, as is applicable, based upon their seniority by class within the department. Employees who are transferred at their request, or promoted, may be required to modify their scheduled vacations.
- C.** Employees should be encouraged to take regular annual vacations but they shall not be required to take vacations against their will. Employees may accumulate vacation time in accordance with this MOU.
- D.** Any existing vacation scheduling method that is satisfactory with the employees shall remain in effect for the duration of the contract. This is in lieu of the above-mentioned scheduling method.
- E.** All departments shall post a current on-going vacation schedule, including any changes to the schedule.

## ARTICLE 24 - Holidays

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### A. General

1. Pursuant to San Diego Municipal Code section 21.0104, except where otherwise specifically defined and provided in this MOU, the holidays in the City are:

a. Fixed Holidays:

- 1) January 1
- 2) Third Monday in January known as “Dr. Martin Luther King, Jr.’s Birthday”
- 3) Third Monday in February, known as “**Washington’s Day**”
- 4) March 31, known as “Cesar Chavez Day”
- 5) Last Monday in May, known as “Memorial Day”
- 6) July 4<sup>th</sup>
- 7) First Monday in September, known as “Labor Day”
- 8) November 11, known as “Veterans’ Day”
- 9) Fourth Thursday in November, known as “Thanksgiving Day”
- 10) December 25
- 11) Every day appointed by the City Council for a public fast, thanksgiving, or holiday.

If January 1, March 31, July 4, November 11, or December 25 falls upon a Sunday, the Monday following is the **City-observed** holiday. **If any of the dates listed in this section** fall on a Saturday, the preceding Friday is the **City-observed** holiday.

b. Floating Holiday

Each eligible employee available for a duty assignment on the first day of the fiscal year (as defined in Personnel **Manual Index Code H-2**) shall accrue credit to equal the hours worked in the employee’s shift up to ten (10) hours. Each employee accruing such **time must schedule his or her floating holiday** to comply with the following conditions:

- 1) Schedule prior to June 1 of the fiscal year earned.
- 2) Take off in a one (1) time absence before the last day of the last full pay period in June.
- 3) Take at a time convenient to the employee’s Appointing Authority.

### B. Work on Fixed Holidays

In the departments required to maintain minimum staffing on a Fixed Holiday, the City will attempt to fill necessary staffing needs by seniority on a voluntary basis. Where there are insufficient volunteers, the City will use inverse seniority in making mandatory assignments.

Employees who are scheduled to work a shift of nine (9) or more hours on a fixed City holiday, shall be credited with one (1) or more additional hours of Floating Holiday time respectively, for use on that holiday.

### C. Work on Fixed Holidays at City Landfills

1. The parties recognize the City’s right to operate the landfill on the following fixed holidays:

- A. Dr. Martin Luther King, Jr.'s Birthday
  - B. **Washington's Day**
  - C. Memorial Day
  - D. **July 4<sup>th</sup>**
  - E. Labor Day
  - F. Veterans Day
  - G. Cesar Chavez Day
2. All employees **who** work on the referenced holidays will be guaranteed their regular work shift at premium overtime rates so that they will receive holiday pay plus premium overtime pay for hours worked.
  3. Work on holidays **is** voluntary except where the number of volunteers is insufficient to meet the needs of the City. No employee shall be threatened, coerced or otherwise compelled to work on a holiday except as specified below. An employee who volunteers to work on a holiday may not change this schedule within ten (10) working days of the holiday unless the employee finds a replacement.
  4. Where the number of volunteers to work on a holiday is insufficient to meet the needs of the City, the City can compel employees in the landfill to work on said holidays on the basis of inverse seniority.
    - A. The City shall maintain and have readily available to the Union and its members a seniority list of employees in the landfill. **The** seniority list shall list employees in the landfill in order of overall City seniority.
    - B. After the supply of volunteers to work on a holiday is exhausted, the City may require the least senior available employee(s) in the landfill (on the basis of overall City seniority) to work that holiday in order to fill its needs.
    - C. With each succeeding holiday, those employees **who** have been required to work a holiday within the term of this MOU, shall not be required to work an additional holiday, unless and until all employees in the landfill have been required to work a holiday.
  5. If the City determines that the landfill must be open on additional holidays, it will meet and consult or meet and confer as required by law. The City also has a right to determine the appropriate staffing levels at the landfill.
  6. At City landfills, when a worksite is closed for a holiday not formally recognized by the City (e.g. Easter) which falls on an employee's regularly scheduled work day, the City may either provide work on that day, or make alternative hours available within that work week.
- D. The drivers in the Environmental Services Division, on a 4/10 schedule, **are** eligible for ten (10) hours of holiday pay when the holiday falls on their Regular Day Off (RDO). This is being done to ensure that a driver receives forty (40) hours of compensated pay when a holiday falls on a regularly scheduled day off due to the work schedule employed in the Collection Services Division. After a holiday, the collection schedule is shifted one day out, and drivers and supervisors are required to work Saturday. As an example, if a holiday falls on a Monday and that is the regularly scheduled day off for a driver, the employee would be eligible for ten (10) hours of holiday pay for Monday, be off work on Tuesday **as their RDO**, because the collection

schedule has shifted out by a day and Monday's trash is being collected on Tuesday. Because the driver in this example does not have a Monday route schedule, he/she is off on Tuesday and will then work Wednesday, Thursday, Friday, and Saturday. The standard pay week goes from Saturday through Friday. If the driver is not compensated for ten (10) hours of pay for the holiday, his or her pay check would be two (2) hours short of a forty (40) hour week.

## **ARTICLE 25 - Bereavement Leave**

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Paid Bereavement Leave of up to three days is available upon the death of an employee's spouse, father, mother, brother, sister, son, daughter (**son or daughter to include: step-, foster, or adopted**), or state-registered domestic partner, with a limit of one eligible death per fiscal year. Proof of death (**death certificate, obituary notice, funeral program, etc.**) **must be provided in order to receive Bereavement Leave, which is in addition to Annual Leave, and must be submitted within 30 calendar days of when the employee returns to work.**

## **ARTICLE 26 - Military Leave**

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Military Leave for members of the Union will be administered in accordance with Personnel Manual **Index Code I-10, Military Leave**. The Union agrees that the City Council may determine to extend these benefits beyond what is provided in **Index Code I-10** in cases of national emergencies without an obligation to first meet and confer.

## **ARTICLE 27 - Time Off for Blood Donation**

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An employee shall receive paid release time, not to exceed two (2) hours, when he or she donates blood at the annual City blood drive or in response to an emergency request from the **San Diego Blood Bank**. The City shall release the employee for the actual time the employee spends in any travel to and from the blood donation site, as well as for the time spent at the site. **Paid release time cannot exceed two hours.** The employee **must** submit his or her "blood receipt" to the payroll clerk as verification of the donation. This Article also **applies** to bone marrow testing.

## **ARTICLE 28 - Catastrophic Leave Plan**

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### Purpose

Establish a City administered **Catastrophic Leave Plan (Leave Bank)** permitting City employees to assist other City employees who face extended leaves without pay due to a catastrophic occurrence in their lives. For the purpose of this plan, a "catastrophic occurrence" is defined as any event that would qualify the employee under the Family Medical Leave Act as determined by the Human Resources Director. Catastrophic leave coverage shall be extended to events affecting domestic partners provided that a City of San Diego Affidavit of Domestic Partnership has been submitted. Catastrophic leave determinations are non-grievable.

### Procedures

- A. 1. The employee must have exhausted or expect to exhaust his **or** her accrued leave (to be verified by the department payroll specialist **in accordance with state and federal law**) of a qualifying event in order to establish a **Leave Bank**.
  - a. If an employee is diagnosed as terminally ill, a **Leave Bank** may be established without meeting this requirement. In such cases, the donated leave will be paid out **when the employee leaves work due to illness**. A recipient's total annual leave balance including donated leave cannot exceed two thousand eighty (2080) hours.

2. The employee has received approval for an unpaid leave of absence from his **or** her Department Head.
- B. Requests to establish a **Leave Bank** for receipt of donations will be processed by the Human Resources Department.
1. An eligible employee will submit a completed “Request to Establish Catastrophic Leave Bank” form to the Human Resources Director, accompanied by:
    - a) A medical statement from the attending physician, including a brief statement of the nature of the illness or injury and an estimated time the employee will be unable to work, or other appropriate documentation supporting the request.
    - b) Evidence of the Department Head’s approval of leave of absence.
- C. Donations of annual leave may be made to an employee eligible for catastrophic leave. The donor department will be billed for the dollar amount of the donor’s annual leave donation.
1. Donations of leave will be strictly voluntary; the identity of **Leave Bank** donors will be held in absolute confidence.
  2. Employees may only donate accrued annual leave.
  3. Donations may be made in whole hour increments. There is no tax benefit to the donor.
  4. Donors must have an overall annual leave balance of 160 hours remaining after donated time has been deducted.
  5. Once donated to an individual, donated leave cannot be reclaimed by the donor.
  6. Employees wishing to donate time **must** complete a “Confidential Authorization for Catastrophic Leave Donation” form and submit **it** to their department Payroll Specialist who will:
    - a) Verify that **the** donating employee has the minimum required leave balance 160 hours;
    - b) Convert the donated time to dollars at the hourly rate of the donor and subtract **the donated time** from **the donor’s** designated leave category; and
    - c) Forward **the donation authorization form** to the Human Resources Director for tracking and submission to the **City Comptroller**.
    - d) Donation authorization forms which do not contain all requested information **will** not be processed.
- D. Upon receipt of donation authorizations, the **City Comptroller will** take the following action:
1. Convert donated dollars as computed above to hours at the hourly rate of the recipient, and add **the donated hours** to **the** recipient’s annual leave balance. **The** recipient will be taxed for the leave when **it is** taken.
  2. Retain a confidential file of donation authorizations.

3. All deductions (e.g. health premiums, parking, credit union, union dues, etc.) which have previously been authorized by the recipient will be made unless notified in writing by the recipient to cancel deductions.
- E. Donated time is treated as annual leave accrued by the recipient of the donation. Payments up to eighty (80) hours per pay period will be made to the recipient until the donated leave has been exhausted.
1. Donated time does not alter the employment rights of the City or the recipient, nor extend or alter limitations otherwise applicable to leaves of absence or annual leave, except as noted in this Article.
  2. Employees who are **using** donated annual leave hours will continue to accrue annual leave in accordance with Personnel Manual **Index Code** I-2, Annual Leave.

## **ARTICLE 29 - Retirement**

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- A. Benefit Changes Prior to July 1, 2005
1. High One-Year Basis for Final Compensation
    - A. Retirement benefits for General Members, hired before July 1, 2009, shall be based upon the “highest one-year” annual base compensation.
  2. Internal Revenue Code (IRC) Section 415 Amnesty Provisions
    - a. In order to preserve CERS’ Tax qualified status, Union and the City mutually agree to adopt the “amnesty” or “grandfather” provisions of IRC Section 415 (b) (10).
  3. A five year purchase of service credit provision is established effective January 1, 1997. Under this provision, a Member, hired before July 1, 2005, may purchase up to five years of service credit by paying both employee and employer contributions in an amount and manner determined by the San Diego City Employees Retirement System Board to make the System whole for such time. In addition, members retiring on or after January 1, 1997, may purchase probationary periods, military and veterans code leaves, waiting periods for the 1981 Pension Plan, actual time worked hourly or part time, special leaves without pay occurring prior to January 1, 1997, the difference in time between part time and full time prior to January 1, 1997, Long Term Disability (LTD), Vocational Rehabilitation Maintenance (VRMA) and Temporary Total Disability (TTD), FMLA periods, special leaves of absence with job to be saved periods and any period preceding reinstatement by the Civil Service Commission following a termination appeal.
  4. The Deferred Retirement Option Plan (DROP) is established effective April 1, 1997. DROP provides an alternative form of benefit accrual while allowing a Member to continue working for the City.

During the DROP period, a DROP Member retains all rights, privileges and benefits of being an active City employee, except as specifically modified in the DROP Plan Document, and is subject to the same terms and conditions of employment including disciplinary actions up to and including termination. The Member continues to be eligible for the active employee Flex Benefits Program for the classification and is not eligible for



“retiree” health benefits until such time as the Member completes or terminates the DROP period.

Under DROP, a monthly service retirement allowance along with any COLA increases, Supplemental Benefit checks and any adjustments to such payments applicable to retirements effective on the date the Member entered the DROP are deposited into a trust account. These SDCERS benefits are calculated as if the Member were retiring on the date the Member enters the DROP. The Member’s contributions to the Retirement System cease. The Member and the City each contribute 3.05% of the Member’s salary each pay period that the Member participates in the DROP. The Member’s contribution is made on a pre-tax basis pursuant to IRC Section 414 (h) (2). These monies are placed in a trust account and are distributed to the DROP participant upon termination of employment or completion of the DROP period whichever occurs first. No withdrawals may be made from the DROP account until the Member completes or terminates his or her DROP period. Interest will be credited to the Member’s DROP account at a rate determined by the Board. The Member is one hundred percent (100%) vested in the DROP from its inception.

A DROP participant who becomes disabled may apply for conversion of their service retirement allowance to a disability allowance calculated at the date of entry into the DROP.

A Member who participates in DROP irrevocably designates a specific consecutive period of months for participation, not to exceed sixty (60) months. The Member must terminate City service at the end of the designated period.

5. For retirements effective on or after January 1, 1997, the fifty percent (50%) continuance is available to the surviving spouse to whom the Member was married on the date of retirement. The requirement that the Member be married to his or her spouse at least one (1) year prior to retirement for the spouse to receive the fifty percent (50%) continuance is eliminated.
6. The surviving spouse of a Member who is killed while in the performance of duty is entitled to continued health coverage as provided in California Labor Code Section 4856.
7. The Industrial Disability Benefit is increased from thirty-three and one third percent (33 1/3%) to fifty percent (50%) of final compensation for retirements effective on or after January 1, 1997.
8. The modified special death benefit provided to the surviving spouse of a Member killed in the line of duty is amended to eliminate the requirement that the benefit be discontinued if the spouse remarries. Any benefit terminated to such spouse as a result of remarriage shall be reinstated effective January 1, 1997.
9. Retirement Calculation Factors for General Members (Hired Before July 1, 2009)
  - a. The Retirement Calculation Factors used to calculate a General Member’s allowance will increase to the levels shown below (the “New Factors”) for General Members, hired before July 1, 2002, who retire effective on or after July 1, 2002, unless the General Member elects, before retirement, to have his or her allowance calculated using the Old Factors, as set forth in San Diego Municipal Code Section 24.0402, (ranging from two percent (2%) at age fifty-five (55), to

two point fifty-five percent (2.55%) at age sixty-five (65) or older, with a ten percent (10%) increase to the Member's Final Compensation), or the Corbett Factors, as set forth in San Diego Municipal Code Section 24.0402, (ranging from two point twenty-five percent (2.25%) at age fifty-five (55), to two point fifty-five percent (2.55%) at age sixty-five (65) or older).

Retirement Age	Benefit (New Factors)
55-59	2.50%
60	2.55%
61	2.60%
62	2.65%
63	2.70%
64	2.75%
65 and older	2.80%

- b.** The New Factors will apply to all City employees who join the Retirement System after June 30, 2002, but before July 1, 2009, and their allowances will be capped at ninety percent (90%) of their Final Compensation.

The ninety percent (90%) cap will also apply to: (1) General Members who joined the Retirement System on or before June 30, 2002, except as provided below; and, (2) General Members who participated in the Retirement System on or before June 30, 2002, who left City employment but are rehired by the City on or after July 1, 2002.

Any General Member, whose allowance as of July 1, 2002, is ninety percent (90%) or more using the New Factors may continue to accrue benefits above the ninety percent (90%) cap until December 31, 2002. The General Member's Allowance will be capped at that time.

- c.** Any General Member who joined the Retirement System before July 1, 2002, may continue to accrue benefits above the ninety percent (90%) cap using either the Old Factors or the Corbett Factors. If the Member selects one of these Factors, the Member's Allowance will not be capped, and the System will refund to the Member, at retirement, any excess contributions the Member made to fund the New Factors.
- d.** Any General Member who joined the System before July 1, 2002, and reaches the ninety percent (90%) cap by choosing the New Factors, may continue to accrue benefits above the ninety percent (90%) cap until December 31, 2002, at which time the Member's retirement calculation factor and Creditable Service are capped; the Member's Final Compensation is not capped. On January 1, 2003, the Member must choose one of the following options:

- 1)** If the Member is eligible for a service retirement on January 1, 2003, he or she may:
  - i.** continue working and contributing to the Retirement System,
  - ii.** enter DROP, or

iii. retire.

2) If the Member is not eligible for a service retirement on January 1, 2003, he or she may:

i. continue working and contributing to the Retirement System, or

ii. enter the Cap Program [subject to City Council authorization]. If the Member enters the Cap Program, the Member will stop contributing to the Retirement System, and will instead contribute three point zero five percent (3.05%) of his or her Base Compensation, biweekly at the end of each pay period, to a Cap account established for the Member. The City will match these contributions. The Member may continue participating in Cap until he or she first becomes eligible to retire, at which time the Member must either enter DROP or retire.

iii. A Cap Program participant who becomes disabled while participating in the Cap Program is eligible to apply for disability retirement benefits. If the Cap participant's application for disability retirement is ultimately approved by the Board, his or her disability retirement benefit will be calculated using the participant's age, Creditable Service and Final Compensation as of the day he or she began participating in the Cap Program.

e. A General Member may exceed the ninety percent (90%) cap if the Member:

1) applied to purchase Creditable Service on or before June 5, 2002, and thereafter signed the contract to purchase that time,

2) was hired at age 24 or younger, and

3) will exceed the ninety percent (90%) cap because of the Creditable Service he or she applied to purchase on or before June 5, 2002. The Member may not exceed the cap by Creditable Service that he or she applied to purchase after June 5, 2002.

f. When a Member who meets the conditions of paragraph five (5) above first becomes eligible for a service retirement, his or her Retirement Calculation Factor and years of Creditable Service will be capped at that time, even if the Member continues to work and contribute to the Retirement System. The Member's Final Compensation will not be capped. When eligible to retire, the Member may:

1) continue working and contributing to the Retirement System,

2) enter DROP, or

3) retire.

#### 10. 1981 Pension Plan Credit for Service

Employees with 1981 Pension Plan credited years of service will be granted at no cost to the employee credit for past CERS service.

**11.** IRS Section 414 (h) (2)

Implement pre-tax retirement contributions under IRS Section 414 (h) (2), effective the first pay period in January, 1993 with the effect of reducing the employee's income tax base.

**12.** Health Eligible Retirees

- a.** Effective July 1, 2002, a Health Eligible Retiree, as defined in the Municipal Code, will have the applicable Medicare eligible or non-Medicare eligible insurance premiums paid for the Health Eligible Retiree-only insurance, or the Health Eligible Retiree will be reimbursed the actual cost incurred from the Medicare eligible or non-Medicare eligible retiree-only premium up to the maximum amount allowed in Municipal Code Division 12. San Diego Municipal Code Section 24.1202 sets forth the maximum amounts to be paid on behalf of or reimbursed to a Health Eligible Retiree for retiree-only Medicare eligible or non-Medicare eligible health insurance premiums based on the premium for the City-sponsored PPO plan for Fiscal Year (FY) 2003 and annually adjusted thereafter based on the Centers for Medicare & Medicaid Services, Office of the Actuary, projected increase for National Health Expenditures for the full year period ending in the January preceding the start of the new plan year; such adjustment shall not exceed ten percent (10%) for any given year. The maximum amount of monies reimbursed to Health Eligible Retirees will be one hundred percent (100%) of such Medicare-eligible or non-Medicare eligible retiree-only premium.
- b.** Health Eligible Retirees may choose to participate in a City sponsored health insurance plan or any other health insurance plan of their choice.
- c.** Additionally, a Health Eligible Retiree timely enrolled in Medicare is entitled to reimbursement of the cost of the Part B Supplemental Medicare Expense Premium.

**B.** Benefit Changes Effective July 1, 2005

**1.** Retiree Health Benefit For Employees Hired Before July 1, 2005

**a.** Definition Of Health Eligible Retiree

General Members who retire on or after July 1, 2005, and are receiving a retirement allowance from SDCERS pursuant to an reciprocity agreement must have ten (10) years of service with the City to receive one hundred percent (100%) of the retiree health benefit and five (5) years of service with the City to receive fifty percent (50%) of the retiree health benefit. The definition of "Healthy Eligible Retiree" in the San Diego Municipal Code will be revised to reflect this clarification.

- b.** The City agrees to indemnify and hold the Union harmless from and against any claims filed by or on behalf of employees in the Union related to the clarification of the definition of a Health Eligible Retiree as set forth in subsection **B 1.a.** above.

**2.** Retiree Health Benefit for Employees Hired On or After July 1, 2005 (but before July 1, 2009)

- a. Employees hired on or after July 1, 2005, but before July 1, 2009, are not entitled to the Retiree Health Benefit as set forth in paragraph A 12.above.
- b. As stated in the MOU between the City and the Union effective, July 1, 2005, “For employees hired on or after July 1, 2005, the City will establish a defined contribution plan for retiree medical expenses.” The 2005 MOU further provided as follows: “Control and Investment of Contributions Pending Plan Establishment. Until the vehicle for the defined contribution plan is formalized, all contribution amounts will be held in escrow in SDCERS but invested with other funds to achieve the maximum possible return until the escrowed funds can be transferred to the control of the agreed-upon administrator.” While these provisions were not implemented, the parties intend to negotiate a modified retiree medical benefits plan in accordance with Article 8, Section 5. The City presently represents that, under federal tax law, a qualified pension plan like SDCERS cannot hold, control or invest contributions to pay medical benefits, unless a 401(h) trust is established.

3. Purchase of Service Credit (Employees Hired On or After July 1, 2005)

- a. Employees hired on or after July 1, 2005, are not eligible for the purchase of service credit (“airtime”) in SDCERS, as set forth in San Diego Municipal Code Section 24.1312.1.

4. “13th Check” Supplemental Benefit (Employees Hired On or After July 1, 2005)

Employees hired on or after July 1, 2005, are not eligible to receive the “13th Check” Supplemental Benefit as set forth in San Diego Municipal Code Section 24.1503.1.

5. Deferred Retirement Option Plan (Employees Hired On or After July 1, 2005)

Employees hired on or after July 1, 2005, are not eligible for the DROP, as set forth in San Diego Municipal Code Section 24.1402.1.

C. Benefit Changes in 2008 for Employees Hired On or After July 1, 2009

- 1. On July 21, 2008, the City and the Union agreed to a new retirement formula for General Members hired on or after July 1, 2009, on the condition that the City would not pursue a San Diego Charter amendment and subject to the terms set forth in subsections III (B through III (I).
- 2. New Retirement Calculation Factor for General Member Employees hired on and after 7/1/09.

Retirement Age	Retirement Calculation Factor
55	1.00%
56	1.25%
57	1.65%
58	1.758%
59	1.874%
60	2.00%
61	2.12%
62	2.24%

63	2.36%
64	2.48%
65 and older	2.60%

3. The Service Retirement Allowance for a General Member hired on or after July 1, 2009, may not exceed 80% of his or her Final Compensation.
4. Final Compensation will be based on the highest 3 years of pensionable compensation.
5. A new defined contribution plan will be established by the City with a mandatory City contribution of 1% and a mandatory matching Employee contribution of 1%. Additional voluntary Employee contributions (with no Employer match) will be permitted to the extent otherwise allowed by law.
6. A .25% mandatory City contribution and a matching mandatory .25% Employee contribution will be paid into a retiree medical trust (refer to San Diego Municipal Code Section 24.1202(c)).
7. The City agrees to pay the reasonable costs associated with establishing a retiree medical trust and will engage in further meet and confer to determine collaboratively the details related to (1) the manner and means of administering such a trust, and (2) the nature and scope of the benefits to be available and on what terms. Additional voluntary employee contributions (with no employer match) will be permitted to the extent otherwise allowed by law.
8. The City's current 401(k) and 457 Plans will remain available to employees covered by this new plan on the same terms as are available to employees not covered by this new retirement plan.
9. Employees covered by this plan will not participate in SPSP.

**D. Benefit Changes effective on and after July 1, 2009**

1. Effective July 1, 2009, and continuing during the term of this MOU, the City's offset of employee retirement contributions for employees represented by AFSCME, Local 127 is eliminated.
2. During the FY2010 negotiations, the City imposed changes on the DROP by increasing the age eligibility from fifty-five (55) to sixty (60) and eliminating the annuity option effective July 1, 2009. SDCERS has determined that the imposed changes to DROP require a Charter Section 143.1 vote of active SDCERS members. The parties understand that this vote will be scheduled during the term of this MOU. If the Charter Section 143.1 vote to change the foregoing DROP requirements passes, the Union acknowledges and accepts that the eligibility age to enter DROP will be sixty (60) and the annuity option will be eliminated for specified members. If the Charter Section 143.1 vote fails, SDCERS will continue to administer the DROP at age fifty-five (55) and/or will continue to administer the annuity option.
3. **Modification of Definition of Health Eligible Retiree**

General Members who retire on or after July 1, 2009, and are receiving a retirement allowance from SDCERS must have twenty (20) years of service with the City to receive one hundred percent (100%) of the Retiree Health Benefit and ten (10) years of service with the City to receive fifty percent (50%) of the Retiree Health Benefit, as set forth in San Diego Municipal Code Section 24.1201(a) (5). The Health Eligible Retiree benefit for General Members, retiring with a service retirement with more than ten (10) years of Creditable Service but less than twenty (20) years of Creditable Service, shall be

increased by five percent (5%) for each year of Creditable Service beyond ten (10) years until the benefit, defined as the health insurance premium, reaches the maximum of 100 percent (100%) at twenty (20) years. The foregoing limitation on the Health Eligible Retiree benefit shall not apply to disability or industrial disability retirements.

## **ARTICLE 30 - 401(K)**

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**The 401(k) plan, established July 1, 1985, provides employees the opportunity to save for retirement in a tax efficient manner. The plan allows each participant to determine the type and mix of his or her investments in the plan from those offered as determined by the Defined Contribution Plans Trustee Board. The provisions of the plan, including eligibility and maximum contributions, are stated in the separate 401 (k) Plan Document.**

## **ARTICLE 31 - Supplemental Employee Pension Savings Plan (SPSP)**

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- A.** The **Supplemental Employee Pension Savings Plan (SPSP)** has been established pursuant to the City's withdrawal from the federal Social Security System in 1981 with the purpose of providing eligible employees a convenient method of saving and to provide supplemental pension benefits. The minimum and maximum contributions are determined by the employee's hire date and participation in the City's defined benefit plan. These contribution limits, along with all other plan provisions, are reflected in the separate Plan Documents.
- B.** The parties agree that the SPSP currently offered to all eligible employees will be amended to comply with the provision of the Economic Growth Tax Relief and Reconciliation Act (EGTRRA) that became effective January 1, 2002, and other administrative changes presented during the **Fiscal Year 2003 meet and confer process.**
- C.** Any employee hired on or after July 1, 2009, shall not be eligible for SPSP.

## **ARTICLE 32 - Flexible Benefits Plan**

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- A.** An **Internal Revenue Service (IRS)** qualified cafeteria-style benefits program **called the Flexible Benefit Plan (FBP)** is offered to all eligible employees. **The FBP** provides a variety of tax-free benefit options. "Eligible employee" means any employee in one-half, three-quarter, or full-time status. "Eligible employee" excludes all employees in an hourly status.
- B.** The City's contribution to the FBP during the term of this MOU will be \$5,575 annually.
- C.** On or about April 1, of each year during the term of this MOU, or earlier if mutually agreed, the parties will, on an agreed date, exchange premium rates for the parties' respective plan offerings.
- D.** The benefits available through the FBP and the respective annual costs **of the benefits** are reflected in the Flexible Benefits Summary Highlights booklet provided to each employee each year of this MOU.
  - 1. It is the intent of the parties that all plans comply with all applicable state and federal laws including IRS regulations. All disputes over interpretation of **this Article will** be submitted to the appropriate agencies for interpretation.
  - 2. The employee must select a life insurance and health insurance (unless covered under another comprehensive health plan). An employee may opt out of City health insurance if he/she has other comprehensive health insurance by selecting the "waiver" option. **An employee who opts out of the City's health insurance coverage will be eligible for the**

**cash-in-waiver option of \$4,575 a year. The City's contribution will be provided bi-weekly as taxable earnings.**

3. Employees may designate a specific amount of pre-tax money (IRS restrictions may apply) to be withheld from their paycheck for health, dental and vision coverage, basic life insurance and/or to reimburse eligible out-of-pocket **Dental/Medical/Vision** or **Dependent Care** expenses. These payroll deductions must be designated during the open enrollment period, are irrevocable, **and** are subject to IRS regulations. **Monies** are forfeited if not used within the fiscal year.
4. Eligible employees are required to enroll for their benefits each year during the designated open enrollment period. If an employee fails to complete enrollment within the open enrollment period, the employee's current options for health (or comparable plan if unavailable), will be automatically continued at the same level for the next year as if the employee had elected to keep them. All payroll deductions, including **Dental/Medical/Vision** and Dependent Care reimbursement, will continue and may not be eligible to be stopped until the following open enrollment period.
5. The City agrees that it will not arbitrarily or unreasonably deny the Union the opportunity to offer a health insurance plan to active or retired employees. Such coverage must include mental health coverage at an equal or better level of coverage than that offered through the City's health plans. The Union agrees to inform EAP of any changes to the mental health coverage or provider in order for EAP to give input on the proposed changes to ensure that City employees are receiving adequate mental health coverage through their selected health plan. The Union currently provides a dental plan for the benefit of the active or retired employees.
6. The Union agrees to indemnify the City against any and all claims arising out of the administration of its benefits plans.
7. Audit and Inspection of Records
  - a. The City Auditor is authorized to audit all necessary documents pertaining to the health insurance plans offered by the Union.
  - b. The parties agree that the Union is authorized to audit the City's health plans, during the August through January period, to the extent that documents are requested and provided pursuant to state and federal public information laws.
8. The Union will be available to answer questions **regarding its health plans** at the end of open enrollment and New Employee Orientation sessions.

## **ARTICLE 33 - Work Clothing**

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### **A. Work Clothing Issuance and Maintenance**

1. The City agrees to continue to provide and maintain work clothing and protective equipment for those employee classifications represented by the Union currently receiving such benefit by the City. This includes the provision of rain gear, as currently supplied by each department, on an as-needed basis for those employees who are required by the City to work during rainy weather. Maintenance of work clothing **does** not extend to the classifications listed in Exhibit C, in the departments covered by the



- Corporate Apparel Program. The City **has** the right to issue work clothing to employees in classifications in departments **and** divisions not specifically referenced in this Article. The City will notify the Union at least ten (10) working days in advance of its intent and upon request by the Union will meet and confer for a reasonable period of time and implement **changes** only upon agreement or after an impasse opportunity.
2. The City agrees to provide all safety equipment as required by applicable state law.
  3. The City **will make** every effort to make available to employees represented by the Union a location where employees may purchase specialized footwear at an appropriate discount.
  4. The City agrees to provide Fleet Division employees (including the Custodian) who are currently eligible for the uniform benefit with an option of having coveralls or shirts and pants. The City will make its best effort to provide these employees with an option to have both coveralls and pants and shirts.
  5. The City agrees to provide and maintain a total of ten (10) sets of coveralls (or pants and shirts) for employees in the classification of **Fleet Technician, Master Fleet Technician, Assistant Fleet Technician**, Motive Service Technician, Motive Service Technician Trainee, Welder, Machinist, Equipment Painter, Body and Fender Mechanic and the Fleet Division Custodian. The City agrees to provide Sanitation Drivers I and II with five (5) sets of coveralls or pants and shirts. The City agrees to provide five (5) sets of shirts to Custodians working at the City Administration Building **or** City Operations Building complex.
  6. The City agrees to provide **employees in** the Equipment Technician II, Equipment Operator II, Light Equipment Operator, Grounds Maintenance Worker III (Lead Cemetery Groundskeeper), **and** Grounds Maintenance Worker II five (5) sets of pants and shirts with no laundering service provided.
  7. The City agrees to provide employees of the Public Utilities Department, Wastewater Branch with ten (10) sets of coveralls (or pants and shirts). The City agrees to provide employees of the Streets Division eight (8) sets of coveralls (or pants and shirts). The City agrees to provide employees of the Plant Operator classification (including Power Plant Operators) one (1) jacket. The City also agrees to provide one (1) jacket each to a total of thirteen (13) additional positions, comprised of Equipment Operator I, Equipment Operator II, and Equipment Operator III classifications assigned at the Aquaculture.
  8. Plumbers will be provided with coveralls as necessary. Roofers will be provided with work shoes as necessary.
  9. The parties agree to reopen the provisions of this Article as they pertain to the Public Utilities Department.
  10. The City agrees to provide and maintain a total of ten (10) uniforms for members of the Grounds Maintenance Supervisor, Grounds Maintenance Worker II, Grounds Maintenance Worker I, Utility Supervisor, Equipment Operator II, Equipment Operator I, Heavy Truck Driver I, Light Equipment Operator, Carpenter, Utility Worker I and Laborer classifications in Coastline Park and Golf Division.

11. The City agrees to provide employees of the Public Utilities Department, Wastewater Branch who are currently eligible for the uniform benefit with an option of having polo style or T-shirts or a mixture of the two up to the current maximum **number of shirts provided**. Employees may switch from the current T-shirts to the polo style shirts as the T-shirts need replacing.
12. Carpenters and Carpenter Supervisors will be provided with two (2) sets of bib overalls.
13. The City agrees to provide and maintain **optional overalls for employees in** the Landfill Equipment Operator classification.
14. The City and the Union agree that the **work clothing** issued will be worn or used only during work hours. Employees who are issued work clothing will wear the issued clothing. Employees will have the same responsibilities to maintain work clothing as it applies to other City issued property. Employees will be required to replace missing work clothing at their own expense if the work clothing is lost or stolen due to the employee's own negligence.
15. Painters, Plasterers and the Firearms Technicians will receive up to five (5) sets of pants and shirts each year at the employee's request.
16. Appropriate foot protection **is** required and provided as needed for employees who are exposed to foot injuries from hot, corrosive, poisonous substances, falling objects, crushing or penetrating actions, which may cause injuries or who are required to work in abnormally wet locations.
17. Footwear which is defective or inappropriate to the extent that its ordinary use creates the possibility of foot injuries **may** not be worn.
18. Safety-toe footwear for employees **must** meet the requirements and specifications in American National Standard for Men's Safety Toe Footwear, Z41.1-1981.
19. The City agrees to study, at the **department** level, the feasibility of allowing the use of short pants for certain landfill and park employees, with emphasis on the health and safety issues relating to **the use of shorts at these worksites**.
20. The City agrees that consideration will be given to a uniform company's ability to provide appropriately fitted uniforms for women and employees with special fitting needs.

B. Uniform Reimbursement

1. The intent of this policy is to reimburse employees in certain designated classes who have completed probation and have attained permanent status, for the cost of a complete set of regulation uniform items.
2. Reimbursement **is** limited to items of a specialized nature, including items with **a** permanent City insignia, to be worn exclusively in **the** line of duty. Other items such as regular shirts, ties, belts, and shoes are excluded from this provision. Each department with employees in these designated job classifications will maintain a price list of items for which reimbursement will be provided.

3. All personnel receiving uniform reimbursement will be required to wear the designated uniform. Failure to wear any of these items may result in discipline of the employee.

C. Corporate Apparel Program

1. **The City has established** a Corporate Apparel Program which provides employees in the classifications listed in Exhibit C, working in the Public Utilities Department and **the** Facilities Division with corporate apparel consisting of ten (10) sets of pants and shirts and one (1) jacket to employees who have not previously been issued a jacket. On an annual basis, the departments **will** provide two (2) additional sets of pants and shirts. Employees working in the Facilities Division will be permitted to replace required clothing with any combination of shirts or pants. During the term of this MOU the City in consultation with the Union, may expand this program to other departments. The City **will** meet with the Union to discuss implementation issues such as the classifications which participate, prior to any expansion **of the program**.
2. The Union **will** be given an opportunity to participate in and provide input into the selection of the style and color scheme of the uniforms. Employees will be allowed to choose their apparel from the approved style and color schemes which shall be determined by the departments with input from the Union and will include options of both long and short sleeve dress shirts, polo style shirts, poly/cotton and cotton men's and women's slacks, pleated slacks and (for specifically approved classes) shorts. Color options shall include a choice from at least three (3) basic colors for shirts and two (2) basic colors for pants and slacks.
3. Employees have the option of purchasing additional garments of the approved style and color at their own cost from the designated vendor(s).
4. Maintenance of corporate apparel will be the responsibility of the employee.
5. Employees in the classes listed in Exhibit C are required to wear approved corporate apparel in good condition at all times while at work.
6. Employees in classes not listed in Exhibit C will have the option of purchasing approved apparel at their own cost from the designated vendor(s).
7. For the Public Utilities Department, Water Branch employees in classes not listed in Exhibit C shall not wear alternative corporate apparel, which is defined as clothing with patches, logos or other City insignia bearing reference to the Public Utilities Department, Water Branch.
8. Employees under the Corporate Apparel Program **will** continue to wear appropriate safety clothing pursuant to current policies and practices.
9. Employees in certain positions in the Public Utilities Department, Wastewater Branch involved in wastewater treatment and conveyance are provided uniforms and laundry services based on health and safety considerations. These employees will continue to receive uniforms and laundry services under current policies and practices, (Safety Apparel Program), and will not be subject to the provisions of the Corporate Apparel Program. Upon an employee's request and management's review and approval, employees in the Safety Apparel Program may be **reassigned** to the Corporate Apparel Program.

10. Employees in the Public Utilities Department, Water Branch will be provided laundry service in those situations where home laundry of garments would present a health risk due to the nature of chemicals and/or materials encountered on the job.
11. Employees who terminate service with the Public Utilities Department **must** return all uniforms bearing reference to the Public Utilities Department.

#### **ARTICLE 34 - Transportation Incentives**

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- A. Employees who **use** the Concourse Parkade and pay on a monthly basis will be charged 50% of the prevailing general public monthly rate.

Participation in this program is limited, and **is available to employees** on a first-come, first-serve basis.

- B. Employees participating in the Transportation Alternative Program (TAP) **will** pay 50% of the public daily rate, for up to fifty-two (52) instances per year.
- C. The City will provide 75% reimbursement up to \$100 **per month** to those employees who wish to purchase monthly passes for transportation on the public bus, trolley, and commuter rail service. **Transportation** passes will be for the exclusive use of the employee/purchaser. The City will provide an equal amount to employees who **use** the **San Diego Bay** ferry and to employees participating in a City approved vanpool program. Employees must **use** these subsidized transportation services to commute to and from work at least three days **per** week to be eligible for reimbursement. Violation of these procedures **will** disqualify the employee from further participation in the TAP. **Payments for passes are made payable to the City Treasurer no later than the 12<sup>th</sup> day of the current month for the next month's pass. Payment is loaded on to the issued Compass Cards.**
- D. The City will provide reimbursement to employees who **use** the Concourse Parkade and carry riders. The rate of reimbursement will be calculated so that an employee who carries three riders will receive free parking.
- E. As new work stations are established, the City agrees to meet and consult or meet and confer as required by the **MMBA** regarding parking arrangements; in either case, the City will make every effort to provide suitable parking arrangements for the employees affected.
- F. Management agrees to **meet** and **confer** with the Union without impasse in the event the County Air Quality Control Board requires that parking spaces in non-pay status City work locations be converted to pay status.
- G. The City agrees to discuss at the Labor Management Committee employee concerns regarding the fair allocation, quality and security of job-site parking facilities.

#### **ARTICLE 35 - Employee Assistance Program**

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- A. The City agrees to continue the current Employee Assistance Program (**EAP**). The **EAP** will be assigned to the Risk Management Department, Civic Center Plaza, 1200 Third Avenue, Suite 916, **San Diego, CA 92101**, telephone (619) 236-6373.
- B. The purpose of **EAP** is to assist employees who have personal problems to obtain professional assistance and treatment where necessary. Participation in **EAP** will be entirely voluntary, **except pursuant to Article 59**. This Program in no way affects the ability of the City to

discipline employees with performance problems. The City and the Union agree that actual discussions between the employee and the **EAP** Counselor and treatment provided the employee through the **EAP**, will be kept confidential unless the employee consents to disclosure.

- C. The Union and the City fully support **EAP** and both parties agree to use their best efforts to ensure that employees with personal problems are encouraged to participate in **EAP**.
- D. The City agrees to provide the Union with input regarding the administration of **EAP** through the Labor Management Committee.

## **ARTICLE 36 - Tools/Tool Allowance**

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### A. Basic Policy-Initial Outfitting

- 1. The City will provide outfitting of tools and tool boxes to employees except as detailed below.
  - a. Employees in the following job classifications **must** provide and maintain the outfitting of tools and tool boxes at their own expense:
    - Master Fleet Technician**
    - Fleet Technician**
    - Marine Mechanic**
    - Body and Fender Mechanic
    - Carpenter
    - Apprentice - **Fleet Technician**
    - Apprentice- Marine Mechanic**
    - Apprentice - Body and Fender Mechanic
    - Apprentice - Carpenter
- 2. Current employees may elect to continue with City provided tools or to provide their own tools. New employees must provide their own tools. Outfitting is defined as those tools required by the employee upon being employed in the particular job class for the first time, and subsequently, additional tools required because of technological advances.
- 3. Outfitting, in the case of mechanics, shall be all hand tools.
- 4. The City provides power tools for all job classifications.

### B. Tool Replacement Policy-Outfitting By the City

- 1. For those job classifications for which the City provides outfitting of tools, the City will replace in kind tools worn out, damaged, or broken through no fault of the employee.
- 2. Employees losing tools or causing damage to tools through negligence or willful conduct will be required to replace the tools at the employee's expense and/or be disciplined under Civil Service Rule XI, Section 3.
- 3. City furnished tools shall not be used for private purposes or private gain (Administrative Regulation 45.50).

### C. Tool Allowance Policy-Outfitting By the Employee

1. This paragraph applies to **Master Fleet Technicians, Fleet Technician, Marine Mechanics, Body and Fender Mechanics, Carpenters, and Apprentices** for the listed trades.
2. Employees meeting **the** conditions set forth by the City will be provided a cash tool allowance as follows, provided the employee has shown by tool box inspection that he **or** she has a full inventory of tools as provided on the tool list. The tool allowances shall be increased by five percent (5%) each fiscal year during the term of this MOU as reflected:

	<u>Effective</u> <u>July 1, 2011</u>	<u>Effective</u> <u>July 1, 2012</u>
Carpenters and Apprentices	\$273	<b>\$287</b>
<b>Master Fleet Technician</b>	\$863	<b>\$906</b>
<b>Marine Mechanics</b>	<b>\$863</b>	<b>\$906</b>
<b>Fleet Technician</b> and Apprentices	\$863	<b>\$906</b>
Body and Fender Mechanics and Apprentices	\$863	<b>\$906</b>

Other conditions may include the following requirements (1) the initial outfit be complete and in serviceable condition, (2) tools purchased as replacements and additions be of the kind and size required for the job, (3) during each shift, each employee must have the **full** complement of tools necessary to perform the work assigned or will be considered as not having reported to work, and, (4) any other condition to fulfill the requirement that the purpose of the tool allowance is to benefit the City, subject to meet and confer.

3. Employees receiving a cash tool allowance shall not receive replacements in kind from the City. **However, an** employee's personal tools which have been recorded by the City on an inventory list will be replaced, at no cost to the employee, if they are lost due to fire, burglary or robbery of the City facility or some other catastrophe or accident not due to the employee's negligence or fault.
4. To qualify for **a** cash allowance, **an** employee **must** have twelve (12) months service in the job classification authorized for an allowance. Time served as a probationary employee will count toward meeting the twelve (12) month requirement.
5. The allowance will be paid to eligible employees in active status in an eligible position on July 1 of each fiscal year, and will be paid only once during each fiscal year.  
  
The cash amount for tool allowance cannot be accumulated from one year to another.
6. Failure to maintain a proper set of tools in satisfactory condition may be grounds for disciplinary action of the employee.
7. Employees having tool outfitting provided by the City **do** not qualify for the cash allowance.

D. Tool Allowance Calculation Method

The tool allowance in this **MOU** was established based on ten percent (10%) of the average price list for items on the essential tool list.

1. The essential tool price list for Carpenters was based on the average of prices for these tools at Sears and Dixieline.
  2. The essential tool price list for **Master Fleet Technicians, Fleet Technicians**, and Body and Fender Mechanics was based on the average of the retail discount for Proto tools and the retail list price for Snap-on tools. Where Proto tools were not available, the MAC price list was used.
- E. The City **will** continue its current practice of making tool discounts available for employees.

## **ARTICLE 37 - Mileage Reimbursement**

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Mileage reimbursement for use of private vehicles on City business **will be provided** in accordance with the provisions of Administrative Regulation 45.10.

A. “C” Mileage

**Mileage reimbursement will be paid in accordance with the current IRS Standard Business Rates for business reimbursement.** All employees requested or required by the City to report to work outside of their normal work schedule (i.e., call-back or standby) will be entitled to mileage when traveling in their personal vehicle to and from the work assignment.

B. “D” Mileage

1. During the term of this MOU, a City employee driving on City business **must** meet the following criteria in order to be eligible for the “D” mileage reimbursement:
  - a. Be required, as a condition of employment, to provide a personal vehicle to conduct City business; and
  - b. The employee does not have regular access to a City-provided pool vehicle; and
  - c. The employee drives a personal vehicle a minimum of **two-hundred fifty (250)** miles per month on City business; and
  - d. The employee drives a personal vehicle a minimum of twelve (12) days per month on City business.
2. In addition to the criteria referenced **in subsections a. through d.**, an employee’s unusual and extraordinary driving patterns, resulting from the required usage of a personal vehicle related to City business, may also qualify the employee for consideration for “D” mileage reimbursement exclusive of the conditions outlined above but subject to the review and approval of the Human Resources Director.

Miles Driven	“D” Mileage Reimbursement Rates / Cents Per Mile	
0 – 250	Mileage Rate D1	0.72
251 – 417	Mileage Rate D2	0.69
418 – 625	Mileage Rate D3	0.66

626 – 833	Mileage Rate D4	0.63
834 – 1042	Mileage Rate D5	0.60
over 1042	Mileage Rate D6	0.57

### ARTICLE 38 - Tuition Refund Plan

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- A. The City agrees to provide tuition reimbursement in the amount of \$900 annually. The revised Administrative Regulation 70.30 will govern the administration of this program.
- B. Use of Tuition Reimbursement for Job-related Training

**One-half (1/2)** of the Tuition Reimbursement benefit may be used by an employee each **fiscal year** for reimbursement of seminars or other training/educational events which will maintain or enhance an employee’s job-related skills or knowledge or contribute to the employee’s broadening and diversification of his or her skills. An employee **must** submit a request for approval of the proposed reimbursable event in advance of attendance. Pre-approval by the **department** is required for reimbursement. The employee must subsequently submit satisfactory evidence of attendance at the **training** event in order to receive reimbursement. The parties intend the general procedural requirements of the Tuition Reimbursement plan to be applicable except the requirement of a grade. It is the intent of the parties that this provision will supplement rather than replace training funds **previously** made available by departments for the benefit of employees. It is also the intent of the parties that this opportunity to avail oneself of one-half (1/2) of the **Tuition Refund Plan** benefit **for training purposes** be at the initiation of the employee based on his or her proposal for training or education.

### ARTICLE 39 - Reimbursement of Emergency Meals

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Effective July 1, 2010, employees who ordinarily qualify for a meal during the performance of after-hours emergency work shall, with the proper receipts, be reimbursed up to \$17.74.

On each July 1 of the subsequent Fiscal Years the City **will** increase the value by the Consumer Price Index (All Urban Consumers – Not Seasonally Adjusted – San Diego, All Items 1982-84 =100).

### ARTICLE 40 - Stewards

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- A. General

The Union shall have the option of designating Stewards and alternate Stewards at each facility to represent employees in the processing of grievances subject to the following rules and procedures:

1. The City agrees to allow no more than ten (10) City-wide Stewards and two (2) Chief Stewards to handle employee representation and grievances throughout the City. All other Stewards may only function within the boundaries of their City approved area of Union assignment. Stewards who are not on a current Union submitted and City-approved list of Stewards shall not be recognized as Stewards by the City and shall have none of the rights or privileges agreed to as a Steward.
2. Additional Stewards may be named after agreement between the parties. The parties agree to discuss the addition of Stewards in the event of decentralization in a City department.



3. **On July 1 of each year, the Union will provide the City with** a written list identifying by name and assigned work areas all regular and alternate Stewards, and the list shall be kept current during the term of this MOU.
4. The Union will designate as Stewards only employees who have passed their initial City probationary period. The Union will also designate as Stewards only employees currently assigned to classifications in the Unit represented by the Union, as listed in Exhibit A of this MOU.
5. The City will make every effort not to temporarily or permanently transfer a Steward from a geographic location, without five (5) **working** days prior notice to the Union. **The requirement of** prior notice to the Union shall not be construed as limiting the City in its prerogatives to transfer or change the work shift of a Steward.
6. Stewards are responsible for an accurate accounting of their City compensated time spent on Steward duties as indicated by the time entries submitted for payroll purposes.
7. The City agrees that Stewards shall not be penalized or discriminated against in any way for their participation as Union Stewards.
8. Steward Training Release Time

The parties mutually recognize the importance of maintaining sound employer-employee relations on the job, and for employees to have qualified representation on the job, in so doing, the City shall allow reasonable release time, without loss of compensation, to the Union Stewards for the purpose of attending training provided by the Union.

#### **B. Handling Grievances**

1. When an employee has a grievance, **he or she has the right to request that** a Steward, with permission of **the employee's** supervisor, investigate a grievance in his or her assigned work area and assist in its preparation and presentation.
2. After notifying and receiving approval of the immediate supervisor a Steward shall be allowed reasonable time off during working hours, without loss of time or pay to investigate, prepare and present such grievances. The immediate supervisor will authorize the Steward to leave his or her work **assignment** unless compelling circumstances require refusal of such permission. **In such** cases, the immediate supervisor shall inform the Steward of the reasons for the denial of **release time** and establish an alternate time within twenty-four (24) hours, except in case of emergency, when the Steward can reasonably expect to be released from his or her work assignment.
3. When a Steward desires to contact an employee at his or her work location, the Steward shall first contact the immediate supervisor of that employee, advise **the supervisor** of the nature of the business, and obtain the permission of the supervisor to meet with the employee. The immediate supervisor will make the employee available promptly unless compelling circumstances prohibit the employee's availability, in which case the supervisor will notify the Steward within **the next** twenty-four (24) hours, except in case of emergency, when he or she can reasonably expect to contact the employee.
4. A Steward's interview or discussions with an employee on City time will be handled expeditiously.

5. A request by a Steward to investigate and process a grievance shall not be unreasonably withheld.

C. Discipline

1. Stewards will also be provided a reasonable amount of time to represent employees in actual disciplinary meetings and hearings between the City and the employee being disciplined subject to the provisions of Article 41.

## **ARTICLE 41 - Employee Representation**

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- A. An employee may request representation from the Union, not to exceed one City employee, who is not designated as a supervisory employee, and one (1) non-City employee; or two (2) City employees, who are not designated as supervisory employees; or two (2) non-City employees. In addition, the President of the Union or **his or her** designated alternate may also attend if authorized by the Human Resources Director. Such representation may be present:
1. During any investigatory or fact-finding meeting where discipline might result. The City shall provide the Union results of the fact finding to both the employee and the Union within thirty (30) days after the completion of the investigation for any discipline where the employee is represented by the Union. Such representation is not available in cases requiring immediate removal or suspension as defined in Civil Service Rule XI.
  2. During the required discussion of any document, including Supplemental Performance Reports, written warnings, reprimands, or notes of counseling which are to be made a part of the employee's permanent record or which may be used as a basis for subsequent discipline.
  3. During any Skelly hearing prior to the imposition of discipline by a supervisor, reduction in compensation, demotion, or discharge.
  4. During the appeal of any disciplinary action.
  5. During Accident Review Committee meetings, Civil Service appeals, Long Term Disability and Industrial injury appeals, and any other meeting in which representation is normally afforded employees.
  6. The employee will be provided an opportunity to notify the Union's office in the event the employee is required to submit to "for cause" drug or alcohol testing. This opportunity to notify the Union is at the employee's option and shall not be interpreted as a basis upon which any employee may refuse to submit to the required drug or alcohol testing. The Union **may use** this notification to prepare for eventual investigations or fact-findings as necessary. In no way shall this **notification** be interpreted as the right to an immediate appeal of the test.
- B. The City employee representative shall not be an employee **who is a** subject **of** the same investigation or fact-finding.
- C. In all other instances, the City has the right to verbally counsel or interview employees as it deems appropriate without employee representation being present.
- D. **Any** employee who is notified of a pending disciplinary action shall be given a reasonable time to consult with his or her representatives so that he **or** she may prepare a response to **the**

**disciplinary** action. All meetings between employees and their representatives on City work time shall take place in the immediate vicinity of the employee's worksite. The employee will be permitted to meet his or her representative at the Union Hall on the day that he **or** she is **given** an **Advance Notice of Termination**.

- E. An employee is also entitled to representation as outlined above in appeals of disciplinary actions and when receiving a Supplemental Performance Report.
- F. If an employee subject to disciplinary action elects to have a City employee as a representative, such employee may attend disciplinary hearings or meetings with **Management** on City time. If these meetings or hearings extend beyond the representative's normal work hours, no overtime will be paid.
- G. If during any unscheduled meeting in which the employee is informed that discipline may result, an unrepresented employee may request representation. The meeting should be stopped and rescheduled affording the employee an opportunity to obtain representation.
- H. The City shall give an employee a five (5) day advance written prior notice of his or her right to representation.
- I. The City will encourage Appointing Authorities to schedule some representation matters at the Union Hall.

#### **ARTICLE 42 - Formal Representation**

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- A. When formal meetings are scheduled, for the purpose of meeting and conferring, the Union may be represented by a reasonable number of employee members of the unit or units involved, and the President or **his or her** designee. These employees may attend **these** meetings during regular work hours without loss of compensation or other benefits. For purposes of meeting and conferring on a successor MOU, six (6) representatives plus the President and one (1) other officer are considered a reasonable number. However, additional representatives may attend upon mutual agreement of the parties. In addition, the Union may select a representative to attend City Council, Council Committee, Retirement Board and Civil Service Commission meetings, during regular work hours without loss of compensation where subjects within the scope of representation are being discussed. The Union shall, whenever practicable, submit the names of all **designated** representatives to the City at least two (2) working days in advance of **the** meetings provided further that no representative shall leave **his or her** duty or work station or assignment without specific approval of the City. Such request will not be unreasonably or capriciously denied.
- B. Nothing **in this Article** limits or restricts meetings to regular working hours.
- C. The Union will have a permanent Union designated representative on the Suggestion Awards Committee.
- D. The Union shall have four (4) permanent representatives on the Joint Apprenticeship Advisory Committee.

#### **ARTICLE 43 - Use of City Facilities**

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- A. The Union may, with the prior approval of the City, be granted the use of City facilities during non-work hours for meetings of City employees provided space is available, and provided further that such meetings are not intended for such internal employee organizational meetings as

soliciting membership, campaigning for office, and organizational meetings and elections. **Union-sponsored** meetings in City facilities may not interfere with the efficiency, safety or security of City operations.

- B. Solicitation of membership and activities concerned with the internal management of the Union such as collecting dues, explaining benefits, holding membership meetings, campaigning for office, conducting elections, and distributing literature to individual employees, shall not be conducted during working hours without prior approval of the Human Resources Department.
- C. The City agrees to study the feasibility of providing a small office in the City Hall complex to the Union for use in providing services to its members and facilitating access to its representatives at City Council, City Council Committee, Human Resources and Executive Board meetings.
- D. A monthly parking pass shall be provided to the President of the Union.

#### **ARTICLE 44 - Union Communications**

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##### **A. Bulletin Boards**

1. The City agrees to furnish suitable bulletin boards **to be used by Union** in mutually convenient places for each work area. The Union shall limit its posting to **the designated** bulletin boards and to matters relating to Union affairs. Present locations and allocations **for bulletin boards** are considered adequate. Union representatives shall not be unreasonably denied access to the bulletin boards.
2. The City shall ensure that the space on bulletin boards allocated to the Union is clearly designated as such. This will not preclude the City from using other space on these bulletin boards for City information.
3. The City agrees to provide additional security for bulletin boards in those areas where both parties agree **security is necessary**.

##### **B. E-mail Communications**

The Union will be permitted to use the City's email system to direct employees to obtain information contained on the Union's website. No further use or access of the City's email system will be authorized unless such use pertains to the employer-employee relationship.

##### **C. Interoffice Mail**

The City and Union agree that the Union may use the City's interoffice mail system to distribute its newsletter or equivalent communication to employees in its bargaining unit. The City shall provide the Union with a current list of employees in its bargaining unit and their mail stations. This list will be provided in July of each year in the term of this MOU.

#### **ARTICLE 45 - Access to Work Locations**

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- A. Authorized Union business representatives, **and** the President of the Union or his or her authorized designee and one (1) other member of the Executive Board of the Union, who will not be on City time, **after notification to the Human Resources Department**, will be granted access to work locations in which employees covered by **this MOU** are employed, for the

purpose of conducting grievance investigations and observing working conditions. Authorized Union representatives **seeking** access to work locations **must** first inform the appropriate Management representative at that work site of the purpose of the visit. The Union representative shall not unduly interfere with the operations of the department during a visit. Representatives have the right to meet with employees on an individual basis during coffee, rest or lunch breaks at City facilities. Access **to work sites** shall normally be granted by the City unless the visit will unduly interfere with the operation of the department. Permission shall not be unreasonably withheld.

- B. When a class action grievance emerges, or when the City requests to meet and confer during the term of the **MOU**, Union representatives may request directly from the Human Resources Director, permission to have an opportunity to meet with affected employees for a reasonable amount of time during regular working hours for the purpose of discussing the grievance, or Management proposals. The decision of the Human Resources Director shall be final.

#### **ARTICLE 46 - Labor Management Committees**

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- A. The City and the Union will establish a joint committee for the purpose of discussing common problems including safety problems, contract interpretation and administration, application and administration of the Grievance Procedure, and application and administration of the City's disciplinary procedures. The **Labor-Management** Committee shall meet at regular intervals when either side has an agenda to present. Generally, these meetings will be held on a monthly basis at a mutually satisfactory time for a duration of approximately two hours. Each side will appoint three (3) permanent members. Additional members may attend based on the issue **being discussed** and with the approval of the Human Resources Director. Meetings will be held during normal business hours. The City agrees to the shared responsibility of preparing the agenda and minutes for the Labor-Management Committee meetings.
- B. The Collection Services and Disposal Division of the Environmental Services Department and the Parks and Recreation Department will maintain Labor Management Advisory Committees to discuss common issues **and** problems. The Union members of the committee will be permanent full-time employees.
- C. The Facilities Division and the Streets Division will maintain Labor Management Advisory Committees.

#### **ARTICLE 47 - Union Orientation**

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- A. The City agrees to provide the Union with an equal opportunity to make presentations to new employees during the City's New Employee Orientation **Program**. These presentations will not exceed one-half hour, and will be restricted to employees in job classifications represented by the Union. The Union will be given five (5) working days written notice of New Employee Orientation meetings. Only the Union and no other employee organization will be provided with the opportunity to make presentations to employees in job classifications represented by the Union.
- B. The Union will be provided with a list of those employees required to attend and those who attended orientation. The Union will also be provided with the number of employees required to attend the orientation prior to the date of the orientation.

**ARTICLE 48 - Executive Board Meetings**

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The City agrees to release the Union’s elected Executive Board Members on City time to attend the Union’s Executive Board meetings.

**ARTICLE 49 - Employee Organizational Leave**

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**A total of sixteen (16) hours of paid release time, per fiscal year, excluding travel time, is authorized for the AFSCME Local 127 trustee representative for the purpose of attending San Diego Retiree Medical Trust board meetings. No overtime is authorized. Additional release time may be granted subject to the approval of the Human Resources Director.**

**ARTICLE 50 - Availability of Data**

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- A. The City will make available to the Union **necessary and relevant** information pertaining to employment relations as set forth in this **MOU or applicable law**.
- B. Such information shall be made available during regular office hours. Materials presently supplied to the Union at no cost shall continue to be supplied at no cost.
- C. Information which shall be made available includes regularly published data covering subjects under discussion. Data collected on a promise to keep its source confidential may be made available in statistical summaries but **will** not be made available in a form **that** discloses the **identity of the** source.
- D. City Personnel Department will provide a monthly list of all newly-hired employees within the Union’s recognized bargaining unit(s). **The list will provide the employee’s name, job classification, and date of hire.**
- E. The City agrees to inform the Union in **writing anytime** when an employee represented by the Union retires from the City, giving the name, job classification and date of retirement. This information will be provided to the Union as early as is legally possible. The parties agree to meet to discuss and implement the most feasible method of providing this information.
- F. Nothing in this rule shall be construed as requiring the City to do research for an inquirer or to do programming or to assemble data in a manner other than **its** customary **format**.
- G. An authorized representative of the Union shall be allowed to review an employee’s records upon the employee’s written authorization.
- H. The City will respond, within a reasonable period of time, to information requests from the Union which are relevant and necessary and do not seek privileged or confidential information including but not limited to the following bargaining unit information:

EE ID#	Hire Date
Last Name	Payrate
First Name	Class
Middle Initial	Class Description
Sex	Department - Personnel Area
DOB	Department Description
Hourly Weekly (Standard Hours Code)	Deduction Code
Bargaining Unit	Deduction Title
Bargaining Unit Description	Deduction Amount

Deduction Taken	Phone Number
Begin Date Deduction	Personnel Sub Area
End Date Deduction	Personnel Sub Area Description
Standard Hours	Contract
Address Line1	Organizational Unit
Address Line2	Organizational Unit Description
Address Line3	Organizational Unit Address1
Address Line4	Organizational Unit Address2
City	Shift
State	Gross Pay
Zip Code	Email Address
Area Code	

## **ARTICLE 51 - Grievance Procedure**

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- A. Policy**
1. Employees have the right to file grievances without jeopardizing their positions.
  2. Employees may represent themselves or select a Union representative to represent them at any or all steps in the Grievance Procedure.
    - a. The employee has the right to the assistance of a Union representative in the investigation, preparation and presentation of a grievance.
    - b. Employees may have no more than one City employee and one non-City employee as representatives for grievance hearings. In the last three steps of the Grievance Procedure, an additional non-City employee may, at the discretion of the employee, represent the employee.
    - c. Notwithstanding any other provision of this MOU, an employee may not select as a representative, a supervisor in the employee's chain of command or a higher ranking supervisor. This does not preclude Stewards or officers of the Union from representing an employee in a grievance.
  3. Grievances may be initiated by the employee, or by the Union on the employee's behalf. If an employee chooses to have representation on a grievance concerning a matter that directly involves the interpretation or application of the specific terms and provisions of this MOU or wages, hours, and working conditions, such representation must come from the Union.
  4. The employee's or the Union's first contact regarding job and working conditions is with the immediate supervisor. Supervisors shall attempt to settle grievances informally at this level.
  5. A grievance will normally be presented and processed on City time, and a grievant attending a grievance meeting on his or her own behalf on City time will not lose pay. In scheduling the time, place and duration of any grievance meeting, the employee, a

Steward or Union Representative and the City will give due consideration to all the participants' responsibilities in the essential operations of the department. The City has the **unequivocal** right to schedule grievance hearings as convenient. Hearings may or may not be held during an employee's normal shift. No overtime pay will be given to the grievant. Representatives, witnesses, or other participants will receive overtime pay if ordered to be present by the appointing authority.

**6. Waivers and Time Limits**

- a.** Failure by the City to reply to the employee's grievance within the time limits specified automatically processes the grievance to the next level.
- b.** Any level of review, or any time limits established in this procedure, may be waived or extended by mutual agreement confirmed in writing.
- c.** If an employee fails to appeal from one level to the next level within the time limits established in this Grievance Procedure, the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.
- d.** By mutual agreement, the grievance may revert to a prior level for reconsideration.
- e.** If a grievant fails to appear for a scheduled grievance meeting, such failure without an excuse approved by the appointing authority shall entitle the City to decide on the grievance without the presence of the grievant, or to schedule another meeting at that level (in which case the time requirements for hearing and decision are automatically waived). Failure to appear at two (2) meetings on the same grievance without an approved excuse automatically terminates that grievance and it is deemed denied. The grievance shall then not be subject to further appeal or reconsideration.
- f.** When a grievant is on approved leave the time limits established in this procedure shall be suspended for the period of the leave.
- g.** No grievance shall be finally dismissed for an unexcused failure to appear at a scheduled hearing unless the grievant had been given twenty-four (24) hours notice of the hearing.

**7.** The City shall provide the Union with copies of all grievances regarding this MOU filed by employees, within the Union's Bargaining Units, who choose to represent themselves, within five (5) working days.

**8.** The Union agrees to pursue all claims of violation of this MOU through the Grievance Procedure. Resort to other remedies shall not be pursued until all steps of the Grievance Procedure have been exhausted. If the Union reasonably feels that it or an employee has



suffered immediate and irreparable harm, the City and the Union agree that the Union shall directly contact the Human Resources Department to seek a resolution prior to pursuing remedies outside the City. If the Human Resources Department fails to address cases of immediate and irreparable harm within a reasonable period of time, the Union may initiate action outside the City. Utilization of this procedure shall be deemed to exhaust the Grievance Procedure.

## **B. Definitions**

- 1.** A grievance is a claim or charge of misunderstanding, or difference in interpretation, or violation of provisions of the Civil Service Rules, the Personnel Manual, this MOU, or management policy or regulations including but not limited to Administrative and Departmental Regulations, which affect wages, hours, or other terms and conditions of employment.
- 2.** Actions which are covered in the Management Rights Article of this MOU are not grievable, but this shall not preclude employees or their representatives from consulting with the City about the practical consequences such actions may have on wages, hours, and other terms and conditions of employment. In addition, actions covered by another appeals process as described in the Civil Service Rules, Personnel Manual, or this MOU are not grievable and shall not be processed through this Grievance Procedure.
- 3.** If the grievance system is abused by an unreasonable number of submittals by one individual or group and which is obviously designed to thwart orderly processing or if the grievances are patently irrelevant, or incomprehensible, such grievances shall be rejected as non-grievable. Such rejection shall be grievable.
- 4.** Wherever applicable, the term “working days” means the actual work days of the individual on whom the time limits are imposed.

## **C. Procedures**

### **1. General**

- a.** Management of the department has the responsibility to inform an employee of any limitation of a given level of Management’s authority to fully resolve the grievance. In this regard, the City shall:
  - 1)** Supply the employee with the necessary information to process the grievance to the proper agency or authority.
  - 2)** Advise an employee when any matter under submission is determined by the City as not grievable according to the definitions in Section II above. The “grievance” paperwork submitted by the employee shall be returned to the employee along with a memorandum explaining why the matter is not grievable and what alternative procedures, if any, the employee may

follow to process his or her complaint. A copy of this “grievance” shall be forwarded to the Union. If a grievance is determined to be not grievable, that decision may be grieved. A decision favorable to the employee or the Union in this latter grievance shall serve to reinstate the original grievance in whole.

- 3) At the request of the Union, a fourth step hearing will be conducted to discuss the reasons for finding that a grievance is not grievable. The decision at the fourth step may be appealed to the fifth step for final resolution.
- b. When a group of identical grievances develop, only one grievance form shall be submitted. The grievants may select not more than two (2) spokespersons who thereafter will be their representative “grievants”. The acceptance of the decision by the spokespersons at any step (or final decision) will be binding on all parties.
- c. A grievance shall be recognized if it is brought to the attention of the immediate supervisor either informally or formally within ten (10) working days of the incident’s occurrence.
- d. If the grievance is between the employee and any supervisor, the initial step may be to the next higher level supervisor.
- e. To be recognized, a grievance must state which policy, rule, regulation, etc., is involved in the matter and the nature of the remedy sought by the employee or the Union. In the event that the grievance is rejected for failure to state which policy, rule, regulation, etc., is involved, it may be amended by the grievant or the Union.

## 2. Steps

Step 1: At the employee’s or the Union’s sole option, grievances may be presented to the supervisor either orally or in writing. If the complaint is presented orally, the procedure is informal and may be settled by an oral answer given within five (5) working days to the employee and the Union representative. If the grievance is presented in writing, the procedure is formal and the answer must be given in writing within five (5) working days after submission.

Step 2: If the problem cannot be solved at Step 1, the employee or the Union may present the complaint in writing to the second level supervisor (if not done at Step 1) within five (5) working days. Within five (5) working days of the receipt of the grievance, a hearing shall be held and the Management representative shall give written decision to the employee and the Union representative.

Step 3: If the problem is not resolved at Step 2, the employee or the Union may submit the grievance to the division head within five (5) working days. Within five (5) working days of the receipt of the grievance, a hearing shall be held and the division head shall give a written

decision to the employee and the Union representative. In smaller departments, this step is deleted.

Step 4: If the dispute is not solved in Step 3, the employee or the Union may present the grievance to the department head within five (5) working days. Within ten (10) working days of the receipt of the grievance, a hearing shall be held and the department head (or designee) shall give a written decision to the employee or the Union representative. The designee cannot be an individual who previously heard the grievance at a lower level. In non-managerial departments, this shall constitute the final resolution of a grievance involving management policy or regulations.

Step 5: Final Resolution of Grievance: If the grievance is still in dispute after Step 4, the employee or the Union may request a further hearing, which at the discretion of the City will take place before the Civil Service Commission, on matters over which the Commission has authority, or before the Human Resources Director or his designee, by submitting the grievance within five (5) working days. If it is determined that the hearing should be held before the Civil Service Commission, a fact-finding hearing to define the issues in the grievance will be held by the Personnel Director with the employee and/or employee organization, prior to the date set for the Commission hearing. The grievance may be settled during such fact-finding hearing, if a mutually acceptable solution is developed. The decision of the Commission shall be issued at its next regularly scheduled meeting following the hearing by the Personnel Director. In grievances answered by the Human Resources Director, a hearing shall be held and a written response given within ten (10) working days from the date of receipt of the appeal from the fourth step. The employee or the Union may only request a hearing before the Civil Service Commission, in matters solely involving Civil Service Rules or the Personnel Manual.

Step 6: Grievances arising out of the disagreement on interpretation or application of this MOU shall follow the City-wide Grievance Procedure. The Union may formally request to continue the grievance, not later than ten (10) days following receipt of the answer at the final step of the Grievance Procedure (provided it was heard by the Human Resources Director or his/her designee), by serving written notice upon the City. The grievant may pursue either a hearing before the City Council or non-binding arbitration. For a hearing before the City Council, the City will refer the grievance to the City Council for hearing and decision. For non-binding arbitration, the parties will use the Sempra Energy's SDG&E model as a foundation for implementation.

3. The City will ensure that grievances are properly handled in a timely manner and that any abuses of this Grievance Procedure are expeditiously corrected.

## **ARTICLE 52 - Disciplinary Actions and Appeals**

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- A. The employee may appeal the placement of any disciplinary **action** in his or her **official Personnel file** by submitting an appeal letter within ten (10) working days of the employee being notified of **any disciplinary action copied to the employee's official Personnel file**. As soon as possible after receiving the appeal letter, the Department Head or his or her designee will schedule a hearing on the matter **to serve as an objective Hearing Officer**. The employee is
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entitled to representation at such hearing as specified under Article 45, Section A. **This appeal presentation should contain pertinent details of the basis for the appeal. The Hearing Officer** will make a decision within ten (10) working days as to whether the **disciplinary action** will be **upheld, reduced, or dismissed**. This decision shall be final and **conclude** the appeals **process for all non-property-rights disciplinary actions**. It is mutually agreed that performance reports that meet standards are not eligible to be appealed but may be reviewed in accordance with City's Personnel Rule, G-7A section VII B (2) which states:

*“Employees may not appeal evaluations received during Supervisor-Employee Conferences. When employees have concerns about evaluations other than Supplemental Performance Reports, the Department Head should designate someone, other than the rater or reviewer, to meet with the employee and his or her representative in an attempt to resolve any differences or dissatisfaction. These reviews may result in changes being made to the evaluation, but are not to be considered an appeal of the evaluation. In addition, employees may attach rebuttal information to the evaluation if they disagree with any part of the evaluation.”*

- B.** Disciplinary actions shall remain a permanent part of the employee's **official Personnel** file, with the exception of the following:
1. When the employee has appealed the placement of a document in his or her file and the appeal has been upheld by the **designated Hearing Officer**.
  2. When a disciplinary action has been appealed to the Civil Service Commission in accordance with the appeal rights provided in Civil Service Rule XI and the Commission has directed that such record be removed from the employee's **official Personnel** file.
- C.** The City and the Union ascribe to the principles of just and progressive discipline where warranted and appropriate. These principles include:

Performance Related Matters

1. Performance Plan
2. **Verbal** Counseling
3. Written Counseling
4. Performance Evaluation
5. Reduction in Compensation
6. Demotion
7. Termination

Misconduct Issues

1. **Verbal** Warning
2. Written Warning
3. Reprimand
4. Suspension

5. Reduction in Compensation
6. Demotion
7. Termination

While these progressive steps are available, severity of the problems, circumstances and supervisory judgment dictate which disciplinary measure is appropriate.

D. The City Personnel Department and the Appointing Authority shall keep and maintain an official personnel file for employees, which shall contain all information relative to the employee.

E. **Reprimands**

Reprimands without further **related misconduct** more than two (2) years old, and those with additional **related misconduct** more than three (3) years old, will be destroyed, **from the employee's official Personnel file**, and will not be considered for purposes of promotion, transfer, special assignments and disciplinary actions, except as to disciplinary actions when such **documented violations** show patterns of specific similar misconduct. Upon request of the employee, such reprimands will be destroyed **from the employee's official Personnel file** on this basis. However, in the event that an employee fails to make such a request, on discovery by the City any reprimand will be destroyed in accordance with this provision.

F. **Written Counselings and Written Warnings**

Written counselings and written warnings more than one (1) year old will be destroyed **from the employee's official Personnel file** and will not be considered for purposes of promotion, transfer, special assignments and disciplinary actions, except as to disciplinary actions **when such documented violations show patterns of specific similar performance or misconduct**. Upon request of the employee, such written counselings and written warnings will be destroyed **from the employee's official Personnel file** on this basis. However, in the event that an employee fails to make such a request, on discovery by the City any written counseling or written warning will be destroyed **from the employee's official Personnel file** in accordance with this provision.

An employee will have an opportunity to rebut any detrimental material which is placed in his or her **official Personnel file** by having a letter of rebuttal attached to the detrimental material.

Upon request, an employee is entitled to a copy of specific materials placed in their current **official Personnel file**. An employee will receive a copy of any material placed in their **file** at the time the material is placed in the employee's **official Personnel file**.

An employee's supervisor may maintain a **working** file of job related information on an employee. Any detrimental information will be discussed with the employee during counseling or performance evaluation sessions. Formal disciplinary **records** will be maintained in the Personnel Department. Both the City and the Union agree that an employee's failure to challenge any material in such file does not justify the conclusion that the employee is in agreement with any such material.

## G. Supplemental Performance Reports

Issuance of Supplemental Performance Reports which are not resolved by the Department Head or designee may be appealed by the employee to the Personnel Director. The Personnel Director will accept and take action on such appeals only when the employee has a valid complaint that:

1. the employee was not rated by the first-line (immediate) supervisor, or
2. the Employee Performance Report was not discussed with the employee, or
3. the evaluation was changed without the employee's knowledge, or
4. the Performance Plan was not discussed with the employee when the employee first began a job or when the plan was revised due to changes in the job.

If an appeal is accepted, the Personnel Director will investigate the facts and consult with all concerned before a change, if any, is made in the rating.

Supplemental Performance Reports which are not resolved by the Department Head or designee may be appealed to the Human Resources Director or designee **only** if the rating was based on incidents that occurred outside of the rating time period.

## H. Skelly Rights

The City agrees to observe the "Skelly" **or property** rights of employees in disciplinary actions. When the City disciplines a permanent employee in the form of a suspension, **reduction in compensation**, demotion, **or termination**, the City agrees to provide **advance** written notice and an opportunity to respond to the Appointing Authority proposing the discipline. The employee will be given a reasonable opportunity to obtain representation and will be provided with the factual basis and pertinent documents for the discipline. The employee will be permitted to have one (1) City employee and one (1) non-City employee as representatives at the Skelly hearing.

## I. Reduction in Compensation

The compensation of any employee of the City may be reduced a maximum of two (2) steps within the salary range of that employee's current classification. Such reduction in compensation may be put into effect upon finding that the employee's performance does not meet standards for the employee's classification and/or position.

It is the intent of both parties that a reduction in compensation is an intermediary step, normally preceded by progressive discipline and may normally precede more severe disciplinary action.

### 1. Procedure for Reduction in Compensation

An employee's compensation shall be reduced only upon the completion of the following steps:

- a. The employee is placed on a **ninety (90) day** Supplemental Performance Report.
- b. Upon being notified of the proposed action to reduce the employee's compensation, such employee shall, within five (5) working days, have the right to respond in writing to the Appointing Authority.
- c. After giving due consideration to the information provided by the employee, the Appointing Authority may elect to reduce the compensation of such employee.
- d. At the time the employee is notified of such action, the employee will be informed of their representation and appeal rights.
- e. The reduction in compensation may be in effect for **up to** six (6) months of active duty. At the end of that time the employee shall be reinstated to the previous salary step in the job classification or some other type of disciplinary action shall be taken.
- f. At the end of ninety (90) days the employee's job performance must be reevaluated by the Appointing Authority. If the employee's performance does not meet standards the reduction in compensation may continue. If the employee's performance meets standards, the employee will be reinstated to the previous salary step in the job classification.

2. Appeal of Reduction of Compensation

Within ten (10) working days of receipt of notice of reduction in compensation, an employee may file a written appeal with the Human Resources Department. The decision of the Human Resources Director or designee will be final.

- J. Except for the appeal process for reduction in compensation as stated above, members of the unit shall have all appeal rights currently provided in Civil Service Rule XI.
- K. Unless there are extraordinary and extenuating circumstances **approved by the Labor Relations Office in advance**, the City shall **serve advance notice of any written disciplinary action** within thirty (30) **calendar** days of the conclusion of the investigatory process. **Any approved delays must be communicated to the Union to include the extraordinary and extenuating reason(s) and an updated completion date.** The Union may grieve violations of this provision directly to the Human Resources Department's **Labor Relations Office. Once an appeals process has concluded, a final notice to adverse action shall be served within ten (10) working days. Upon request from the Union, the Human Resources Director may decide to reduce or dismiss the level of disciplinary action if it is determined delays were not based on a legitimate reason.**
- L. The use of Last Chance Agreements is recognized by the City as a possible alternative to termination of employment in select cases. Consideration by the City of this alternative will be

conducted in a fair and equitable manner. When the City agrees to a Last Chance Agreement, the agreement shall be fully binding and the duration of the agreement shall normally be one year.

- M. The primary responsibility for conducting an **administrative** investigation and **any** resulting advance notice of disciplinary action will be delegated by the Appointing Authority to someone other than the individual prospectively responsible for hearing an appeal of such action. The individual delegated the primary responsibility will also sign the Advanced Notice. Exceptions may be granted by the Human Resources Director **and must be received in writing within five (5) working day of receipt of the advance notice.**

#### **ARTICLE 53 - Equal Opportunity Policy**

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- A. The parties mutually recognize and agree **to** fully protect the rights of all employees in the **Bargaining Units** represented by the Union to join and participate in the activities of the Union, or not to join and participate in such activities, and all other rights guaranteed by law.
- B. No employees shall be interfered with, intimidated, restrained, coerced or discriminated against because of the exercise of these rights.
- C. The provisions of this MOU shall apply equally to all **covered** employees without favor or discrimination **based on any of the protected classes or categories listed in the City's Equal Employment Opportunity (EEO) Policy- Annual Statement, or because of** political or religious opinions or affiliations. In interpreting these terms, the City **is** bound by state and federal law.
- D. The Union agrees to support affirmative action and equal opportunity plans and policies promulgated in accordance with procedures established by the City Council as consistent with state and federal law.
- E. If an employee files a complaint with the state or federal authorities, the City shall cooperate fully with that agency's **if an investigation is** conducted.

#### **ARTICLE 54 - Rest Periods**

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- A. The City endorses the practice of progressive management which recognizes that regular, authorized rest periods are beneficial both to employees personally and to the productivity of the organization.
- B. The following guides are established to assure that rest periods will be properly controlled and that maximum benefits will be derived from them. These guides also extend to personnel working on an overtime schedule.
  - 1. Two fifteen (15) minute rest periods (including "travel time" if the employee leaves the work area) may be allowed during each eight (8) hour work day ("travel time" means pedestrian travel or travel in the employee's private vehicle). Subject to work



assignments and departmental requirements, a rest period or a meal break should be allowed near the end of each two (2) hour period of work.

- a. Employees who work more than ten (10) hours **per day** **are** entitled to a third rest period of fifteen (15) minutes duration. Employees who work twelve (12) or more hours **per day** **are** entitled to a third rest period of thirty (30) minutes duration.
  - b. Certain constant staffing positions may be exempt from the third rest period. In no case shall an employee working more than ten (10) hours be provided more than a third break.
2. Since the purpose of granting rest periods is to give relief from mental or physical fatigue, and consequently, to improve productivity, the following practices **are** not allowed:
- a. Combining two (2) daily rest periods into one thirty (30) minute period;
  - b. “Saving” rest period time to justify extended lunch hours or shortened work days;
  - c. Accumulating rest period time from day to day; or
  - d. Applying rest period time to compensatory or other time off, or in the considerations or computations concerned with overtime compensation.
- C. Subject to work assignments and departmental requirements, **Department Heads** are authorized to provide rest periods for employees within the limits of the policy outlined above.

## **ARTICLE 55 - Hours of Work, Shift Reassignments and Work Schedules**

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The City **has** the right to modify existing schedules and/or create new schedules during the term of this MOU. The City will notify the Union at least ten (10) working days in advance of its intent **to modify schedules**. Upon request by the Union prior to implementing the new schedule, will meet and confer for a reasonable period of time and implement **changes** only upon agreement or after an impasse opportunity. Except in circumstances beyond control of the City, all employees in the units represented by the Union shall receive at least five (5) working days notice prior to a permanent or extended shift change, or a permanent or extended work schedule change. The City will normally use seniority as the first and principal factor in such assignments. However, other factors may also be considered such as performance problems, disciplinary **issues**, physical ability, punctuality, attendance and specialized skills and experience. If a change is ordered out of seniority, the City will discuss and explain its reasons with the Union if requested. Grievances related to seniority issues may be made directly to the Department Head or designee.

The City agrees that the standard work schedule for General Services is five (5) days **per** week and eight (8) hours **per** day. The parties have agreed to an alternate work schedule of 36/44 hours bi-weekly in the Facilities and Communications Divisions. The Print Shop, Fleet, and Street Divisions will continue

with their existing alternate work schedules. All agreements on work schedules will remain in effect unless the parties mutually agree to a different schedule or the City modifies a work schedule based upon operational efficiencies, productivity or enhanced customer service. The City agrees that shift and work schedules shall not be changed back and forth on an irregular basis for the sole purpose of avoiding overtime. This does not preclude the City from exercising its right to evaluate its responsibility to allocate resources, staff and material in an efficient manner which may result in irregular schedules such as split shifts, etc.

The parties agree to refer to the Labor Management Committee issues related to irregular changes in work schedules or shifts.

### Hours of Work

- A. Employees covered by this MOU shall normally work a five (5) day, forty (40) hour work week. The City agrees to **meet and confer at** the request **of the Union on** any changes to the current forty (40) hour work week schedule.
- B. A normal work day shall normally consist of eight (8) consecutive hours not including time for lunch.
- C. This does not preclude the City from using a four (4) day, ten (10) hour per day weekly work schedule or a similar modified work schedule. Employees who are scheduled to work a shift of nine (9) or more hours on a fixed City holiday, shall be credited with one (1) or more additional hours of floating holiday time respectively for use on that holiday.
- D. Except for emergency situations, as defined in Personnel Manual Index Code H-4, II (B) 1-4, employees may not work more than sixteen (16) hours per day.
- E. The parties agree to refer to the Labor Management Committee issues related to overtime and limitations on consecutive hours of work. During the term of **this MOU**, the parties agree to study the hours of work relating to extended shifts and how the following day's schedule will be administered and accounted for. Specifically, the study will look at if an employee is required to work sixteen (16) or more hours in any given workday, what is an appropriate rest period between shifts and a determination on the utilization of paid leave or changing shifts in conjunction with the rest between shifts.

### **ARTICLE 56 - Employee Rights**

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- A. It is agreed that neither the City nor the Union shall discriminate against any employee because of race, national origin, age, sex, gender identification, sexual orientation, disability (as defined by the Americans with Disabilities Act) or Union membership or activity, or for any other unlawful reasons. It is further agreed that no employee will be discriminated against because of exercising his or her rights specified in the City Council Policy 300-6 and this MOU. The Union and Management agree that they support the current policies of the City as to affirmative action and equal employment opportunity.

- B. No employee shall be compelled to submit to a polygraph examination against his or her will. No disciplinary action or other **retaliation** shall be taken against any employee refusing to submit to a polygraph examination, **and no comment will** be entered anywhere in the investigator's notes or anywhere else that **indicate** the employee refused to take a polygraph examination. **No** testimony or evidence **that the employee refused to take a polygraph examination will** be admissible at **any** hearing, trial, or proceeding, **whether** judicial or administrative.
- C. Requests **by any departments to conduct** covert video surveillance for the purpose of documenting **misconduct must** be submitted to the Human Resources Director for review **and approval before any surveillance is started.**
- D. Employees have the right to expect professional supervision free of undue and/or unfair harassment.

## **ARTICLE 57 - Personnel Practices**

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### **A. Citizen Complaints and Route Slips**

Employees will be notified of any citizen complaint **or** route slip in which they are identified by name or in which they can be identified by the City from the information received. The City shall be obligated to provide the necessary information related to any citizen complaint/route slip to authenticate the complaint and forward such authentication to the Union within ten (10) days from when the City received such complaint/route slip. The City may redact the citizen's name from the complaint. If the complaint is resolved in the employee's favor, the complaint, together with all related documents, shall be removed immediately from the employee's personnel file(s), unless the employee requests in writing that the document be retained.

### **B. Performance Evaluations**

1. Performance **Evaluations** will normally be given to **an** employee within fourteen (14) calendar days after the close of the rating period. **In** no case shall the department give a **Performance Evaluation** to an employee later than thirty (30) working days after the close of the rating period without the prior approval of the Human Resources Department or non-managerial Department Head. **Prior** approval is required **before** the **evaluation can be given to the employee** more than thirty (30) working days after the due date, **but does not affect** the content of the **evaluation**. Failure to obtain prior approval gives rise to a grievance which the Union may present directly to the Human Resources Department or to the non-managerial Department Head.
2. The City agrees to **meet and confer** with the Union without impasse on enhancements to Performance Report practices and procedures.

### **C. Court Fees**

The City shall no longer require employees to deposit with the City Comptroller fees **paid to him or her** from the court.

## **ARTICLE 58 - Transfers**

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Transfers shall be revised to permit employees who do not meet performance standards to be placed on transfer eligible lists. It is the responsibility of the Appointing Authority to verify an employee's performance through the employee's current department or by reviewing the employee's personnel file prior to making a selection.

## **ARTICLE 59 - Substance Abuse**

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The City implemented an expanded Substance Abuse Policy Administrative Regulation 97.00 on July 1, 1991. Employees are prohibited from consuming alcohol during work hours, breaks and meal periods.

## **ARTICLE 60 - Accident Reports**

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- A. The Union and the City agree to refer **whether** obsolete accident reports **should be sealed from an employee's file** to the Labor Management Committee for resolution.
- B. Employees involved in accidents determined to be "non-preventable" shall not be subject to any penalty.
- C. The Union may have a non-voting representative on the Accident Review Board and a voting representative on the Accident Review Committee. The representative cannot be a party to, or subject of, a review.

## **ARTICLE 61 – Weapon-Free Workplace**

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**Employees are prohibited from possessing personal deadly weapons or firearms, even if lawfully owned, while performing duties or have stored in the workplace, including City controlled access parking facilities. The City shall have the right to adopt an Administrative Regulation regarding transporting or carrying weapons by City employees on City property or job sites. At the request of the Union, the City will meet and confer over the identified impacts of the Administrative Regulations. For purposes of this Article, tools required or used on the job are not considered weapons. Reservoir Keepers at their homes are exempted from this provision.**

## **ARTICLE 62 - Probation**

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- A. Probationary employees in classifications represented by the Union shall normally receive at least five (5) working days notice of dismissal during probation, either through the performance report or other written notification.
- B. Probationary employees and permanent employees serving a probationary period may use the grievance procedure in accordance with Article 51.

## **ARTICLE 63 - Vacancies**

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The City will normally use seniority as the first and principal factor in reassigning employees within a classification within a division. However, other factors may also be considered such as performance,

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disciplinary reasons, physical ability, punctuality, attendance and specialized skills and experience. If a vacancy is filled out of seniority, the City will discuss and explain its reasons with the Union.

#### **ARTICLE 64 - Apprentices**

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- A. Upon successful completion of the Apprenticeship Program, seniority in the journey level class shall be retroactive to the date of hire as an apprentice for the purposes of shift assignments, station transfers, and other intra-departmental purposes.
- B. Apprentices required to attend school or enroll in correspondence courses as part of their required training shall not be required to use this program to pay tuition or enrollment fees. All fees, **including** the cost of required books and supplies and any other fees required by the State of California, **state**-approved agency, or the City for participation in the Apprenticeship Program shall be reimbursed in full by the City to the employee at the time of enrollment. If the apprentice fails or does not satisfactorily complete the course, the cost of the books and supplies **must** be repaid to the City.
- C. Apprentices will receive City mileage reimbursement when required to attend courses required as part of their Apprenticeship Program. Mileage will be calculated based on the round-trip distance between the worksite and school or actual distance traveled, whichever is less.
- D. The City recognizes that the Apprenticeship Program is an effective EEO tool to bring people into the skilled trades, who have traditionally been excluded.

#### **ARTICLE 65 - Department Work Rules**

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The City agrees to make available to the Union current written **D**epartmental policies and instructions. **When** reasonable, additional **D**epartmental policies and instructions are developed and published, the City will make copies to the Union and employees. **All** policies **must** be uniformly applied. However, the obligation to make copies of current and future **D**epartmental policies and instructions **available** **does** not extend to **policies** which describe confidential or security procedures.

#### **ARTICLE 66 - Limited Appointments**

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- A. The City agrees not to fill permanent, full-time, one-half time, or three-quarter time budgeted positions with employees serving on limited appointments except in extraordinary circumstances. The City intends to use limited appointments to fill hourly positions, positions funded by the state and federal **g**overnment, and full-time budgeted positions in which the incumbent employee is on a special leave without pay.
- B. The Union and the City agree to discuss the use of limited and hourly employees at the Labor Management Committee.

#### **ARTICLE 67 - Refuse Collection Incentive System**

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Manual, recycling, greenery, and refuse collection crews **after they** have completed their assigned collection routes, may be released by their supervisors a maximum of one (1) hour prior to the end of

the shift. **Crews** shall be paid for the entire shift **after** all of the following **duties** have been completed: the section's daily collection assignments, any service requests **that** have been **received, and** all employee post trip requirements, including fueling, cleaning, and reporting any mechanical problems to a **Master Fleet Technician. Each crew may not be released early if** "help" is required to complete any other collection assignment remaining as a result of unusually heavy set outs, seasonal requirements, labor or equipment availability, effects of natural forces, traffic or other unforeseen causes. This includes "help" on other routes, service requests, seasonal collection programs, etc. Routes are designed based on target average tonnages. When unavoidable shortages of equipment or personnel occur, crews are expected to complete collection of all refuse routes assigned for the day.

## **ARTICLE 68 - Continuous Improvement/Incentive Award Program**

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- A.** A continuous improvement/incentive award program may be initiated with select work groups with mutual agreement by both parties. **The** program shall be designed to use performance incentive pay to benefit employees, and taxpayers **and** ratepayers by promoting the following:
- 1.** High levels of productivity (effective and efficient performance beyond what is required)/quality;
  - 2.** Customer service;
  - 3.** Teamwork **and** cross-functional cooperation; and
  - 4.** Best practices and safe behaviors.
- B.** The following are rules for program administration:
- 1.** Individual eligible employee incentive payments are capped at \$4,000 net of taxes per year, based on the number of stretch goals achieved and budget savings.
  - 2.** Incentive payments are team-based (i.e. distributed among eligible employees regardless of classification and pay step).
  - 3.** Incentive payments for this program are separate from and in addition to other discretionary award programs and award caps for City employees.
  - 4.** Goals are set by Management with input from employees.
  - 5.** Levels of savings and goal achievement are subject to independent review by the Office of the City Auditor.

## **ARTICLE 69 - Appearance Guidelines**

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- A.** All City employees shall maintain a professional appearance through appropriate attire reflecting the specific requirements of his **or** her job duties.
- B.** All employees shall report to work in clean clothing.
- C.** Each employee shall maintain an **inoffensive** level of personal hygiene.
- D.** Each employee shall wear any required safety equipment.
- E.** For office personnel, shorts, tank or midriff tops, see-through clothing and flip-flops or thongs are inappropriate.

- F. For office personnel whose job assignments include contact with the public, sweat or jogging outfits or T-shirts of any kind are inappropriate.
- G. Field personnel shall wear full shirts and pants or approved shorts, as well as sturdy, enclosed shoes for safety reasons. For field personnel, inappropriate apparel includes tank or midriff tops, see-through clothing and cut-off shorts.
- H. Hats, shirts, and jackets are not to include references to alcohol or drugs, contain sexually explicit language, contain profane language, or, in the reasonable judgment of the supervisor, be inappropriate, unprofessional dress for a field employee.
- I. Sunglasses are not to be worn in indoor meetings.
- J. Exceptions to these guidelines include the following or similar circumstances:
  1. Uniformed personnel.
  2. Special occasions designated by the Department Director or designee.
  3. Employees relocating offices, or performing other atypical or unusual job duties.
  4. An offensive level of personal hygiene which results from an employee performing his or her duties during the work shifts.
- K. These guidelines establish minimum standards normally applicable. They will be reasonably applied in order to accommodate various situations **that are** not susceptible to **individual** enumeration.
- L. No disciplinary action may be taken when a violation of this dress code agreement is caused by the performance of the employee's duties during the work shifts.
- M. A reasonable amount of time will be given to employees to clean-up and change their clothing to conform with the Appearance Guidelines, whenever extraordinary circumstances dictate.

## **ARTICLE 70 - Layoffs**

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### **A. Employment Opportunities After Layoff**

If employees represented by the Union are to be laid off, the City will make its best efforts to find alternative City employment for those employees affected. The City will attempt to find alternative City employment as close as possible to the employee's current salary level provided the employee meets the minimum qualifications for **the** alternative employment.

### **B. Layoffs will be done in accordance with the following:**

Personnel Regulations, Civil Service Rule V, Layoff and Reemployment  
 Personnel Manual, Index Code E-2, Eligible Lists and Certification

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## ARTICLE 71 - Other Provisions

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- A. The following Personnel Manual sections, Administrative Regulations, and other official regulations shall **are** included in this MOU as if fully set out at this point. **The provisions of any documents which affect wages, hours, and other terms and conditions of employment which would otherwise be subject to meet and confer, will not be changed.**
1. Personnel Manual Regulations **Index Codes**  
G-7A, Employee Performance Review Program  
H-1, Bilingual Pay  
H-2, Holidays  
H-3, Out-of-Class Assignments  
H-4, Overtime Compensation  
H-5, Salary Status of Part-Time Employees  
I-2, Annual Leave  
I-9, Court Leave  
**L-5, Layoff**  
**M-1, Apprenticeship Training**
  2. Administrative Regulations  
63.00, Industrial Leave  
70.30, Tuition Refund Plan  
95.01, Overtime Compensation  
95.60, Conflict of Interest **and Employee Conduct**  
95.90, Unused Sick Leave and Accrued Annual Leave Reimbursement
  3. Other Regulations and Procedures  
Civil Service Rule V, Layoff and Reemployment  
Long Term Disability Plan (on file with the Office of the City Clerk)  
Smoking Policy (on file with the Office of the City Clerk)  
Council Policy 300-06, **Employee-Employer Relations**
- B. The City agrees to develop a procedure for liberty interest hearings during the term of this MOU.

## ARTICLE 72 – Overpayments to City Employees and Repayment of Funds

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- A. **Overpayment**  
**If it has been discovered that an overpayment or unauthorized payment has been made to a City employee, it is the responsibility of the department to notify the employee in writing and supply the employee with the documentation used to determine the overpayment.**
- If the employee contends that any portion or the entire amount is not owed, he or she shall be entitled to request a meeting with the appointing authority to attempt to resolve the**
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**disagreement. If the dispute about the payment originates in another department, the employee has a right to request a meeting with the Appointing Authority in that department. The department will notify the employee that he or she shall be entitled to have a Union representative attend such meeting(s) with him or her. If the dispute regarding overpayment arises from the interpretation of a personnel regulation or administrative regulation, the employee shall be entitled to grieve this matter directly to the Department Head level.**

**B. Repayment of Funds**

**An employee will pay no penalties, fees or interest as a result of the overpayment. In the event the employee elects to repay the alleged overpaid funds, the employee shall have the right to select one of the three following options for the repayment of the funds:**

- 1. lump sum payment with the date mutually established by the employee and the department (lump sum payments must be made if the total amount due is 5% or less than the employee's biweekly salary);**
- 2. biweekly installment payments through payroll deduction (installment payments must be a minimum of \$10 and repayment must be completed within 26 pay periods);**
- 3. any other repayment arrangement mutually agreed upon between the City and the employee.**

**The final agreement on the repayment will be committed to writing, with the lump sum payment date, or the biweekly amount and the beginning and ending date of the installment plan identified. Disputes over repayment of funds which were overpaid to an employee through no fault of the employee, shall not be a factor in employee performance reports; discipline or any other personnel matter(s).**

**C. Referral to Collections**

**A department may refer an employee to the Treasurer, Collections Section only when the employee, after being duly notified of the overpayment and having had the opportunity to review the relevant documentation, refuses to agree to a repayment of the amount owed. The employee will be notified of the referral and informed that the Collections Section will proceed with collection as it would for any other debtor.**

**ARTICLE 73 - Volunteers**

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- A. The City's Volunteer Program is governed by City Council Policy 300-01 dated February 12, 1996.**
  - B. For the purpose of this Article, a volunteer is defined as an individual(s) who offer themselves for some service or undertaking without being offered any remuneration by the City.**
  - C. In accordance with City Council Policy No. 300-01, the City will continue to optimize the use of volunteers where it is economically feasible, and in the best interest of the public by**
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supporting the development of volunteer opportunities throughout the City. Unless the parties meet and confer during the term of the MOU subject to Article 10, volunteers are to be utilized only to supplement and complement the work performed by bargaining unit employees and without decreasing bargaining unit work or displacing existing bargaining unit employees.

- D. Parties understand that departments participating in the City’s Volunteer Program shall utilize volunteers to perform a number of tasks necessary to support volunteer programs. Projects performed by volunteers include the following:**
- 1. Community Beautification Projects**
    - a. Litter abatement**
    - b. Painting**
      - 1) Facility wall murals**
      - 2) Painting**
    - c. Mowing small areas in between City’s mowing schedule (e.g. cricket mound)**
  - 2. Community Recreational Events**
    - a. Golf marshaling**
    - b. Special event grounds preparation**
  - 3. Open Space Parks Habitat Support**
    - a. Habitat restoration (e.g. non-native plant removal)**
    - b. Trail maintenance (e.g. brush management, bridge repairs)**
    - c. Litter abatement**
  - 4. Water Reservoirs and Watershed & Resource Protection Support**
    - a. Litter abatement and general upkeep of the facilities in partnership with I Love A Clean San Diego and Friends of Lake Murray.**
- E. City agrees to strive to supervise volunteer work assignments which require minimum qualifications.**

**ARTICLE 74 – “Me Too Clause” To Sunset June 30, 2013**

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The City agrees that, if, during the term of this MOU, any other employee labor organization is given a general salary increase or any other economic enhancement to their overall compensation, or has any compensation reductions they have incurred or concession they made restored to them, then the City will extend that same economic benefit to bargaining unit employees on the same terms and on the same effective date. The parties agree that this “Me Too Clause” will remain in effect during Fiscal Year 2013 and will sunset on June 30, 2013.

**ARTICLE 75 - Discretionary Leave for Fiscal Year 2013**

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- A. All full time bargaining unit members will receive a one-time 16 hours of discretionary leave for use during Fiscal Year 2013 and the discretionary leave identified in this Section, has no eligibility requirements except as set forth in this Section. Three-quarter time employees will receive 12 hours of discretionary leave for use during Fiscal Year**
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**2013. Half time employees will receive 8 hours of discretionary leave for use during Fiscal Year 2013.**

- B. Each employee will schedule his or her discretionary leave hours in the same manner as annual leave is presently scheduled pursuant to Article 22 of this MOU.**
- C. All leave granted under this Article must be used by June 30, 2013 or it will be forfeited. The one-time 16 hours of discretionary leave under this Article will sunset on June 30, 2013.**
- D. The sunset provision of Section 3 above does not amend, modify, or alter any discretionary leave that may be granted under Administrative Regulation 95.91 (Employee Recognition and Rewards Program).**

## EXHIBIT A - Maintenance, Labor, Skilled Trades and Equipment Operator Unit

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Aircraft Mechanic	Painter
Airport Operations Assistant	Parking Meter Technician
Apprentice	Pesticide Applicator
Aquatics Technician I	Plant Operator Trainee
Aquatics Technician II	Plant Process Control Electrician
<b>Assistant Fleet Technician</b>	Plant Technician I
Assistant Reservoir Keeper	Plant Technician II
Assistant Wastewater Plant Operator	Plant Technician III
Assistant Water Distribution Operator	Plasterer
Assistant Water Plant Operator	Plumber
Bindery Worker I ( <b>Terminal</b> )	Power Plant Operator
Bindery Worker II ( <b>Terminal</b> )	Public Service Career Trainee (if target class is in this unit)
Bindery Worker III ( <b>Terminal</b> )	<b>Publishing Specialist I</b>
Boat Operator	<b>Publishing Specialist II</b>
Body and Fender Mechanic	Pump Station Operator
Building Service Technician	Pump Station Operator Trainee
Carpenter	Refrigeration Mechanic
Cement Finisher	Reservoir Keeper
Cement Gun Operator	Roofer
Communications Technician	Sanitation Driver I
Construction Estimator	Sanitation Driver II
Custodian I	Sanitation Driver III
Custodian II	Sanitation Driver Trainee
Custodian III	Senior Airport Operations Assistant
Electrician	Senior Boat Operator
Electronics Technician	Senior Communications Technician
Equipment Operator I	Senior Locksmith
Equipment Operator II	Senior Offset Press Operator
Equipment Operator III	Senior Parking Meter Technician
Equipment Painter	<b>Senior Publishing Specialist</b>
Equipment Technician I	Senior Refrigeration Mechanic
Equipment Technician II	Senior Stable Attendant
Equipment Technician III	Senior Stadium Groundskeeper
Firearms Technician	Senior Wastewater Plant Operator
<b>Fleet Attendant</b>	Seven Gang Mower Operator
<b>Fleet Technician</b>	Sign Painter
<b>Fleet Team Leader</b>	Stable Attendant
Greenskeeper	Stadium Groundskeeper
Grounds Maintenance Worker I	Stadium Maintenance Technician
Grounds Maintenance Worker II	Tank Service Technician I
Grounds Maintenance Worker III	Tank Service Technician II
Heating Technician	Traffic Signal Technician I
Heavy Truck Driver I	

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Heavy Truck Driver II  
Instrumentation and Control Technician  
Irrigation Specialist  
Laborer  
Landfill Equipment Operator  
Lead Cemetery Groundskeeper  
Light Equipment Operator  
Locksmith  
Machinist  
Marine Mechanic  
**Master Fleet Technician**  
Millwright  
Millwright Apprentice  
Motive Service Technician  
Motive Service Trainee  
Motor Sweeper Operator  
Nursery Gardener  
Offset Press Operator

Traffic Signal Technician II  
Traffic Stripper Operator  
Tree Maintenance Crew Leader  
Tree Trimmer  
Utility Worker I  
Utility Worker II  
Wastewater Plant Operator  
Water Distribution Operator  
Water Distribution Operator Trainee  
Water Plant Operator  
Water Systems Technician I  
Water Systems Technician II  
Water Systems Technician III  
Water Utility Worker  
Welder  
Work Service Aide

## EXHIBIT B - Classes Eligible For Voluntary Certification Pay

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### **Assistant Fleet Technician**

Assistant Reservoir Keeper  
Assistant Water Distribution Operator  
Body and Fender Mechanic  
Electrician  
Electronics Technician  
Equipment Operator I (Flusher Vactor)  
Equipment Operator I (Sewer Rodder)  
Equipment Painter  
Equipment Technician I  
Equipment Technician II  
Equipment Technician III

### **Fleet Technician**

Instrument and Control Technician  
Machinist

### **Master Fleet Technician**

Motive Service Technician  
Plant Process Control Electrician  
Plant Technician I  
Plant Technician II  
Plant Technician III  
Power Plant Operator  
Reservoir Keeper  
Tank Service Technician I  
Tank Service Technician II  
Utility Worker I  
Utility Worker II  
Water Distribution Operator  
Water Distribution Operator Trainee  
Water Systems Technician I  
Water Systems Technician II  
Water Systems Technician III  
Water Utility Worker  
Welder

## EXHIBIT C - Corporate Apparel Program

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### Public Utilities Department: Water Branch

Assistant Plant Operator  
Assistant Reservoir Keeper  
Carpenter  
Cement Finisher  
Electrician  
Electronics Technician  
Equipment Operator I  
Equipment Operator II  
Equipment Operator III  
Equipment Technician I  
Equipment Technician II  
Equipment Technician III  
**Fleet Technician**  
Grounds Maintenance Worker I  
Grounds Maintenance Worker II  
Heaver Truck Driver Instrumentation and Control Tech  
Laborer  
Plant Operator Trainee  
Custodian II  
Plant Process Control Electrician  
Plant Technician I  
Plant Technician II  
Plant Technician III  
Reservoir Keeper  
Tank Service Technician I  
Tank Service Technician II  
Utility Worker I  
Water Distribution Operator  
Water Plant Operator  
Water Systems Technician I  
Water Systems Technician II  
Water Systems Technician III  
Water Utility Worker  
Welder

### Facilities Division

Building Service Technician  
Carpenter  
Electrician  
Heating Technician  
Locksmith  
Plumber  
Refrigeration Mechanic  
Roofer  
Construction Estimator

IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding effective July 1, 2012 – June 30, 2013, to the appropriate bodies on this 6<sup>th</sup> day of June, 2012.

**Local 127, American Federation of State, County and Municipal Employees, AFL-CIO**

(Signature on file, available upon request)  
Curt Ostrander, Lead Negotiator

(Signature on file, available upon request)  
Michael Flaherty, Negotiating Team

(Signature on file, available upon request)  
Joan Raymond, President

(Signature on file, available upon request)  
Franklin Lamberth, Negotiating Team

(Signature on file, available upon request)  
Frank Pitarro, Vice President

(Signature on file, available upon request)  
Daniel Orozco, Negotiating Team

(Signature on file, available upon request)  
Carlos Mejia, Business Representative

(Signature on file, available upon request)  
John Romero, Negotiating Team

(Signature on file, available upon request)  
Marcos Cardenas, Business Representative

(Signature on file, available upon request)  
Edgar Torres, Negotiating Team

(Signature on file, available upon request)  
Bridgette Brashear, Negotiating Team

(Signature on file, available upon request)  
Kathleen Vardakis, Negotiating Team

(Signature on file, available upon request)  
Michael Duhamel, Negotiating Team

**City of San Diego**

(Signature on file, available upon request)  
\_\_\_\_\_  
Scott Chadwick, Human Resources Director

(Signature on file, available upon request)  
\_\_\_\_\_  
Tim Davis, Lead Negotiator

(Signature on file, available upon request)  
\_\_\_\_\_  
Rimah Khouri, Labor Relations Officer

(Signature on file, available upon request)  
\_\_\_\_\_  
Jennifer Carbuccia, Human Resources Deputy Director

(Signature on file, available upon request)  
\_\_\_\_\_  
Valerie VanDeweghe, Risk Management Deputy Director

(Signature on file, available upon request)  
\_\_\_\_\_  
Marcelle Rossman, Financial Operations Manager



For the City of San Diego, I HEREBY APPROVE the form and legality of the foregoing Agreement this \_\_\_\_\_ day of June, 2012.

TIMOTHY L. DAVIS:

By: *(Signature on file, available upon request)*

TIMOTHY L. DAVIS, ESQ., BURKE,  
WILLIAMS & SORENSEN, LLP

DATE SIGNED June 6, 2012

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