

Memorandum of Understanding FY 2022

This **MEMORANDUM OF UNDERSTANDING (MOU)**
was made and entered into at 12:01 am on **July 1, 2021**,
and shall expire and otherwise be fully terminated
at 11:59 pm on **June 30, 2022**.

By and Between:

The City of San Diego

and

California Teamsters Local 911



MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING was made and entered into this first day of July 1, 2021.

BY AND BETWEEN

THE CITY OF SAN DIEGO

AND

TEAMSTERS LOCAL 911

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PARTIES TO THE AGREEMENT

THIS MEMORANDUM OF UNDERSTANDING (Memorandum) is made and entered into on **July 1, 2021**, by and between the City of San Diego (City), and the California Teamsters Local 911 (Union).

PURPOSE

It is the purpose of this Memorandum to: promote and provide for harmonious relations, cooperation, and understanding between Management and the employees covered by this Memorandum; to provide procedures herein for an orderly and equitable means of resolving any misunderstandings or differences which may arise under this Memorandum; and to set forth the understanding of the Parties reached as a result of good faith negotiations regarding wages, hours of employment, and other terms and conditions of employment of the employees covered by this Memorandum. The Parties will jointly submit the Memorandum to the San Diego City Council (City Council) and recommend its approval and implementation.

MEET AND CONFER

The City and Union agree to meet and confer during the term of this Memorandum only to the extent required by applicable law. Any agreement reached through required meet and confer will be in writing and signed by the Parties. The Parties will obtain any required ratification, and approval before implementation of the new Memorandum becomes effective.

ARTICLE 1: Recognition

- A. Management formally recognizes Union as the exclusive representative for all employees in the Lifeguard Unit and Supervisory Lifeguard Unit (Division). This Memorandum applies to all classifications listed in Appendix A and to any new classifications added to Appendix A during its term.
- B. No classification may be removed from the Bargaining Units exclusively represented by Union during the term of this Memorandum, and Management shall not entertain any employee petition which seeks removal from this “represented” status.

ARTICLE 2: Implementation

- A. This Memorandum constitutes the mutual recommendation by City and Union to be jointly submitted to the City Council and Civil Service Commission (Civil Service Commission or Commission). It is agreed that this Memorandum is binding upon the Parties upon:
 - 1. Timely ratification by Union. Union will notify Management of the result of the ratification process no later than **July 2021**; and
 - 2. The City Council and Civil Service Commission formally acting by majority vote to approve and adopt these Articles within their respective jurisdictions.
- B. City will, in a timely manner, complete necessary changes in ordinances, resolutions, rules, policies, and procedures to conform to this Memorandum. Any changes in ordinances, resolutions, rules, policies and procedures needed to implement the terms set forth in this Memorandum will be completed in a timely manner, using **January 24, 2022**, as a target date for completion.
- C. The tentative agreement will be submitted to the City Council and Union for their action as soon as possible after agreement has been reached by Management and Union.
- D. This Memorandum supersedes and replaces the Memorandum approved by the City Council, by San Diego Resolution R-310512, for the term of **July 1, 2016** through **June 30, 2020**.

ARTICLE 3: Term

The term of this Memorandum shall commence at 12:01 a.m. on July 1, **2021**. This Memorandum shall expire and otherwise be fully terminated at 11:59 p.m. on **June 30, 2022**.

ARTICLE 4: Renegotiation

In the event Local 911 or City desires to meet and confer in good faith on the provisions of a successor MOU, it will serve upon the City and Local 911 respectively no later than November 19, 2021 its written request to commence meeting and conferring in good faith.

- A. No later than January 17, 2022, the City and Local 911 will commence the meet and confer process and City will provide Local 911 with its initial proposals for a successor MOU. Local 911 will provide the City with its initial proposals for a successor MOU at the next meeting of the Parties which will be at least five working days (Monday – Friday) after Local 911 provides its proposals.**
- B. The City will request the City Council to schedule an impasse hearing, if necessary, after 5:00pm on a regular workday in order to permit Local 911 Bargaining Unit members the opportunity to attend and testify.**
- C. Local 911 will make it a goal to provide the City with its final offer by April 1, 2022. The City will make it a goal to provide Local 911 its final offer by April 12, 2022. Local 911 agrees to provide the City a written statement of its positions regarding any issues in dispute should there be an impasse.**
- D. If neither party proposes a change to a particular Article in this Memorandum by February 21, 2022, that Article will remain in full force and effect from the date it would have been terminated.**
- E. The parties acknowledge that four of the City's recognized employee organizations have filed a consolidated unfair labor practice charge with the California Public Employment Relations Board (PERB) related to Proposition B (PERB litigation). The parties acknowledge that the City and the four employee organizations involved in the PERB litigation have the right, under California Government Code section 3509.5 and other applicable law, to exhaust all appeals if aggrieved as a result of a final decision by PERB. This right includes filing a writ of extraordinary relief with the California Court of Appeal and taking any other action in any court of competent jurisdiction that is authorized by law. Nothing in this Memorandum of Understanding (MOU) is intended to waive that right. If, in the PERB litigation, a court of competent jurisdiction, following exhaustion of all appeals, issues a final order or decision declaring Proposition B to be unlawful or invalid, in whole or in part, the parties to this MOU agree to reopen negotiations, upon request by a party, on that provision or aspect of Proposition B declared to be unlawful or invalid. If, in the PERB litigation, a court of competent jurisdiction, following exhaustion of all appeals, issues a final order or decision declaring Proposition B to be lawfully adopted, the parties to this MOU agree to reopen negotiations, upon request by a party, on any provisions or aspects of Proposition B not yet implemented. The parties agree that, regardless of the outcome of the PERB litigation or exercise of this reopener, the provisions regarding limitations to base compensation and to other pensionable pay components set forth in Article 21 will remain in effect. **After a bench trial, an invalidation judgment was entered on February 8, 2021, and became final on April 9, 2021. This judgment includes a writ in quo warranto issued to the City and its City Council directing that the Proposition B charter amendments, which took effect on July 20, 2012, be removed from the City Charter and for the****

City to conform the San Diego Municipal Code and any other related enactments accordingly. The City intends to take all legislative actions necessary to comply and this MOU will be amended accordingly by mutual agreement.

F. Interim Death and Disability Plan for Employees Hired On or After July 20, 2012

1. Subject to the requirements of Article 4.E, the City provides Interim Death and Disability benefits through the City's Long-Term Disability Plan for employees hired by the City on or after July 20, 2012 and who are not members of SDCERS.

G. The City has determined that its Flexible Benefits Plan is not a "bona fide" plan under the FLSA. As a result, the City is currently including an employee's entire flex credit allocation, when eligible, into the regular rate calculation for purpose of computing overtime premiums. The City will notify Local 911 when the City determines it is legally eligible, under the FLSA, to exclude the flex credit allocations not paid out as a cash distribution from the regular rate calculation. Such notice will serve as a reopener of the overtime compensation Article of the MOU.

**ARTICLE 5:
Grievance Procedure**

A. 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 Memorandum of Understanding, 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 City Rights Article of this Memorandum are not grievable, but this shall not preclude employees or their representatives from consulting with Management 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 Memorandum 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, excluding Saturday, Sunday and holidays.

B. Policy

1. Employees have the right to file grievances without jeopardizing their positions.
2. Employees may represent themselves or be represented by a steward designated pursuant to Article 6 of this Memorandum or be represented by Union at any or all steps in the grievance procedure.
 - a. The employee has the right to the assistance of a steward and/or 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 a grievance hearing. A person not acting as a representative may take notes or observe.
 - c. Notwithstanding any other provision of this Memorandum, an employee in a classification assigned to the Lifeguard Unit may not select as a representative an employee assigned to the Supervisory Lifeguard Unit. An employee in the Supervisory Lifeguard Unit may not select as a representative a supervisor in the employee's chain of command or a higher-ranking supervisor in the same Division. This restriction does not apply to stewards.
3. Grievances may be initiated by the employee, a steward, or by a formally recognized employee organization on the employee's behalf. If an employee chooses to have representation on any formal grievance concerning a matter that directly involves the interpretation or application of the specific terms and provisions of this Memorandum, the representation must come from Union.
4. The employee's, steward's, or Union's first contact regarding job and working conditions is with **their** immediate supervisor and supervisors will 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 **their** own behalf on City time will not lose pay. In scheduling the time, place and duration of any grievance meeting, the employee, steward, or Union representative and Management will give due consideration to all the participants' responsibilities in the essential operations of the division. Management 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 at a time outside their normal work hours.
6. Waivers and Time Limits
 - a. Failure by Management to reply to the employee's grievance within the time limits specified in this Article 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 will be considered settled on the basis of the last decision and the grievance will 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, the failure to appear without an approved excuse by the Appointing Authority entitles Management 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 meetings on the same grievance without an approved excuse automatically terminates that grievance and it is deemed denied. The grievance will not subject to further appeal or reconsideration.
 - f. When a grievant is on approved leave, the time limits established in this procedure will be suspended for the period of the leave.
 - g. No grievance will be finally dismissed for an unexcused failure to appear at a scheduled hearing unless the grievant had been given twenty-four hours advance notice of the hearing.
- 7. Management will provide Union with copies of all grievances regarding this Memorandum filed by employees within Union Bargaining Units who choose to represent themselves.
 - 8. Union agrees to pursue all claims of violations of this Memorandum through the grievance procedure. Resort to other remedies cannot be pursued until all steps of the grievance procedure have been exhausted. If the employee or Union does resort to remedies outside the grievance process prior to its completion, the grievance process is automatically terminated. When Union feels that an employee may be subject to immediate and irreparable harm, Union may contact the Human Resources Department directly prior to initiating some other type of action. Union will allow the Human Resources Department a reasonable period of time to address the grievance prior to initiating action outside of the City. Use of this procedure will be deemed to exhaust the grievance procedure.

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, Management will:

1. Determine, at any time during the processing of a grievance, if the grievance requires modification or interpretation of Civil Service Rules or Personnel Manual provisions and forward the grievance immediately to the Personnel Director for resolution or referral to the Civil Service Commission.
 2. Supply the employee with the necessary and relevant information to process the grievance at the proper step in the process.
 3. Advise an employee when any matter under submission is determined by Management to be not grievable according to the definitions in section A. The "grievance" paperwork submitted by the employee will 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 **their** complaint. If a grievance is determined to be not grievable, that decision may be appealed to the next step in the grievance process without reverting to a lower step. A decision favorable to the employee or Union at this step in the process serves to reinstate the original grievance in whole. The grievance need not revert to a lower step.
- b. When a group of identical grievances develop, only one grievance form may be submitted. The grievants may select not more than two spokespersons who will be their representative "grievants." The acceptance of a decision by the spokespersons at any step (or final decision if the grievance moves to Step 5) will be binding on all Parties.
 - c. A grievance will be recognized if it is brought to the attention of the immediate supervisor either informally or formally within ten working days of the incident's occurrence, unless an extension is approved by the Human Resources Director.
 - d. If the grievance is between the employee and **their** immediate supervisor, Step 1 may be to the employee's 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 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 Union.

2. Steps

- a. Step 1: At the employee's or 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 working days to the employee and Union

representative. If the grievance is presented in writing, the procedure is formal, a meeting with the grievant and Union will be held, and the answer must be given in writing within five working days after the meeting at which the supervisor was given the written grievance.

- b. Step 2: If the grievance cannot be resolved at Step 1, the employee or Union may present the complaint in writing to the second-level supervisor (if not done at Step 1) within five working days of receipt of the Step 1 response. Within five working days of the receipt of the grievance by the second-level supervisor, a hearing will be held. Management representative will give a written decision to the employee and Union representative within ten working days after the hearing.
- c. Step 3: If the grievance is not resolved at Step 2, the employee or Union may submit the grievance to the Division Head within five working days of receipt of Management's written decision. Within ten working days of receipt of the grievance, a hearing will be held and the Division Head will give a written decision to the employee and Union representative within ten working days after the hearing.
- d. Step 4: If the grievance is not resolved in Step 3, the employee or Union may present the grievance to the Department Head within five working days after receipt of Management's written decision. Within ten working days of the receipt of the grievance, a hearing will be held and the Department Head or **their** designee will give a written decision to the employee and Union representative within ten working days after the hearing.
- e. Step 5: Final Resolution of Grievance. If the grievance is still in dispute after Step 4, the employee or Union may request a further hearing by submitting the grievance to Management within five working days of receipt of Management's written decision. Management will determine whether the hearing will take place before the Civil Service Commission, on matters over which the Commission has authority, or before the Mayor or **their** designee. 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 Union prior to the date set for the Commission hearing. The grievance may be settled during the fact-finding hearing if a mutually acceptable solution is developed. If no mutually acceptable solution is reached, the Commission will hear the grievance and the decision of the Commission will be issued at its next regularly scheduled meeting following the hearing. In grievances answered by the Mayor or **their** designee a hearing will be held and a written response given within ten working days from the date of receipt of the appeal from Step 4. The employee or Union may only request a hearing before the Civil Service Commission on matters solely involving Civil Service Rules or the Personnel Manual. Decisions of the Commission are final.

- f. Step 6: Grievances arising out of a disagreement on interpretation or application of this Memorandum will follow the City-wide grievance procedure. Union may formally request to continue the grievance not later than ten working days following receipt of the answer from Step 5 of the grievance procedure by serving written notice upon the Management Team. The Management Team will refer the grievance to the City Council for hearing and decision.

ARTICLE 6: Stewards

A. General

- 1. Union may designate stewards to represent employees in the processing of grievances subject to the following rules and procedures:
 - a. 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 will not be recognized as stewards by City and have none of the rights or privileges agreed to for stewards.
 - b. Union and Management will agree to a reasonable number of stewards within each facility.
 - c. Union will provide Management representatives with a written list of all regular and alternate stewards identifying each by name and assigned work areas on July 1 of each year. The list must be kept current by Union.
 - d. Union will designate as stewards only employees who have passed their initial probation period and who are permanent employees and who have a meets standards rating on their most recent performance evaluation. Union will also designate, and City will recognize as stewards, only employees currently assigned to classifications in the Units represented by Union, as listed in this Memorandum.
 - e. Management will provide Union prior notice before a steward is transferred or changed to a different work shift. The requirement of prior notice to Union should not be construed as limiting Management in its prerogatives to transfer or change the work shift of a steward.
 - f. Failure of a steward to abide by any of the provisions of this section may be cause for City to revoke recognition of the steward. Prior to taking such action, Management will meet and consult with Union.
 - g. It is recognized by both Parties that stewards' functions are necessary in maintaining sound employer-employee relations on the job.

B. Handling Grievances

1. When an employee has a grievance, **they** may request that a steward, with permission of the employee's supervisor, investigate the grievance in **their** assigned work area and assist in its preparation and presentation.
2. After notifying and receiving approval of the immediate supervisor, a steward maybe 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 **their** work assignment unless compelling circumstances require refusal of such permission. In such case, the immediate supervisor will inform the steward of the reasons for the denial of release time and establish an alternate time when the steward can reasonably be expected to be released from **their** work assignment.
3. When a steward needs to contact an employee at **their** work location, the steward will 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 when **they** can reasonably expect to contact the employee within the next twenty-four hours.
4. A steward's interview or discussion with an employee on City time will be handled expeditiously.
5. Union may appoint a Chief Steward or alternate who may act in instances where a job site steward is not available.

C. Discipline

1. Stewards will also be allowed reasonable time to represent employees in actual disciplinary meetings and hearings between Management and the employee being disciplined subject to the provisions of Article 8.
2. Stewards involved in disciplinary actions will be allowed a maximum of two work hours to meet with employees to discuss disciplinary actions. In accordance with the procedure described in Section B.2, the steward must arrange this time with **their** supervisor.

ARTICLE 7:
Union Access

- A. Authorized Union paid non-City employee representatives will be granted access to work locations in which employees covered by this Memorandum are employed, for the purpose of conducting grievance investigations and observing working conditions. Authorized Union representatives seeking access to work locations must first request access from the appropriate Management representative, at which time the representative will inform the Management representative of the purpose of the

visit. The Management representative may deny access to a work location if, in **their** judgment, it is determined that a visit will unduly interfere with the operations of the Department or facility. In that event, the Management representative will recommend an alternative time for the visit within the next twenty-four hours unless the Management and Union representatives mutually agree on an alternative time for the visit. Union representatives will not unduly interfere with operations of any Department during a visit. Representatives have the right to meet with employees during authorized coffee, rest or lunch breaks at City facilities that may be available, in compliance with access procedures in this Article.

- B. Within thirty calendar days of the effective day of this Memorandum, Union will give to Management a written list of all authorized representatives. The list will be kept current by Union. Access to work locations hereunder will be granted only to representatives on the current list.
- C. Authorized Union representatives will be given access to non-security work locations during working hours to conduct grievance investigations and observe working conditions on the condition that Union representatives will comply with the regulations established in this Article, and that Union representatives will not interfere with work operations of any City department.

ARTICLE 8:

Employee Representation

- A. An employee is entitled, upon **their** request, to representation, not to exceed one City employee and one non-City employee during each of the following proceedings. In addition, one observer may also attend if authorized by the Human Resources Department. Under no circumstances will an employee suffer any retaliation or harassment if **they** request representation.
 - 1. During any investigatory or fact-finding meeting where there is a reasonable expectation by the supervisor or the employee that discipline might result. 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 a Supplemental Performance Report, written warnings, reprimands, or notes of counseling which are to be made part of the employee's permanent record and/or which may be used as a basis for subsequent discipline.
 - 3. During any Skelly hearing prior to the imposition of a suspension, reduction in compensation, demotion, or discharge as outlined in Civil Service Rule XI.
 - 4. During the appeal hearing or appeal hearings of any disciplinary action.
 - 5. During the presentation of any grievance at any and all steps of the procedure described in Article 5 of this Memorandum.
 - 6. **An employee is entitled, upon their request, to representation, not to exceed one City employee and one non-City employee during each of the following**

proceedings. Under no circumstances shall an employee suffer any retaliation or harassment if they request such representation.

- a. During any investigatory or fact-finding meeting where there is a reasonable expectation, by the supervisor or the employee, that discipline might result. Such representation is not available in cases requiring immediate removal or suspension as defined in Civil Service Rule XI.**
 - b. During the required discussion of any document, including a Supplemental Employee Performance Report, written counselings, written warnings, reprimands, or note of counseling which are to be made part of the employee's permanent record and/or which may be used as a basis for subsequent discipline.**
 - c. During any Skelly hearing prior to the imposition of a suspension, reduction in compensation, demotion or discharge as outlined in Civil Service Rule XI.**
 - d. During the appeal hearing or appeal hearings of any disciplinary action.**
 - e. During the presentation of any grievance at any and all steps of the procedure described in Article 5 of this MOU.**
 - f. During the presentation of any Conditions of Continued Employment Agreement.**
 - g. During any meeting conducted as an interactive process under the Americans with Disability Act or California Fair Employment and Housing Act to identify whether a reasonable accommodation is needed and, if so, what reasonable accommodation might be offered.**
- B. In all other instances, Management has the right to counsel employees as it deems appropriate without employee representation being present.**
- C. Management will give an employee who is notified of a proceeding described in section A advance notice of the meeting. The notice will provide the employee a reasonable amount of time to consult with **their** representative and to prepare a response. At the time of notice, Management will also inform the employee of **their** right to representation. An employee has the right to contact a representative for this purpose and have reasonable use of City facilities on City time so long as the consultation does not unduly interfere with the operation of the department or facility.**
- D. The City employee representative cannot be an employee who is a subject of the same investigation or fact-finding.**
- E. Upon request of the Union, the City shall provide any information provided to a bargaining unit employee by the City described in Section A above.**

ARTICLE 9: Personnel Regulations

- A. The following Personnel Manual sections, Administrative Regulations (A.R.s), and other official regulations are included in this Memorandum as if fully set out at this point. The provisions of the following documents which affect wages, hours and other terms and conditions of employment which would otherwise be subject to meet and confer may not be changed, except as permitted by the MMBA.
1. Personnel Manual Index Codes
E-7, Transfers, Demotions, and Status Changes
G-1, Code of Ethics and Conduct
G-2, Permanent Appointment Probationary Periods
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 Positions
H-6, Shift Differentials
H-7, Stand-by Pay
H-8, Step Increases
H-9, Starting Salary Upon Appointment
I-2, Annual Leave
I-9, Court Leave
 2. Administrative Regulations
45.10, Employee Transportation Authorization
63.00, Industrial Leave
70.30, Tuition Refund Plan
70.50, Administration of Vocational Rehabilitation Program
75.12, City Manager Vehicle Accident Review and Prevention
75.40, Administration of Light Duty Program
95.01, Overtime Compensation
95.60, Conflict of Interest and Employee Conduct
95.89, Parental Leave
95.90, Unused Sick Leave and Accrued Annual Leave Reimbursement
95.91, Employee Rewards and Recognition Program
97.00, Substance Abuse Policy
97.10, Threat Management Policy
97.20, Weapons-Free Workplace Policy
 3. Other Regulations and Procedures
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 Policy
Civil Service Rule V, Layoff and Reemployment
Civil Service Rule VII, Appointments
- B. City and Union agree to meet and confer regarding any proposed modifications by City to these documents which affect wages, hours and other terms and conditions

of employment during the term of this Memorandum. If agreement is not reached on City's proposed modifications, the existing provisions of these documents that affect wages, hours, and other terms and conditions of employment will remain in force through the term of this Memorandum.

ARTICLE 10: Personnel Practices

A. Employee Personnel Files

1. An employee, or a Union representative with the written consent of the employee, may inspect the employee's personnel files. The request to inspect files will be granted at a time that is convenient to both Management and the employee. The inspection must be made in the presence of an appropriate supervisor. If requested by the employee, copies of the record, or any portion of the record, may be provided to the employee, or anyone designated by the employee. Charges for these copies will be made in accordance with A.R. 95.20, Pricing and Furnishing City Documents.
2. An employee is entitled to read any statement on **their** work performance or conduct if the statement is to be filed in the employee's personnel file. The employee will acknowledge reading the material by affixing **their** signature on the actual document to be filed. The employee's signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to sign, the supervisor will sign, noting the refusal of the employee to sign.

No disciplinary documents will be placed in an employee's permanent personnel file unless the procedure in paragraph 2 is followed. Any documents placed in the employee's file in violation of this provision will be removed at the employee's request.

B. Commendations

1. All written commendations initiated by Management will be placed in the employee's permanent personnel file.
2. An employee may request that all commendations may be entered as a permanent part of **their** employee personnel file. Commendations may include such items as letters from the public, suggestion awards, educational or training honors, and awards or commendations from civic clubs.

C. Vacancies

Neither party will intimidate or encourage qualified eligibles from a certification list to waive appointment. Waivers are an employee decision only and should normally be submitted in writing by the employee. Violations of this section are subject to the grievance procedure.

D. Dismissal During Probation

Employees in classifications in these Units will normally receive at least five working days advance notice if the Appointing Authority makes a determination that the

employee should be terminated during **their** probationary period. Notice may be given either through the Performance Evaluation or separate written notification.

E. Performance Evaluations

1. Performance Evaluations will normally be given to an employee within fourteen calendar days after the close of the rating period. In no case can the Department give a Performance Evaluation to an employee later than thirty 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 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 Union may present directly to the Human Resources Department or to the non-managerial Department Head.
 - a. Employees will be informed when permission has been granted to give a Performance Evaluation later than thirty working days after the close of the rating period.
 - b. The approval for late Employee Performance Evaluations will be submitted to the employee in writing, and will include reasons for the delay and approval.
 - c. An Annual Performance Evaluation should not be prepared if the employee's performance has already been evaluated in a Supplemental Performance Report (Supplemental Performance Report or Supplemental) for the entire period which the Annual Performance would otherwise cover, as an additional Annual Performance Evaluation would be unnecessarily cumulative. Where there has been one or more Supplemental Performance Report or Reports during the year, an Annual Performance Evaluation should not restate the information otherwise covered by the Supplemental or Supplementals, but may make a simple reference to the fact that Supplemental or Supplementals have been issued during the year. The rating on the Annual Performance Evaluation must fairly and accurately describe the overall performance of the employee during the months actually being described and evaluated in the Annual Performance Evaluation. The fact that a Supplemental or Supplementals have been issued during the year will not dictate or predominate in deciding the employee's overall rating. It is the intention of the Parties to give an employee the opportunity to overcome the deficiencies noted in the Supplemental Reports in order to meet performance standards at the time of an Annual Performance Evaluation.
2. Rating Performance Evaluations
 - a. Raters should remember that the Employee Performance Plans are developed for positions, not personalities; that they should rate job performance, compared to the expected performance standards.

- b. Raters should assemble and review data gathered on an employee's performance throughout the rating period, such as production records, observations, draft documents, work product, commendations, citizen's complaints, and similar tangible evidence.
 - c. The basis of evaluations should concentrate on facts and concrete instances of performance. Raters should focus on performance throughout the rating period, not merely on recent experience.
 - d. An employee may only be rated by **their** immediate supervisor. If the first-line supervisor is unavailable, the next higher-level supervisor will be the rater. The rater should consult with the out-of-class assignment (OCA) supervisor or supervisors during the rating period for input.
3. Supervisor-Employee Conference
The supervisor should point out the employee's progress in performing job functions and meeting performance standards, achievements, areas in which improvement is necessary, why improvements are needed, how this can be accomplished with the supervisor's assistance, as well as any other performance information considered to be important.
4. Issuance of Supplemental Performance Reports
- a. Supervisors should provide regular feedback to their employees during the rating period. In instances where improvement is needed, the supervisor should provide guidance and assistance to the employee on how to improve **their** performance so as to allow the employee an opportunity to raise **their** performance level to meet standards.
 - b. If it is determined that an employee will be issued a Supplemental Performance Report, the employee will be provided reasonable advance notice of this meeting for the purpose of obtaining representation. However, this notice requirement cannot be construed to require Management to delay issuance of a Supplemental Performance Report past an employee's probation period or transfer trial period end date.
 - c. A Supplemental Performance Report must include written comments as to what remedial action was discussed, what corrective action (such as warnings or other discipline) may have been taken, and a follow-up review date within ninety calendar days where appropriate.
 - d. In reviewing a Supplemental Performance Report, the Appointing Authority should determine if reasonable efforts have been made to assist the employee in meeting performance standards.
5. Employees who are on light duty must still be evaluated. The light duty assignment will not interrupt or suspend the normal rating period for Employee Performance Evaluation. The usual performance standards should be used for the time period that the employee was performing the full range of duties. For the period of time during which the employee is on light duty, the evaluation will cover the performance of the employee while on light

duty. This may be done in a simple narrative form as an addendum to the usual form.

6. The rating period for an Employee Performance Evaluation cannot exceed twelve months. The department will not retroactively evaluate employees beyond a twelve-month period.

F. 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 Management from the information received. If the complaint is resolved in the employee's favor, the complaint, together with all related documents, will be removed immediately from the employee's personnel file or files, unless the employee requests in writing that the document be retained.

G. Transfer and Promotion

Any employee receiving and accepting an offer of promotion or transfer will be released from the employee's current position in a timely fashion as mutually agreed to by the Appointing Authority and the employee.

H. Access to Information Regarding Employment

Union may bring to the attention of the Mayor or **their** designee, the identity of any work location where employees do not have reasonable access to documents which affect or describe their terms and conditions of employment, including but not limited to this Memorandum; the Personnel Manual, Civil Service Rules, Departmental Instructions, Policies and Regulations, and relevant sections of the San Diego Charter (Charter) and San Diego Municipal Code (Municipal Code). The Mayor will make a reasonable effort to remedy the situation in order that all employees have reasonable access to these documents.

I. Fact-Finding

1. Management will give an employee who is the subject of the fact-finding sufficient notice of its need to conduct a fact-finding session so as to allow the employee to obtain representation if **they** choose.
2. A copy of the fact-finding questions will be provided to the employee and the employee's representative at the beginning of the fact-finding session.
3. Employees will normally receive written notification of the results of any fact-finding interview within thirty calendar days of the interview. Employees not receiving such notification may request the results of the fact-finding through the Human Resources Department. The results will be made available to the employee unless the Human Resources Department determines that extraordinary and extenuating circumstances require additional time, in which case the employee will be given the reasons additional time is required and a projected date for conclusion of the fact-finding process.
4. No fact-finding session will be tape-recorded without the express consent of all Parties present in the session. If a tape is made pursuant to such consent, the Party who makes the tape will provide a copy, within one working day, to any participant in the session who requests it.

5. **Fact-Findings and In-Essence Statements**
A copy of the fact-finding questions will be provided to the subject employee and the employee's representative at the beginning of the fact-finding session. The employee's representative may retain a copy of the questions the conclusion of the interview. In-Essence statements summarize the subject/witness interview. Effective July 1, 2021, In-Essence Statements will no longer be used by the Fire-Rescue Department during the fact-finding or investigation.
- J. **Skelly Rights**
Management agrees to follow appropriate procedures during any Skelly hearings prior to the imposition of a suspension, reduction in compensation, demotion, or discharge as outlined in Civil Service Rule XI.
- K. **Merit Increase**
Management will maintain records of merit increase recommendations and will notify employees in writing of decisions to recommend denial of merit increases.
- L. **Duplication of Discipline**
1. City agrees that if an employee is disciplined for a specific act, that discipline is final for the particular act once the appeal process is complete.
 2. This does not preclude City from considering this discipline as part of the progressive disciplinary process and employee performance evaluation process should any future discipline be necessary.
- M. **Documentation**
In connection with any proposed adverse action, City will provide the employee and/or **their** representative with all documentation related to the proposed action and the reasons for it, including but not limited to notes made in connection with any fact-finding.
- N. **Notice of Appointment with Terms**
After a person is appointed to a position from an official Personnel Certification, City will provide the person with a notice which indicates the person's official appointment date, **their** job status, the starting **wage** and **wage** step upon appointment, and length of probation.
- O. **Equity in Access to Opportunities**
1. **Opportunities**
 - a. Department will ensure that training, OCA, special assignments, and committee assignments will be offered fairly to Division employees.
 - b. Departments will also ensure that clerical employees will have equal opportunity to participate in appropriate Citywide or Departmental meetings and committees, special events, awards ceremonies, and other functions.

2. Communication

To the extent practical, Department will communicate with employees about general criteria used for promotions and how they can better prepare themselves within their current classifications for promotions or career advancements. Such communications may be made through Department or City publications, during staff meetings, or through special conferences with all employees.

P. Lifeguard II Peace Officer Background Process

1. All Boating Safety Unit (BSU) Specialty Team members and employees seeking promotion into the classification of Lifeguard II may be placed in an assignment which requires them to assume the duties of a Harbor Police Officer as defined by California Penal Code section 830.33. Therefore, all employees seeking promotion into the classification of Lifeguard II or an assignment to the BSU must successfully complete the California POST background investigation as required by California Government Code section 1031. Each employee selected for promotion to the classification of Lifeguard II must undergo the Lifeguard II Peace Officer Background Process, within one-year of their promotion date.
2. **In accordance with the San Diego Municipal Code, Section 63.20.6, certain City lifeguards who are regularly employed and paid for duties performed in Mission Bay which are commonly performed by Harbor Police, be designated by the City as Boating Safety Unit members. "Boating Safety Unit" means a unit of the lifeguard service, which, in addition to regular lifeguard functions, is responsible for functions similar to those performed by Harbor Police. Those lifeguards designated as Harbor Police are peace officers as defined in Section 830.33 of the California Penal Code; however, they are not peace officers for the purposes of California Penal Code, sections 171c, 171d, or 12027 which deal with the possession of firearms.**

The Boating Safety Unit (BSU) has three levels of certification: Bay Boat Operator, Fire Boat Operator, and Surf Boat Operator with Surf Boat Operator being the highest and Bay Boat Operator being the entry level. All members of the BSU must be at least permanent Lifeguard II's. Only those in the classification of permanent Lifeguard II, or a higher rank, who have obtained a BSU Bay Boat Operator certification or higher shall be designated BSU members. Any designations of Lifeguards to a BSU member at all certification levels shall be made solely at the Lifeguard Chief's discretion. In order to be considered for the Safety Unit Specialty Team, eligible Lifeguards shall meet all of the following minimum criteria:

- a. **Completion of a background investigation to determine good moral character.**
- b. **Pass a psychological exam for peace officers.**
- c. **Pass a physical exam for peace officers.**
- d. **Completion of the California Commission of Peace Officer Standards and Training (POST) 832 Training.**

- e. **Present proof of: a) U.S. citizenship, or b) U.S. permanent residency and eligibility for and a current application for U.S. citizenship as required by POST.**
- f. **Take the oath of office as a peace officer.**
- g. **Any future additional requirements as designated by Post or California Law.**
- h. **Completion of BSU Bay Boat Academy which includes:**
 - i. **Instruction**
 - ii. **Demonstration**
 - iii. **Bay Boat Operator Practical Skill Training**
- i. **Completion of the Bay Boat Operator Field Training Guide (FTG).**
- j. **Pass all Bay Boat Operator practical skills testing.**
- k. **Pass the Bay Boat Operator written test.**
- l. **Any additional requirements designated by the Lifeguard Chief.**

Only Lifeguards who are designated BSU Specialty Team members, and therefore also peace officers, will be covered by the Public Safety Officers Procedural Bill of Rights (POBOR). All Lifeguards not designated as BSU Specialty Team members are not eligible for POBOR protections.

- 3. The following factors, among others, may disqualify an employee from eligibility for the Lifeguard II classification:
 - a. Drug use – recent illegal drug use.
 - b. Criminal history – felony or certain misdemeanor convictions.
 - c. Vehicle operations – driving record that suggests hazardous operation of a vehicle, including traffic violations.
 - d. Employment history – termination from a job or resignation in lieu of termination.

City Management has sole discretion to review applications and assign employees to the BSU. Each application will be reviewed on an individual basis, looking at the totality of information that is available.

- Q. **Public Safety Officers Procedural Bill of Rights (POBOR)**
 Employees in the classifications of Lifeguard II and higher who are members of the Boating Safety Unit (BSU) Specialty Team are entitled to the rights set forth in the Public Safety Officers Procedural Bill of Rights (POBOR). However, these Lifeguards are not peace officers within the meaning of California Penal Code, sections 171c, 171d, or 12027, which relate to the possession of firearms. Lifeguards not designated as BSU Specialty Team members are not eligible for POBOR protections. Effective July 1, 2015, Lifeguard Division eligible members will be covered under POBOR.

ARTICLE 11:
Use of Facilities

- A. Union may, with the prior approval of the Human Resources Department, be granted the use of City meeting room facilities during non-work hours for meetings of City employees provided space is available, and provided further, that the meetings are not intended for organizational activities or membership drives of City employees.
- B. Solicitation of membership and activities concerned with the internal Management of Union, such as collecting dues, holding membership meetings, campaigning for office, conducting elections, and distributing literature to individual employees, cannot be conducted during working hours.

ARTICLE 12:
Bulletin Boards

- A. City will furnish, for the exclusive use of Union, adequate bulletin board space at reasonable locations. Additional bulletin board space or locations may be made available by mutual agreement as additional changes occur in work site locations during the year. Union representatives have access at any time to the bulletin boards. Only these designated boards may be used to provide Union information. Use is limited to the following subjects:
 - 1. Information on Union elections and the results of those elections, stewards' reports and notices.
 - 2. Reports of official business of Union, including reports of committees or the Board of Directors.
 - 3. Scheduled Union meetings and news bulletins.
 - 4. Any other written material which first has been approved by the Department Head.
- B. City will investigate incidents when the space provided to Union is being misused or vandalized.

ARTICLE 13:
Mail Station

Management will continue to provide Union with mail stations. Union agrees to continue to use these boxes and City's interoffice mail system only for official communications with City Management and to respond to employee inquiries.

ARTICLE 14:
Payroll Deductions, Union Dues and Agency Shop Language

- A. Union dues will be deducted by Management from the **wages** of employees when the deductions are authorized by **Council Policy 300.06, Employee-Employer Relations Policy, section VI (B)** certified by the Union, to the extent permitted by law. Deductions will be in the amount **certified by** the Union for twenty-four of the twenty-six pay periods. Remittance of the aggregate amount of all deductions will be to Union by Management biweekly at the conclusion of each pay period in which Union deductions were made.

California Teamsters Local 911
9900 Flower Street
Bellflower, CA 90706

- B. Dues are for a specified amount and will be made **based on the information provided by the Union. The Union will maintain records of employee authorizations for dues deductions. The Union will provide the City with information regarding the amount of dues deductions and the list of Union employees who have affirmatively consented to or authorized dues deductions. The City shall not request the Union to provide a copy of any member employees' authorization and the Union will not be obligated to provide the City a copy of the employees' authorization unless a dispute arises about the existence or terms of the authorization. To the extent required by the Government Code, or otherwise required by law, the City will rely on the information provided by the Union in processing dues deductions for Union employees. The authorization or cancellation of dues will be made based on the information provided by Union. The Union is responsible for providing the City with timely information regarding changes to member employees' dues deductions.**

To the extent required by the Government Code, employee requests to authorize, change or modify dues deductions will be direct to the Union rather than the City. The City will rely on the Union's certification regarding whether an authorization/change in deductions has been requested by the employee. Notice of changes to deductions and/or the calculation formula and rate for the deductions previously certified by the Union must be received by the City at least thirty (30) calendar days prior to the change becoming effective. The change will be implemented by the City the first full pay period following the notice period.

- C. When an employee is in a non-pay status for an entire pay period, no dues deduction will be made to cover that pay period from future earnings nor will the employee deposit (with City) the amount that would have been withheld if the employee had been in a pay status during that period. In the case of an employee who is in a non-pay status during only a part of the pay period and the **wages are** not sufficient to cover the full dues amount, no deduction will be made.
- D. In the event of any concerted action authorized by Union which encourages employees to withhold their services to City, the City Council has the right, by resolution, to immediately cease the collection and remittance of dues and other deductions to Union. Before invoking its rights under this paragraph, City will notify Union of its intention and meet to discuss the matter if requested by Union.

- E. Upon request, Personnel will provide a list of new employees (department and classification).
- F. Pursuant to California Government Code section 3502.5 (Organizational Security), employees of the Lifeguard and Lifeguard Supervisors Bargaining Units represented by Union shall have the right to join or refrain from joining Union.
1. Seasonal Lifeguards
Each Seasonal Lifeguard hired for the peak season will have the opportunity to join Union and become a Union member. Union recognizes that Seasonal Lifeguards do not have property rights to employment, are not eligible for fringe benefits, and work at the pleasure of City. City will not oppose Union's efforts to pursue the establishment of additional lawful benefits for its Members, including, but not limited to, affiliated institutions with all privileges and powers authorized by state and federal law.
- G. **Union will indemnify and hold City harmless against any cost of liability resulting from any and all claims, demands, suits or any other action arising from the operation of any provision of this Article. The indemnification includes the cost of defending against any such actions or claims, including claims based on the City's reliance on the Union's seeking dues from employees who contest they are Union members. Union will have no monetary claim against City by reason of its failure to perform under this Article.**

ARTICLE 15:

Use of City Email System

Union may use City's email system to direct employees to information contained on Union's website. Union's email message for this purpose may include a link to Union's website and it will not be a violation of City policies for an employee to click on the link in this email message and access the information to which **they have** been directed. No further use of or access to City's email system is authorized unless the use pertains directly to the employer-employee relationship. Examples of this relationship include, but are not limited to: communicating with Management or **Human Resources** responding to disciplinary actions or appeals, submitting grievances, scheduling meetings, making requests for information, and communicating a tentative agreement for ratification purposes. Union agrees to comply with all City policies on the use of City resources. For purposes of the communications permitted by this Article, City agrees to provide Union with a complete list of workplace email addresses for all employees in the Bargaining Units it represents, as well as a list of all applicable mail stations for represented employees, and to update these lists annually. The limitations of this Article become effective on the date City provides Union with this information.

ARTICLE 16:

Rest Periods

- A. City and Union jointly endorse 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. Subject to work assignments and Departmental requirements, Department Heads are authorized and encouraged to allow rest periods for employees within the limits of the policy outlined below:
1. Two fifteen-minute rest periods (including “travel time” if the employee leaves the work area) are allowed during each eight-hour workday (“travel time” means pedestrian travel or travel in the employee’s private vehicle). Employees working less than an eight-hour workday will be given rest periods near the end of each consecutive two hours worked, including overtime, except in situations where public safety, public health, or emergencies exist.
 2. Subject to work assignments and Department requirements, a rest period or a meal break should be allowed near the end of each two-hour period of work, including overtime.
 3. Since the purpose of granting the privilege of 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 or more rest periods into one rest period;
 - b. “Saving” rest period time to justify extended lunch hours or shortened workdays;
 - 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.

ARTICLE 17:

Work Schedules

- A. If Management desires to make a change in work schedules, or geographic locations, Management will notify the employee five working days in advance of the proposed change. The notice will be in writing and state the reasons for the proposed change. In emergency situations, Management will not be required to give a five-working day notice prior to changing a work schedule or location. The downtown area around the City Administration Building is considered one geographic location.
- B. Any changes in the method of assigning employees to shifts or significant changes in work schedules is subject to meet and confer. Union may consult with Management on other matters that affect hours of work.
- C. **Lifeguard Marine Safety Lieutenants will be assigned work schedules and locations at the discretion of the Lifeguard Chief.**
- D. **The Lifeguard Chief or designee will conduct an internal interview process with Marine Safety Lieutenants and assign them to specialty teams and special**

assignments referred to in Article 21 of this MOU. Thirty days written notice will be provided.

- E. Nothing in this Memorandum should be construed to limit the authority of Management to make temporary assignments to different or additional locations, shifts or work duties for the purpose of meeting emergency situations over which the Department has no control. Such emergency assignments shall not extend beyond the period of such emergency.
- F. Any violation of this policy shall be grievable.
- G. Subject to section B, departments with the concurrence of the Human Resources Department, have within their authority the right to modify their work schedules. Union may meet with Appointing Authorities to discuss alternate work schedules and job sharing.
- H. The current Lifeguard Division two-year district rotation for Lifeguard II's and III's will be modified to a one-year district rotation.
- I. The 4/10 work schedule will be the official work schedule for the Lifeguards for the term of this Memorandum.
- J. The Lifeguard Chief and a Marine Safety Lieutenant or Lieutenants will meet individually with each Lifeguard Sergeant, in order, based on seniority. The Lifeguard Sergeant will provide **their** top three schedule picks based on the available schedules. The Lifeguard Chief or **their** designee will find the best accommodation that suits both the employee's choice and the operational needs of the Lifeguard Division. Seniority will be a strong factor in the final placement of the Lifeguard Sergeant. The Lifeguard Chief will clearly articulate specific reason for **their** decision in order to promote a culture of transparency and mentorship. In addition to seniority, the Lifeguard Chief will consider such factors as individual skills, abilities, knowledge, specialty team membership, boating skill levels, overall experience, and the value of creating the most effective leadership teams for each district. The Lifeguard Chief's decision will be final and is not subject to the grievance procedure set forth in this Memorandum.
 - 1. Lifeguard Sergeant twenty-four hour shifts (not 10-10-20 shifts) will generally be limited to six months within a one-year period.
- K. During the peak summer season, Seasonal Lifeguards will be scheduled for forty-hour work weeks. Based on operational needs, as determined by the Lifeguard Chief or **their** designee, the actual number of hours worked by the Seasonal Lifeguards during the peak season may be less than forty hours per week.
- L. Definitions:
 - 1. "Workday" is the number of hours an employee is scheduled to work in a twenty-four-hour period.
 - 2. "Workweek" is a period of one hundred and sixty-eight consecutive hours (seven consecutive twenty-four-hour periods) as determined by the Appointing Authority.

3. "Scheduled work week" is the employee's predetermined number of hours per workday and workdays per workweek as established by the Appointing Authority.
- M. Schedule alternatives to the traditional eight-hour day, five-day week, such as the 4/10 or 44/36 schedules, may be approved for implementation based on justifications identifying operational efficiencies, productivity improvements or enhanced customer service. They may also be approved in cases in which there is no harm to Departmental efficiency, productivity or costs, but will result in benefits for employees. Employees who telecommute may be eligible for alternative work schedules at the discretion of the Appointing Authority. Employees who work alternate work schedules may be eligible to telecommute at the discretion of the Appointing Authority.
- N. When the need to work outside normal or scheduled work hours is identified and authorized, and when Management directs the employee to adjust **their** work schedule to avoid overtime expense, Management will notify the employee, in writing, at least five working days in advance of any directed schedule change.
- O. When proper advance notice has been given, Management will work with the employee to determine how the work schedule will be adjusted within the pay period to meet the needs of both City and the employee.
- P. In the event that five working days' advance notice has not been given, whatever the reason, Management will authorize overtime in accordance with Article 18, Annual Leave and Compensatory Time Off; Article 54, Overtime; and Personnel Manual Index Code, H-4, Overtime Compensation.

ARTICLE 18:

Annual Leave and Compensatory Time Off

- A. Appointing Authorities are responsible for arranging scheduled annual leave for vacations so that adequate personnel are available to carry on necessary City work.
- B. As is practicable, employees should be permitted to schedule annual leave for vacations and compensatory time off at times most acceptable to the employee. Annual leave for vacations will 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 annual leave or compensatory time off for vacations.
- C. Employees should be encouraged to take regular annual leave vacations, but they will not be required to take annual leave vacations against their will. Employees may accumulate annual leave time in accordance with this Memorandum.
- D. **Compensatory Time**
 1. **Overtime will be paid or Compensatory Time Off given at the discretion of the Department Director or designee subject to the availability of funds and**

workload considerations in an amount not to exceed on-hundred-twenty (120) hours annually.

2. An employee may only use or cash out CTO during the calendar year in which it is earned.
 3. All accrued and unused CTO balances will be cashed out on the last pay day of each calendar year so that the employee's CTO account is reduced to a zero balance.
 4. Employees may use or cash out CTO accrued at any time during the calendar year, prior to the last pay period of the calendar year with the following exceptions:
 - a. No unused CTO hours may be carried over to a subsequent calendar year.
 - b. No CTO can be elected for overtime worked during the last pay period of the calendar year.
 - c. No CTO may be used or cashed out for a pay period during which an employee is serving an unpaid suspension.
 5. Employees will not have the option to take CTO instead of cash when the Department is reimbursed by another governmental agency for Overtime worked by the employee. Overtime earned in accordance with the FLSA will be paid in the pay period in which it is earned.
- E. Any existing annual leave vacation scheduling method that is satisfactory with the employees will remain in effect for the duration of this Memorandum. This is in lieu of the abovementioned scheduling method.
- F. Annual Leave
Effective July 1, 1991, the maximum accumulation of annual leave for employees with fifteen or more years of service is seven hundred hours. For employees hired after July 1, 1993, the maximum accumulation of annual leave is three hundred and fifty hours.
- G. Pay-In-Lieu
1. Effective for all calendar years beginning on and after January 1, 2019, employees may convert up to 125 hours of annual leave to cash as pay-in-lieu each calendar year, subject to the following rules:
 - a. If an employee fails to elect by December 31st each year or by the preceding Friday if December 1st falls on a Saturday or Sunday, to receive any of the annual leave hours they will earn in the following calendar year as pay in-lieu, their annual leave will accrue in accordance with the applicable Personnel Regulation, Index Code 1-2.
 - b. If an employee irrevocably elects by December 31st each year or by the preceding Friday if December 31st falls on a Saturday or Sunday, to receive a portion of the annual leave hours they will earn in the

following calendar year, not to exceed 125 hours total for the calendar year, as pay-in-lieu, the City will create an account where the employee's designated pay-in-lieu accruals will be credited. This account will be referred to as a "pay-in-lieu bucket" ("PIL Bucket") and will be kept separate from the employee's annual leave accrual account or "annual leave bucket" ("AL Bucket"). The employee's election must designate the amount of his or her annual leave being earned each pay period which he or she wishes to have credited to the PIL Bucket; this designation may be stated as an even percentage (*e.g.*, 10%, 20%, 30%, 40%, etc.) of the leave earned during each pay period up to 100%. Starting with the first pay period of the calendar year, the PIL Bucket will be credited with the designated amount of the employee's annual leave each pay period until the employee's full election amount is reached, not to exceed 125 hours. Any annual leave being earned in a pay period which is not credited to the employee's PIL Bucket will be credited to the employee's AL Bucket. The balance available in the employee's PIL Bucket, if any, will be specified on his or her timecard and paystub. In addition, the employee's anniversary date and AL cap will also be displayed on the employee's timecard.

- c. An employee must make an irrevocable election by December 31st each year or by the preceding Friday if December 31st falls on a Saturday or Sunday, if the employee wishes to participate in the pay-in-lieu of annual leave program for the following calendar year. Elections will not carry over from one calendar year to the next calendar year. An employee who fails to elect by December 31st each year or by the preceding Friday if December 31st falls on a Saturday or Sunday, to participate in the pay-in-lieu of annual leave program for the following year will be deemed to have elected not to participate and they will be prohibited from receiving any pay-in-lieu during that year except as, and only to the extent, permitted under Section 6.
- d. At least 60 days in advance of this annual December 31st deadline, the City will provide employees with notice and an explanation regarding the need for an irrevocable election as well as the relevant form for making the election. At the same time, the City will remind employees of the citywide cap maximums and how the pay-in-lieu election affects that cap.
- e. All pay-in-lieu hours which accumulate in the employee's PIL bucket must be paid out to the employee in the calendar year in which these hours are earned. Pay-outs will be either employee-initiated or City-initiated. An employee may make up to two requests during the calendar year for a payout from his or her PIL Bucket. The timing of either request is entirely up to the employee and payment will occur as designated on the City approved form. However, an employee cannot request the pay-out of any pay-in-lieu hours until those hours have been earned and accrued in his or her PIL bucket. Since no PIL hours may be carried over to the following year, the City will initiate a pay out of all hours accrued in the employee's PIL Bucket no later than the final paycheck issued

in the calendar year regardless of the number of pay periods in the calendar year and regardless of the number of hours.

2. When pay-in-lieu is cashed out, it will be paid based on the employee's rate of pay at the time it is paid. All pay-in-lieu pay-outs are taxable income, subject to all applicable withholdings and payroll deductions.
3. Existing caps on the accrual of annual leave will remain in effect. However, any hours up to the 125-hour maximum which an employee allocates to his or her PIL bucket for the ensuing calendar year will not count toward the calculation of this cap.
4. Effective for calendar years beginning on and after January 1, 2019, an employee's election with regard to pay-in-lieu shall be irrevocable except in the event of an unforeseeable financial emergency subject to the following rules:
 - a. In the event of an unforeseeable emergency, as defined in subsection b, an employee may apply to the Risk Management Department to receive pay-in-lieu of annual leave accrued on or after January 1, 2019, but limited to the amount that is reasonably necessary to satisfy the emergency need, including any amounts that may be necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated as a result of the cash out. If the Risk Management Department approves an employee's application, the City will pay the employee the pay-in-lieu amount the Risk Management Department deems necessary to meet the emergency need.

“Unforeseeable emergency means a severe financial hardship of the employee resulting from an illness or accident of the employee, the employee's spouse, or the employee's dependent (as defined in Internal Revenue Code section 152, and, without regard to Internal Revenue Code sections 152(b)(1), (b){2}, and (d)(1)(B)); loss of the employee's property due to casualty (including the need to rebuild a home following damage to a home not otherwise covered by homeowner's insurance, such as damage that is the result of a natural disaster); or other similar extraordinary and unforeseeable circumstances arising as a direct result of events beyond the control of the employee. For example, the imminent foreclosure or eviction from the employee's home may constitute an unforeseeable emergency. In addition, the need to pay for medical expenses, including non-refundable deductibles, as well as for the cost of prescription drug medication, may constitute an unforeseeable emergency. Finally, the need to pay for the funeral expenses of a spouse or dependent (as defined in Internal Revenue Code section 152, and, without regard to Internal Revenue Code sections 152(b)(1), (b)(2), and (d)(1)(B)) of the employee may also constitute an unforeseeable emergency. Neither the purchase of a home nor the payment of college tuition is-an unforeseeable emergency. Pay-in-lieu of annual leave on account

of an unforeseeable emergency will not be paid to the extent that such an emergency is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the employee's assets, to the extent liquidation of such assets would not itself cause severe financial hardship. For this purpose, an employee cannot receive any pay-in-lieu of annual leave on account of an unforeseeable emergency to the extent that he or she has unused amounts accrued in his or her PIL Bucket, if any.

H. Cease to Accrue Provision

Employees who reach their maximum permitted accumulation of annual leave on their anniversary date will cease to accrue additional annual leave. Employees who expect to be in this situation may submit a written plan to reduce excess leave which will include time off and pay-in-lieu up to one hundred and twenty-five 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 City's intent to accommodate employees' requests to use annual leave and avoid any loss of this benefit.

I. Leave provisions included under sections K and L will be accounted for separately.

J. Pre-approved annual leave, sick leave, or compensatory time off properly used for personal, family, or dependent illnesses will not be subject to disciplinary action.

K. Approved, unscheduled annual or sick leave properly used for family, dependent, or domestic partner illnesses will be considered as a separate category when reviewing employee performance with regard to attendance and/or absenteeism issues and will not be subject to disciplinary action. Should City, for good and sufficient reasons, determine that an employee is abusing this leave provision, the Appointing Authority may request a bona fide doctor's statement from the employee to substantiate the leave request or requests. Failure to provide documentation, by a mutually agreed upon date, to the Appointing Authority may subject the employee to disciplinary action in accordance with the City's Personnel Regulations.

L. Criteria to be considered in determining leave abuse is limited to stated Department or Division numerical standards, and must include, but not be limited to, length of service, prior attendance record throughout City career, reason for absence, past performance reports, harm to the work unit, leave balances, past discipline, as well as job classification and working conditions.

M. If disciplinary action for employee leave abuse under this article is proposed which deviates from these criteria, the Appointing Authority or designee must obtain prior approval from the Human Resources Director.

N. Compensatory Time and Grant Reimbursement

City and Union agreed that overtime earned from a grant fund will only be compensated in pay and not with compensatory time off. All other overtime earned may be taken as pay or as compensatory time up to the compensatory time caps as set forth in Article 18, section D.

ARTICLE 19: Bilingual Pay

- A. Any employee filling a position which is designated as requiring knowledge and use of Spanish, Korean, American Sign Language, Arabic, Farsi, Chinese, Indochinese or Tagalog language in the performance of **their** duties, and who has been certified as bilingual by Personnel will be paid seventy cents (\$.70) per hour in addition to **their** regular **wages**.
- B. Incidental Bilingual Pay
1. City agrees to pay bilingual compensation in the amounts specified in paragraph A for the entire pay period to any eligible employee (certified by Personnel or identified by Citizens Assistance) who is requested or directed by a supervisor or manager to provide translator services in a non-English language other than a language eligible for ongoing bilingual compensation (Spanish, Korean, American Sign Language, Arabic, Farsi, Chinese, Tagalog, or Indochinese languages).
 2. A statement attached to the Personnel Change Notice from a supervisor will serve as certification for bilingual pay for the pay period.

ARTICLE 20: Workplace Safety

- A. City agrees to make each workplace safe. City also agrees to process, in an expeditious manner, work requests submitted to any City department or division intended to correct unsafe workplaces. City agrees to process those work requests involving significant safety problems within thirty working days.
- B. Weapon Free Workplace
Union represented 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.
- C. City agrees to establish a joint safety committee in which Union will be authorized to appoint three representatives to advise the Mayor in the area of safety and security at workplaces.
- D. City agrees to continue to develop and implement safety training programs for all employees whose job duties include the responsibility to enforce rules and regulations. In the development of such programs, City agrees to meet with Union to discuss ideas.
- E. In compliance with applicable federal and state laws, Management will continue to provide all employees in those classifications whose job responsibilities include the handling, storage, or disposal of hazardous materials, with guidelines, training and annual certification, as required.
- F. City agrees to continue the efforts being made to reduce or eliminate repetitive motion injuries and to provide a safer, healthier work environment regarding

repetitive motion injuries. City also agrees to continue its practice of addressing issues and concerns which Union brings to Management in furtherance of this objective.

- G. Consistent with Administrative Regulation 97.10 Threat Management Policy, the City will evaluate every report of an alleged threat or bullying made in the workplace and will take necessary action. City will make its best efforts to protect, support and counsel employees who have been threatened during the course of employment.
- H. In the event of power outages, water shut off, building-wide restroom closures and other such events that seriously impact the health and safety of employees, City shall:
 - 1. Notify employees of the problem, the actions that are being taken to rectify it and the projected time when it will be fixed;
 - 2. Provide reasonable alternate accommodations to meet employees' restroom needs and to eliminate other health or safety hazards created by the event; or
 - 3. Allow non-emergency employees to leave work if reasonable alternate accommodations cannot be provided and the event has not been rectified within three hours.

Departments with emergency employees will execute their emergency plans to cover these situations.

ARTICLE 21: Compensation

A. General Wage Increases

- 1. **Effective the first full pay period following City Council approval of this MOU, there will be a general wage increase of 2.5% for all employees covered by this MOU. The Fiscal Year 2022 wage tables for the classifications covered by this MOU will be modified to reflect this increase.**

B. Special Assignment Pay

- 1. **River Rescue Team (RRT) Pay**
 - a. Lifeguards assigned to the RRT will receive an additional 10 percent of their base **wages** November 15 through April 15 and outside of those dates while deployed in flood alert, during call-out, during actual river rescue training, and during call-out for dive operations. Lifeguards receiving **RRT** pay are not eligible to simultaneously receive Dive Team pay.
 - b. **RRT members on Alert II status, as defined by section VI, A.2, of Division Policy 2.1, who are directed by Division management to remain available for immediate call receive a minimum of two hours of overtime pay per day they are placed on Alert II status.**

- c. Division agrees to utilize the Will Work list to backfill standard operational shifts vacated by RRT members when they are assigned to Alert III status. For example, if a RRT member is assigned to work at the Boating Safety Unit, but needs to be reassigned to RRT Alert III, the Will Work list will be used first to backfill the vacancy. If there is no one available on Will Work, RRT Support Members may be utilized to backfill the vacancy.
- d. The Division will draft a Bulletin to request volunteers to be RRT Support Members and to send the Bulletin to Local 911 prior to it being sent out to staff. The Bulletin will request up to 12 volunteers to be RRT Support Members who: (1) interviewed for the RRT and were not selected, or (2) permanent staff who have a minimum of an SRT 1 Certification.
- e. The RRT Support members will provide support to the RRT and will receive the following:
 - i. A minimum of a four-hour focused training module prior to supporting the RRT in order to familiarize them with the RRT equipment and needs.
 - ii. On a weekly basis, the Division will evaluate the operational need for RRT Support Members to be placed on a Stand-by status. When management determines such a need exists, RRT Support Members will be assigned Stand-by on a one-week rotational basis in accordance with Personnel Manual Index Code Section H-7, which is incorporated into the MOU, at Article 9. The RRT Support Members will be placed on a stand-by list by seniority in the Department.
- f. RRT Support Members will not be issued personal protective equipment (PPE) as they are not expected to perform the same duties as the RRT. For purposes of coastal flooding scenarios (flooded streets and intersections in Mission Beach and Pacific Beach) the Division's intent is to use regular River Rescue Team members outfitted in full PPEs for coastal flood water incidences. When River Rescue Team members are not immediately available for coastal flooding incidents it may be necessary for Lifeguards who are not regular River Rescue Team Members to assist in coastal flood water rescues. Lifeguards who are in a RRT support role shall assist in coastal flood water rescues under the direction of a regular River Rescue Team Member to render aid to people in danger of injury. Lifeguards who are in a support team status shall not make in-water river rescues unless as a last resort to save a life.

2. Dive Team Pay

Any Lifeguard assigned to the Dive Team will receive an additional ten percent of base wages when they perform a scuba dive or participates in

training for scuba dive. Members of the Dive Team will receive the above premium pay for the entire pay period when assigned to the above activities. Lifeguards receiving Dive Team pay are not eligible to simultaneously receive River Rescue Team pay.

3. Cliff Rescue Instructor Pay

Lifeguards assigned as Cliff Rescue Instructors will receive an additional five percent of base wage.

4. Special Team Eligibility

Lifeguard II's and III's who are promoted to limited Sergeants for the duration of the summer season only and are demoted back to Lifeguard II's or III's at the end of the summer season will retain their place or eligibility to participate on Lifeguard Special Teams.

5. Class A or B License

An employee who is directed to obtain a Class A or B license or who possesses a Class A or B license and is directed to drive a commercial vehicle requiring the Class A or B license when the possession of a Class A or B license is not a minimum requirement for the employee's classification will receive fifty cents (\$.50) per hour special assignment pay. The special assignment pay will be paid for each day the employee was directed to, and did, drive a commercial vehicle. City shall pay the medical and licensing fees required to obtain the Class A or B license.

6. Boating Safety Unit Specialty Team

a. By October 2017, the City will convert the Boating Safety Unit (BSU) operations to a specialty team. The BSU will consist of up to 45 core members (assigned year-round) and up to 12 supplemental members assigned as needed by Fire-Rescue Department, Lifeguard Division. Employees must be in the classification of Lifeguard II or higher to be eligible for the BSU Specialty Team. Additional core members and supplemental members may be added to the BSU Specialty Team at the discretion of the Fire Chief. The Lifeguard Division will determine the employees who will serve on the BSU Specialty Team initially, based on the criteria set forth in paragraph (b) below. This criteria will only apply to the initial selection of the BSU Specialty Team, but will not serve as precedent for decisions on selection of the BSU Specialty Team in the future.

b. BSU Specialty Team Schedule Selection

The Lifeguard Division will allow Lifeguard IIs, Lifeguard IIIs and Lifeguard Sergeants, **and Lieutenants** to select schedules for the BSU Specialty Team based on current Division Policy and Procedure 1.9 - Shift Selection Policy and 2.9 - Night Crew Policy, within the confines of the BSU Specialty Team. The Lieutenant schedule will be selected by the Lifeguard Division consistent with the operational needs of the BSU specialty team.

c. BSU Specialty Team Pay

- i. Effective the first full pay period following July 1, 2018, Lifeguards assigned to the BSU Specialty Team as core members (assigned year-round) will receive an additional percentage of their base pay, based on the boating operator certifications they possess as outlined below. Lifeguards assigned to the BSU Specialty Team as supplemental members will receive an additional percentage of their base pay full-time during the summer rotation, which begins in April of every year on the Saturday following the first payday Friday of the month and ends in October of every year on the first payday Friday of the month, and outside of the summer rotation for each work shift they perform the duties of a BSU Specialty Team member at the boats, based on the boating operator certifications outlined below. **To receive BSU certification pays, an employee must submit the certification to the Fire-Rescue Department Payroll via email to SDFDPayroll@sandiego.gov. The Department will issue the certification within 3 working days of the employee passing the exam and completing all prerequisites required for certification. It is the employee's responsibility to submit the certification in a timely manner as no retroactive pay will be processed for late submittals. Incentive pay will only be paid to employees on a prospective basis from the pay period that the Department receives proof.**
 - a. Bay Rescue Boat Operator Certification – 4%
 - b. Fire Boat Operator Certification – 3%
 - c. Surf Boat Operator Certification – 3%
 - d. **Dispatcher Certification – 2% (effective the first full pay period following Council approval of this MOU)**
- ii. **BSU Specialty Team may receive a maximum of 12% of their base pay on a full-time for the core members and full-time during the Summer rotation for the supplemental members, if they possess all four certifications: Bay Boat Operator, Fire Boat Operator, Surf Boat Operator and Dispatcher.**

7. Personal Watercraft Field Training Officer (PWCFTO) Pay

- a. Effective the first full pay period following July 1, 2018, 12 Lifeguard IIs and 3 Lifeguard Sergeants assigned to ocean operations by the Lifeguard Division will receive an additional 5% of their base **wage** for PWCFTO Pay full-time during the summer period which begins in April of every year on the Saturday following the first payday Friday of the month and ends in October of every year on the first payday Friday of the month.

8. Division Medical Officer (DMO) Pay.

- a. Effective the first full pay period following July 1, 2018, a 5% specialty pay will be paid year-round for up to six Lifeguard IIs and higher

classifications with Advanced Emergency Medical Technician (EMT) Certification or higher who are assigned as a Division Medical Officer. The City agrees to fund on a year-round basis up to six qualified DMOs. Additional DMO positions may be added at the discretion of the Fire Chief.

C. **Wage Calculations**

1. City agrees to establish the **wages** for new classes and calculate special **wage** adjustments so as to achieve the internal **wage** relationships specified by the Civil Service Commission. **Wages** will be set to the nearest percent per hour using normal rounding procedures and must be compatible with all applicable payroll and personnel data processing systems.
2. City will make every effort to ensure that the payroll system has sufficient flexibility to allow further refinements in differentials and salary calculations.
3. In the Adopted Salary ordinance "B" step is eliminated for new hires beginning after July 1, 1994. Employees hired after July 1, 1994, will move from "A" step to "C" step after one year. This represents an increase of approximately 10 percent. Current employees (hired prior to July 1, 1994) will continue with the present five-step **wage** schedule in present and future positions.

D. **Emergency Medical Technician (EMT) Pay**

Employees in the classifications of Lifeguard I, Lifeguard II, Lifeguard III, Lifeguard Sergeants, and Marine Safety Lieutenants who are EMT-certified will receive an additional 8.5 percent of base pay **once proof of a current valid EMT certification has been submitted to the Department. This pay is referred to as EMT pay. EMT certification is a job requirement for all Lifeguards II or higher classifications within the first year of permanent employment. Effective January 1, 2022, EMT Pay will increase from 8.5% to 10% of an employee's base wage.**

In order to receive EMT Pay, and to continue to receive EMT Pay, employees must submit proof of EMT certification within 30 calendar days of receiving certification. Employees must maintain a valid EMT certification at all times. EMT Pay will commence in the pay-period that proof of EMT certification is received by the Department and will continue until the date of the expiration of the EMT certification. EMT Pay will only be paid to employees on a prospective basis from the pay period that the Department receives proof of a current valid EMT certification until the date of the expiration of the employee's current EMT certification. The City will not pay EMT Pay for any expired certifications and the EMT Pay is subject to audit by the Department, to ensure compliance with the MOU, at any time.

E. **Fire-Rescue Emergency Air Operations/Regional Fire-Rescue Helicopter Program**

All Lifeguards assigned to the Fire-Rescue Emergency Air Operations/Regional Fire-Rescue Helicopter Program will receive 7.5 percent additional pay when deployed to a team rescue.

F. **Shift Differential**

Lifeguards working the Night Shift are entitled to an increase in the amount of 5 percent. Due to City's structural deficit in the General Fund, it is unable to

implement this benefit during the term of this Memorandum. City and Union agree that it is Union's intention to address the implementation of this benefit in meet and confer for a successor Memorandum.

ARTICLE 22: Retirement

- A. Retirement Contribution Offsets
Effective July 1, 2013, the City will no longer offset or pay employee retirement contributions.
- B. Retirement Benefits for Employees Initially Hired on or After July 20, 2012 Subject to Article 4 E
On October 1, 2012, the City Council approved an agreement between the City and Local 911 on the terms for an interim defined contribution plan under San Diego Charter sections 140 and 150 for employees initially hired on or after July 20, 2012 who are ineligible for the City's defined benefit plan subject to Article 4 E. The agreement is attached as Exhibit/Appendix G and is incorporated into this MOU, and controls over any contradictory language in this MOU for those employees initially hired on or after July 20, 2012.
- C. 2005 Retirement Benefit Plan Changes
The Parties recognize that the effective date applicable to the following benefit changes is currently in litigation and will eventually be established by order of the court.
1. Purchase of Service Credit.
Employees hired on or after July 1, 2005, are not eligible for the purchase of service credit (airtime) in San Diego City Employees' Retirement System (SDCERS or Retirement System), except for credit for up to five years of military service. Article 4, Division 13 of the Municipal Code has been revised to reflect this change.
 2. "13th Check" Supplemental Benefit
Employees hired on or after July 1, 2005, are not eligible to receive the "13th Check" supplemental benefit set forth in Municipal Code sections 24.1502(c) and 24.1503.
 3. DROP
Employees hired on or after July 1, 2005, are not eligible for DROP.
 4. Calculation of Service Retirement Allowance
The only service retirement allowance calculation formula for employees hired on or after July 1, 2005 and subject to Article 4 E, but before July 20, 2012, is 3.0% at age 50 for Safety Members, with the existing tiers for those formula. Article 4, Division 4 of the Municipal Code has been revised to reflect this change. For employees hired before July 1, 2005, the retirement allowance calculation formula will remain as currently provided under Article 4, Division 4 of the Municipal Code.

D. Retirement Benefit Changes Before 2005

Notwithstanding any provision in this MOU to the contrary, the retiree health benefits for employees who retire on or after April 1, 2012 are determined by the City's MOU (including amendment with Local 911), which the City Council adopted by San Diego Ordinance O-20132 (February 17, 2012) and amended by San Diego Ordinance O-20172 (June 26, 2012), and amended by Chapter 2, Article 9 of the San Diego Municipal Code.

The following paragraphs 1 through 3 are provided solely for historical purposes and have no effect.

1. 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. Municipal Code Division 12 will be amended to set 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 City-sponsored PPO plan for Fiscal Year 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 10% for any given year. The maximum amount of monies reimbursed to Health Eligible Retirees will be 100% of such Medicare-eligible or non-Medicare eligible retiree-only premium. Pursuant to this provision, the based monthly maximums are established for Fiscal Year 2003 as follows:
 - a. For Non-Medicare eligible retirees: \$489.16
 - b. For Medicare eligible retirees: \$460.67
2. Health Eligible Retirees may choose to participate in a **City**-sponsored health insurance plan or any other health insurance plan of their choice
3. Additionally, the Retirement System will reimburse the Part B Supplemental Medical Expense Premium for those Health Eligible Retirees enrolled in Medicare.
4. The Disability Income Offset provision is eliminated. There will be no reduction of retirement benefits if the retiree has other income.
5. A five-year purchase of service credit provision is established effective January 1, 1997 for employees hired before July 1, 2005. Under this provision, an eligible Member may purchase up to five years of service credit by paying both employee and employer contributions in an amount and manner determined by the SDCERS Board (Board) to make the Retirement 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, Temporary Total Disability, Family Medical Leave 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.

Other Benefits

6. For retirements effective on or after January 1, 1997, the 50% continuance is available to the spouse to whom the Member was married on the date of retirement. The requirement that the Member be married to **their** spouse at least one year prior to retirement for the spouse to receive the 50% continuance is eliminated.
7. 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.
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. Lifeguard Members
City and Union, having met and conferred, and having participated in the settlement of a class action lawsuit challenging the calculation of "compensation earnable," have agreed to benefit changes to SDCERS. The benefit changes resulting from this class action settlement were approved by the SDCERS active and retired membership in June 2000.
 - a. **Except as otherwise provided in the San Diego Municipal Code sections 24.0403.0001 through 24.0403.0004 effective July 1, 2000, a Safety Member may choose at the time of their retirement either: (1) the Retirement Calculation Factor in effect and applicable to his or her membership category on July 1, 2000, with no change in the Safety Member's Final Compensation, or (2) a 10% increase in the Safety Member's Final Compensation, with the Safety Member's Unmodified Service Retirement Allowance calculated using the Retirement Calculation Factors in effect and applicable to their membership category in effect on June 30, 2000.**

Unmodified Retirement Calculation Factors Lifeguard	
Retirement Age	Effective 07/01/00
50	3.00%
51	3.00%
52	3.00%
53	3.00%
54	3.00%
55+	3.00%

Unmodified Retirement Calculation Factors Lifeguard	
Retirement Age	Effective 01/01/97 – 06/30/00
50	2.20%
51	2.32%
52	2.44%
53	2.57%
54	2.72%
55+	2.77%

- b. Member Option: Pursuant to the class action settlement, a Lifeguard Member may choose, upon application for retirement, one of the following two options:
- The Retirement Calculation Factor in effect on July 1, 2000, with no change in the Lifeguard Member's Final Compensation; OR
 - A ten% increase in the Lifeguard Member's Final Compensation, with the Lifeguard Member's Unmodified Service Retirement Allowance calculated using the Retirement Calculation Factor in effect on June 30, 2000.
- c. This election must be made with SDCERS at the time of application for retirement.

E. Formula Change for Calculation of SDCERS Monthly Retirement Benefit for Lifeguards hired after June 30, 2011 and before July 20, 2012

Subject to the provisions contained in Article 4, section 8, the Retirement Calculation Factor for Lifeguard Members hired after June 30, 2011, shall be based on a Lifeguard Member's three highest years' salary and the following formula:

	<u>Retirement Calculation</u> <u>(New)</u>
50	2.50%
51	2.60%
52	2.70%
53	2.80%
54	2.90%
55+	3.00%

F. Eligibility for Industrial Disability Retirement Change

A Lifeguard Member may be eligible for an industrial disability retirement if it has been medically determined that the Lifeguard Member has become psychologically or mentally incapable of performing **their** normal and customary duties as a result of a violent attack on the Member with deadly force, such as a shooting or stabbing that causes great bodily injury, and that resulted in a nervous or mental disorder. The violent attack must occur on or after July 1, 2000, and such application for industrial disability retirement must be submitted before July 1, 2005. This provision shall sunset on June 30, 2005, and no such applications may be made after that date.

G. Deferred Retirement Option Plan (DROP)

1. The Deferred Retirement Option Plan (DROP) is established effective April 1, 1997 for all employees hired before July 1, 2005. Employees hired on or after that date are ineligible for the DROP as set forth in San Diego Municipal Code section 24.1402.1.
2. DROP provides an alternative form of benefit accrual while allowing a Member to continue working for City. During the DROP period, a DROP participant retains all rights, privileges, and benefits of being an active City employee, except as specifically modified in Chapter 2, Article 4, Division 14 of the Municipal Code, 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 Flexible Benefits Plan for the classification and is not eligible for "Retiree" Health Benefits until such time as the Member terminates City employment. Under DROP, a monthly service retirement allowance, along with any Cost of Living Adjustment increases, Supplemental Benefit checks, and any adjustments to such payments applicable to retirements effective on the date the Member entered DROP, are credited to the Member's DROP Account in the SDCERS Trust Fund. These SDCERS benefits are calculated as if the Member were retiring on the date the Member enters DROP. The Member's contributions to the Retirement System cease. The Member and City each contribute 3.05% of the Member's **Base Compensation, as defined in Municipal Code section 24.0103** each pay period that the Member participates in DROP. The Member's contribution is made on a pre-tax basis pursuant to IRC section 414(h)(2). These employer and employee contributions are credited to the Member's DROP Account in the SDCERS Trust Fund and are distributed to the DROP participant upon termination of employment. No withdrawals may be made from the DROP account until the Member terminates City employment. Interest will be credited to the Member's DROP account at a rate determined by the SDCERS Board. The Member is 100% vested in his or her **their** DROP Account at all times.
3. A DROP participant who becomes disabled may apply for conversion of **their** deferred retirement allowance to a disability retirement allowance calculated at the date of entry into DROP. A Member who participates in DROP irrevocably designates a specific consecutive period of months for participation, not to exceed sixty months. The Member must terminate City service at the end of the designated period.

ARTICLE 23:
Lifeguard Services

A. Lifeguard Training

1. Union may meet with City to discuss training programs and enforcement responsibilities for Lifeguards, including the development of a training program for Seasonal Lifeguard I's.

2. City will continue to **provide the necessary training and reimburse** the costs associated with a Lifeguard's EMT recertification.

B. Class B Driving License Requirements

All Members of the River Rescue Team, along with all Cliff Rescue Instructors, will be required to have a Class B driving license, (with air brake endorsement) and become a Rescue 44 operator within one year of selection to these respective assignments if they wish to continue serving in these assignments. City will provide the training for a Class B license in-service and will cover the costs of the required medical examination and the initial Department of Motor Vehicles license fee. Renewals of the Class B license will be at the employee's cost except City shall pay for the required medical examination required for renewal.

C. Preservation of Work

Fire-Rescue, Lifeguard Division recognize the expertise and organizational benefit of Lifeguard Division continuing to be the primary responders for cliff rescues during the day and river rescue responders throughout the year. Due to the specialized aquatic expertise of the Marine Safety section these duties and responsibilities shall not be removed from Lifeguard Division.

D. Cliff Rescues

1. The Lifeguard Division will continue to be primarily responsible for responding to coastal cliff emergencies when Lifeguard staffing provides for a Lifeguard Rescue Response as outlined in Coastal Cliff Rescue Procedures 2.19. If the call for emergency services involves an injury of a person whose injury status is unknown, the appropriate Fire Operations and Advance Life Support (ALS) personnel will be dispatched as per the Coastal Cliff Rescue Procedures 2.19. Fire Operations and ALS personnel will not be dispatched until requested by the Lifeguard Division. If the Lifeguard Division, when responding to a cliff incident, determines that additional equipment is required or that additional personnel are required to perform the rescue safely, they should request assistance from Fire-Rescue and ALS personnel. Incident command authority will be followed as described in Coastal Cliff Rescue Procedures 2.19.
2. When Lifeguard night crew staffing is not available, Fire Operations will continue to be primarily responsible for responding to coastal cliff rescue emergencies. However, when such a call is received the appropriate Lifeguards should be called to assist the Fire Operations as described in Coastal Cliff Procedures 2.19.

E. Communications

Requests for cliff rescue services should be immediately routed to the appropriate Public Safety Answering Point (PSAP), either Lifeguard Communications Center (LCC) or Fire Communications Center (FCC). When the Lifeguards have primary responsibility for coastal cliff rescues, the LCC is responsible for dispatching these emergencies. When Fire Operations have primary responsibility for coastal cliff rescues, the FCC is responsible for dispatching these emergencies.

F. River Rescues

1. For the purpose of this policy, a “river rescue” is defined as any rescue of persons or property threatened, surrounded, or entrapped by stationary or moving water. River rescues, particularly those rescues that necessitate going in the water to affect the rescue, are extremely hazardous operations. To safely perform these rescues requires specialized training and equipment. For this reason, it is important that, where possible, all river rescues be performed by the Lifeguard Division River Rescue Team. The Lifeguards who comprise this team are expert swimmers and have received extensive training in making river rescues. In addition, there is a reserve of Lifeguards who are qualified to assist them. As a general policy, therefore, the Lifeguard Division River Rescue Team will be called to make these rescues. Other safety personnel will not make in-water rescues unless a citizen’s life is in immediate peril.
2. Whenever an inland water emergency occurs, the request for emergency service should be referred by the Police to the Lifeguard Communications Center. Lifeguard Division will dispatch the appropriate unit or units. In those cases where it is not apparent from the request that a river rescue is involved but any responding Fire-Rescue units realize upon arrival at a scene that a river rescue is necessary, the Lifeguard Division River Rescue Team will be summoned. Other safety personnel will not attempt river rescues unless a citizen’s life is in imminent peril. This policy applies at any time of the day and during periods when there is no flood alert or during a Stage 1 or Stage 2 flood alert as defined in the Disaster Preparedness Plan. The Lifeguard Division River Rescue Team is available on a call back basis at all times through the Lifeguard Communications Center.
3. It is also necessary to address the issue of emergency scene management at river rescue incidents. The senior officer of Fire-Rescue at the scene will be responsible for overall scene management. When the Lifeguard Division River Rescue Team is called to the scene, the senior ranking member of the River Rescue Team will be responsible for overseeing the in-water rescue and how that should be accomplished. The senior officers of all safety services at the scene should ensure that there is a high degree of coordination and cooperation among all personnel present at the scene.

G. Career Path Options

Fire-Rescue shall establish a committee with Lifeguards to develop additional career path options for Lifeguards and increase appropriate, short-term light duty assignments.

H. Swim Test

The swim test shall continue to be conducted as described in the current Lifeguard Division Policies and Procedures Manual.

ARTICLE 24: Limited Appointments

Management 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. Management intends to use limited appointments to fill hourly positions, positions funded by the state and federal government, and full-time budgeted positions in which the incumbent employee is on a leave of absence.

ARTICLE 25: Performance Incentives

A. Performance Pay

1. City may grant an Exceptional Merit Cash Payment to any employee at "E" Step who meets standards on **their** most recent Performance Evaluation within the Units represented by Union. It is understood and expressly agreed to by the Parties to this Memorandum that any employee receiving a payment under this provision does not acquire any future rights to receive any future payment of salary beyond the employee's base salary.
2. The Appointing Authority may grant an employee who meets standards on **their** recent Performance Report up to three days special leave with pay in recognition of a specific instance of exceptional performance.

B. Exceptional Merit Increases

1. Employees with commendation level performance may be granted an Exceptional Merit Increase for a maximum of a one-step increase to the next consecutive step within the salary range, unless in conjunction with a normal merit increase where a maximum two step increase would be permitted. Exceptional Merit Increases not done in conjunction with a normal merit increase will be effective at the beginning of a pay period and can be no earlier than the pay period in which the supervisor delegated the responsibility by the Appointing Authority.
2. Union may discuss problems in the Exceptional Merit Cash Payment Program with the Human Resources Department. Management shall provide Union an opportunity to review awards quarterly.

ARTICLE 26: Rehabilitation and Employee Assistance Programs

- ### **A.**
- Union agrees to cooperate with efforts by Management to conduct voluntary rehabilitation programs for employees having physical or mental disabilities; however, such agreement does not preclude Union from representing its members.

- B. Union and Management support the Employee Assistance Program (EAP) and both Parties agree to encourage, if appropriate, employees with personal problems to participate in EAP.
- C. The purpose of EAP is to help employees who have personal problems to obtain professional assistance and treatment where necessary. Participation in EAP will be entirely voluntary. City will not take disciplinary action against an employee for refusing to participate in EAP except pursuant to Article 73. Management and Union agree that actual discussions between the employee and EAP staff, and treatment provided the employee through EAP, will be kept confidential unless the employee consents to disclosure.
- D. In accordance with Article 20, Workplace Safety, City will make its best efforts to protect, support, and counsel employees who have been threatened during the course of employment.

ARTICLE 27: Flexible Benefits Plan

A. General Nature of Plan and Eligibility

- 1. **The City offers an IRS qualified cafeteria-style benefits program called the Flexible Benefits Plan (FBP) to all eligible employees. Under the FBP, an annual dollar value is set for each eligible employee who may use these "FBP credits" for a variety of tax-free benefit or cash-in-lieu options, or take these FBP Credits as taxable cash under certain circumstances.**
- 2. **An eligible employee means any employee in one-half, three-quarter, or full-time status. Employees in non-standard hour positions are not eligible to participate in the FBP.**
- 3. **During the annual open enrollment process for the FBP, eligible employees are required to acknowledge that no amount of FBP Credits is included in "Base Compensation" under the SDCERS defined benefit pension plan. Employees are also required to acknowledge that the FBP credits allocated to them for the fiscal year will be paid out over 24 of 26 pay periods, as a lump sum benefit for all hours worked during each month within the fiscal year. For months that have three pay cycles, the middle paycheck will not include any FBP transactions. If an employee separates from City employment, the FBP credits payable through their last day on the City payroll will be added to their final paycheck.**

B. FBP Options for Eligible Employees Hired Before July 1, 2021

- 1. **For eligible employees hired before July 1, 2021, total Flex Credits of \$13,461 are available with the customary cash-back option. This option allows the maximum cash-back opportunity for employees who waive medical insurance or cover only themselves. However, beginning July 1, 2021, there is also a new option for employees who wish to cover a Spouse or Domestic Partner, Children or Family, where more Flex Credits will be available to**

them for these tiers of coverage but they will have no cash-back option and no amounts can be deposited into their 401(k) account. Eligible employees hired before July 1, 2021, may change the option they select (Option No. 1 – Cash-Back; Option No. 2 – No Cash-Back) from one fiscal year to the next at the time of open enrollment.

2. **Option No. 1 to Choose \$13,461 in FBP Credits and Take Cash-Back**

During open enrollment, employees hired before July 1, 2021 who wish to maximize the cash available to them from their total \$13,461 in FBP Credits, must select a Life Insurance option and either the Waiver or an Employee-Only Medical Coverage Option from the FBP component plan offerings.

An employee may select the “Waiver” option to opt out of any medical insurance offering under the FBP without providing the City with proof of other medical insurance coverage. After selecting Life Insurance and the Health Waiver or Employee Only Health Coverage, the employee may allocate their remaining Flex Credits: to pay for other FBP insurance offerings; to be deposited to their 401(k) account; to fund an FSA account for dental/medical/vision reimbursements or child/dependent care; or to be returned to them over 24 pay periods as taxable cash.

3. **Option No. 2 to Choose Increased Medical Insurance for Employee-Plus Tiers and Not Take Any Cash-Back From FBP Credits**

During open enrollment, employees hired before July 1, 2021, who choose a medical insurance option and cover one or more dependents, will have the option to get more Flex Credits to cover themselves plus a spouse, domestic partner, children or family as follows:

Effective the first full pay period following City Council approval of this MOU.	
Employee and Children	\$13,547
Employee and Spouse/Domestic Partner	\$13,528
Employee and Spouse/Domestic Partner and Children	\$13,874

Once an employee has selected one mandatory Life Insurance option and one of the above-described tiers for medical coverage, any remaining FBP credits may be used to pay for other FBP insurance offerings or to fund an FSA account for dental/medical/vision reimbursements or child/dependent care. However, no FBP Credits remaining after selecting required or optional coverages or funding FSA accounts may be deposited to their 401(k) account or be taken as cash-back.

C. FBP Options for Eligible Employees Hired On or After July 1, 2021

1. For eligible employees hired on or after July 1, 2021, there will be two options available under City's FBP: (1) a \$1,000 cash-back option for an employee who provides proof of qualifying medical coverage outside the FBP and selects the waiver; or, (2) a no-cash-back option which provides FBP Credits in varying amounts for Employee Only and for Employee-Plus tiers.
2. Option No. 1 to Choose \$1,000 In Cash In Exchange for Waiver of Medical Insurance With Proof of Alternative Qualifying Medical Coverage

This option is an eligible opt-out arrangement under City's FBP. It is the *only* means for an eligible employee to have \$1,000 in taxable cash paid out to them in increments over 24 pay periods of the fiscal year so long as they remain employed and eligible. However, an employee who chooses this option is also forfeiting the opportunity to have thousands of additional Flex Credits available for other qualifying benefit opportunities under the FBP.

During open enrollment, this eligible opt-out arrangement allows an eligible employee to decline medical benefits coverage under the FBP for the upcoming Plan Year and instead receive a \$1,000 cash payment. An eligible employee can waive coverage without restriction, but to receive the \$1,000 cash payment, the eligible employee must provide during open enrollment reasonable evidence of enrollment in "minimum essential coverage" under another employer-sponsored group medical plan (a spouse's plan, for example), or under a qualifying government program, which covers the employee and their tax dependents for the upcoming Plan Year. Individual coverage, including insurance purchased through the Affordable Care Act (ACA) Exchange, will not qualify as minimum essential coverage under the eligible opt-out arrangement. If an eligible employee selects the Waiver and certifies that they have and will maintain qualifying coverage for themselves and their tax dependents during the Plan Year, the City will pay the \$1,000 "waiver" cash over 24 pay periods if the employee remains employed and eligible. However, the employee's failure to have or maintain this minimum essential coverage outside the FBP will disqualify the employee from eligibility in City's opt-out arrangement and no cash payments will be made or continue to be made.

To elect and enroll in this opt-out arrangement, an eligible employee must complete and execute an online Election Form and file the completed form - together with the employee's certification that they and their tax dependents have (or will have) other minimum essential coverage (other than individual coverage) during the Plan Year -- with the City's Risk Management Department during open enrollment before the Plan Year begins for which the opt-out election is to be effective. Once made, an employee's election to participate in this opt-out arrangement is irrevocable until the end of the Plan Year unless the employee is entitled to change their election under the FBP due to a mid-year election change event as described under section 3.07 of the City's FBP.

An eligible employee must provide the certification of other minimum essential coverage (other than individual coverage) annually during each

open enrollment period. An employee who elected to participate in this \$1,000 cash-back opt-out arrangement will no longer be eligible to receive cash payments: (1) after the last day of employment if the employee terminates employment with the City; (2) if the employee is no longer eligible to participate in the FBP; (3) if the employee enrolls in a medical plan offered under City's FBP; or (4) if the employee ceases to maintain minimum essential coverage for them and their tax dependents under another employer-sponsored group medical plan or qualifying governmental program.

An eligible employee who elects the \$1,000 cash-back waiver under this opt-out arrangement will have no remaining FBP Credits to "spend" on other FBP component plan offerings. However, the employee may elect benefits offered through these other component plans by paying for the cost of those benefits with pre-tax salary reduction contributions.

3. **Option No. 2 to Choose A Medical Insurance Option and Use Remaining FBP Credits For Other Benefits But Take No Cash-Back**

All eligible employees hired on or after July 1, 2021, who choose a medical insurance option, will have the following Flex Credits available. Once the employee selects a medical plan offered under the FBP for Employee Only or for one of the Employee-Plus tiers below, the employee may use the remaining Flex Credits for other insurance plans offered under the FBP (life, dental, vision), or to fund a flexible spending account (FSA) for dental/medical/vision reimbursements or child/dependent care. However, no FBP credits remaining may be deposited to their 401(k) account or be taken as cash-back. An eligible employee who has other medical coverage outside the FBP may still select the lowest cost Employee Only medical insurance option and then use the remaining Flex Credits for other benefits but no cash-back.

Effective the first full pay period following City Council approval of this MOU.	
Employee Only	\$7,600
Employee and Children	\$13,547
Employee and Spouse/Domestic Partner	\$13,528
Employee and Spouse/Domestic Partner and Children	\$13,874

For employees hired on or after July 1, 2021, only Eligible Employees who elected the "Waiver" under the Option No. 1 "opt-out arrangement" can receive FBP credits in cash-back payments.

Any unused Flex Credits will be forfeited at year-end and cannot be carried over from year-to-year.

- D. On or about April 1 of each year during the term of this MOU or earlier if mutually agreed, the Parties will exchange premium rates for the Parties' respective plan

offerings. **If the term of the Health Plans is changed to a calendar year basis, then the exchange of rates will occur on about October 1 of each year during the term of this MOU.**

- E. 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.

F. Notes

1. It is the intent of the Parties that all **component** plans offered **under the FBP** comply with all applicable State and federal laws, including IRS regulations as interpreted by the City Attorney. All disputes over interpretation of this Article will be submitted to the appropriate agencies for interpretation.

2. **Eligible employees who do not have sufficient Flex Credits to enroll in insurance plans offered under the City's FBP, will have appropriate amounts withheld from their paychecks to pay for the cost of coverage they select.**

Eligible employees may designate a specific amount of pre-tax money (IRS restrictions apply) to be withheld from their paychecks to reimburse eligible out-of-pocket Health Care Spending Account (HCSA) and Dependent Care Spending Account (DCSA) expenses. These payroll deductions must be designated during the open enrollment period, are irrevocable, and are subject to IRS regulations. These amounts are forfeited if not used within the fiscal year or during the grace period described in the Flexible Benefits Plan document.

3. 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 **medical, dental, and vision coverage** (or a comparable plan **if that option is unavailable**), including dependent **coverage** offset and life **insurance**, will be automatically continued at the same level for the next year as if the employee had elected to keep them. All other benefit options will be cancelled. **Employees agree that City may make a payroll deduction for employee and/or dependent medical and life insurance coverage if the FBP Credits are insufficient to pay for the benefit options selected by the employee. Any FBP Credits remaining from the FBP allotment will be paid out as a taxable cash payment if a cash-back option is otherwise available to the employee. All payroll deductions, including HCSA and DCSA reimbursements, will continue and may not be stopped until the following open enrollment period, except when a qualifying event occurs as defined in the FBP document.**

4. City agrees that it will not arbitrarily or unreasonably deny Union the opportunity to offer a **medical** 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 City's health plans. 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 **medical** plan.

5. Union agrees to indemnify City against any and all claims arising out of the administration of **Local 911's** benefits plans.

6. **Audit and Inspection of Records**

The City Auditor is authorized to audit all necessary documents pertaining to the health insurance plans offered by Union, and **Local 911 is authorized to audit the City's health plans to the extent that documents are requested and provided pursuant to state and federal public information laws.**

7. **Local 911 will be given the opportunity to answer questions about the FBP and its plan offerings during open enrollment and in New Employee Orientation sessions.**

G. **With 90-days prior written notice to Local 911, the City will have discretion to change the plan year of the City's Flexible Benefits Plan from a fiscal year basis to a calendar year basis beginning January 1, 2023:**

1. **Rate renewals with group health insurance providers in early calendar year 2022 will need to account for transition to calendar year plan (17-month rate renewal for coverage dates starting in August 1, 2022 through December 31, 2023).**

2. **A first open enrollment will be held in June 2022 for short plan year. (Health plan coverage effective dates will be August 1, 2022 through December 31, 2022).**

3. **A second open enrollment will be held in November 2022 for a new calendar year plan. (Health plan coverage effective dates will be January 1, 2023 through December 31, 2023).**

4. **Thereafter, open enrollment would be held once a year in the late fall for the calendar year plans (effective dates January 1 through December 31), with rate renewals for 12-month coverage periods.**

H. **The City has discretion to conduct an audit of employees' dependents at any time of its choosing to ensure that it is providing coverage to employees' dependents on a tax-free basis as required by the Internal Revenue Code.**

ARTICLE 28:

Formal Representation

A. When formal meetings are scheduled for the purpose of meeting and conferring on subjects within the scope of representation, Union may be represented by **one representative and the Chief Steward** or **their** designee. These employees may attend these meetings during regular work hours without loss of compensation or other benefits. Employees working shift hours other than regular day work hours may

attend meetings and will have their schedules adjusted to the day shift for each meeting.

- B. For purposes of meeting and conferring on a successor Memorandum of **Understanding (MOU)**, three representatives plus the **Chief Steward** are considered a reasonable number of representatives. **The Union agrees that only three employees designated by the Union plus the Chief Steward will be eligible for paid release time to participate in meeting and conferring on a successor MOU when they are scheduled to work on a day that the meeting is scheduled.** However, additional representatives may attend upon mutual agreement of the Parties.
- C. Union may select a representative to attend City Council, Council Committee, Civil Service Commission, Retirement Board, Special Employer-Employee Committee meetings, and meetings of other special commissions or boards established by the City Council, during regular work hours, without loss of compensation, when subjects within the scope of representation are being discussed.
- D. Union shall, whenever practicable, submit the names of all designated representatives to Management at least two working days in advance of the meetings provided further:
 - 1. That no representative will leave **their** duty or workstation or assignment without specific approval of Management.
 - 2. That approval to attend any meeting is subject to scheduling by Management in a manner consistent with the operating needs and work schedules.
- E. Nothing provided in this Article limits or restricts Management from scheduling meetings before or after regular duty or work hours under appropriate circumstances.
- F. Union will have a permanent representative on the Suggestion Awards Committee.
- G. Union Stewards will be granted the opportunity to attend meetings during regular work hours without loss of compensation or other benefits provided that Union, not individual employees, provides Management and the employee's Appointing Authority with notice of meetings at least five working days in advance of the meetings and pursuant to the provisions of Section A.1. In the event Union must convene an emergency board or steward meeting, Union shall give Management as much notice of this meeting as circumstances permit. For the purposes of the notice and approval provisions of this paragraph, "Management" shall mean the Human Resources Director or **their** designee.
- H. Retiree Medical Trust
Effective July 1, 2012, four hours of release time, per quarter, is authorized for the Union trustee representative for the purpose of attending San Diego Employees 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 29:
Employee Rights

- A. The Parties mutually recognize and agree to fully protect the rights of all employees covered by this Memorandum to join and participate in the activities of Union and all other rights guaranteed by law.
- B. No employees will be interfered with, intimidated, restrained, coerced or discriminated against because of the exercise of these rights.
- C. The Parties, in the conduct of their affairs, will apply the provisions of this Memorandum 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.

ARTICLE 30:
Management Rights

- A. The rights of 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 legitimate reasons;
 - 6. Maintain the efficiency of governmental operations;
 - 7. Determine the methods, means, and personnel by which government operations are to be conducted;
 - 8. Determine the content of job classifications;
 - 9. Take all necessary actions to carry out its mission in emergencies; and,
 - 10. Exercise complete control and discretion over its organization and the technology of performing its work.
- B. The exercise of these rights does not preclude 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 will not supersede the provisions of this Memorandum.

ARTICLE 31: Modification and Waiver

- A. Laws, regulations, or rules proposed during the life of this Memorandum will be reviewed by City and Union to determine their effect on this Memorandum.
- B. Reasonable written notice will be given to Union of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted or changed by the City Council, Civil Service Commission, Retirement Board, or by a department, and Union will be given the opportunity to meet and confer or consult as required by law with the appropriate body or person prior to adoption of any changes. Reasonable notice will normally be set at of three working days.
- C. Any agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained in this Memorandum will not be binding upon the Parties unless agreed to in writing by all Parties, and, if required, approved and implemented by the appropriate body.
- D. In cases of emergency pursuant to the Charter, when 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 City responsible for the changes will provide notice and opportunity to meet with Union at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.
- E. The provisions of this Memorandum, together with those provisions of wages, hours, other terms and conditions of employment, and employer-employee relations subject to meet and confer currently in existence and not changed by this Memorandum, may not be revised to adversely affect the employees in this unit during the term of this Memorandum; provided however, that Union agrees to meet and confer during the term of this Memorandum if City proposes to introduce ballot measures which relate to or would impact wages, hours, other terms and conditions of employment, or employer-employee relations.

ARTICLE 32: Obligation to Support

The Parties agree that during the period of time this Memorandum is pending before the Civil Service Commission or the City Council for action, neither Union, nor Management, nor their authorized representative, or any member of Union's Board of Directors will appear before the Civil Service Commission or the City Council or meet with members of either body individually to advocate any amendment, addition, or deletion to the terms and conditions of this Memorandum. It is further understood that this Article does not preclude the Parties from appearing before the Civil Service Commission or the City Council nor

meeting with individual members of either body to advocate or urge the adoption and approval of this Memorandum in its entirety.

ARTICLE 33: Provisions of Law

- A. This Memorandum is subject to all current and future applicable federal, state and local laws, regulations, and the Charter. Provided, however, no local law which is enacted in contravention of the provisions of the MMBA will affect the provisions of this Memorandum.
- B. If any part or provision of this Memorandum 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 will be suspended and superseded by applicable laws or regulations, and the remainder of this Memorandum will not be affected.
- C. It is the intent of Parties that this Memorandum be administered in its entirety in good faith during its full term.

ARTICLE 34: Information Exchange

Union, as bargaining agent for employees, is entitled to timely written information from Management which would enable it to properly perform its duties. In particular, the following information will be provided by Management to Union upon request:

- A. Bi-weekly, an **electronic file** from City will be provided to Union containing the information currently furnished on each Union Member, at cost or at another price if agreed upon.
- B. Quarterly, City will provide Union with an **electronic file** containing the information listed in section A for all employees in a Bargaining Unit.
- C. The City will make available to the Union information pertaining to employment relations as set forth in this rule and the California Public Records Act.
- D. Such information will be made available during regular office hours. Materials presently supplied to Union at no cost will continue to be supplied at no cost.
- E. Information which will 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 employee.
- F. Nothing in this rule may be construed as requiring City to do research for an inquirer or to do programming or to assemble data in a manner other than its customary format.

- G. Information will be made available from the Risk Management Department (Risk Management), in regards to Union Members enrolled for Union-sponsored health and dental plans. This information will consist of current listings of Union-sponsored prepaid plans and documentation copies of the Union-sponsored prepaid benefits. Union shall provide Risk Management with a separate listing of premium payment accrual amounts for Union members being reimbursed for all or part of their plan premiums through Dental/Medical/Vision Reimbursement. Additions and deletions shall be reported to Risk Management by memorandum. Any list provided by Union shall include employee's name, social security number, and year-to-date cumulative totals by Union-sponsored option.

ARTICLE 35:
New Employee Orientation and Union Orientation

- A. City agrees to provide general information to City employees during New Employee Orientations regarding the applicability of the MMBA to City employment, and regarding the legitimate status of employee organizations as exclusive bargaining representatives.
- B. City agrees to provide Union with an opportunity to make presentations to new employees during 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 Union. Union will be provided a separate room for their presentations.
- C. Union, upon request to Management, will be provided with an opportunity to have presentations not to exceed one-half hour at New Employee Orientations in departments which have departmental programs and that do not send employees to the Citywide program.
- D. Union may provide the pertinent information on its dental and vision plans for presentation by City during New Employee Orientations, and a Union representative may attend the presentations as an observer. Union may report any inaccurate or improper presentations related to its plans to the Human Resources Director for **their** immediate attention.
- E. City will provide new employees with the forms associated with the various benefits plans during the pre-lunch "benefits" portion of the program.
- F. **The City must provide Local 911 with access to the City's New Employee Orientations, whether the orientation occurs in-person, on-line or on any virtual platform. The City will provide not less than 10 days' notice in advance of an orientation, except that a shorter notice may be provided in a specific instance where there is an urgent need critical to the City's operations that was not reasonably foreseeable. The structure, time, and manner of Local 911's access will be determined by mutual agreement, subject to the requirements of California Government Code section 3557. The City must not disclose the date, time, and place of the orientation to anyone other than the City's agents involved in the New Employee Orientation, the employees, Local 911, or a vendor contracted to provide a service for purposes of the orientation.**

ARTICLE 36: Appeals

- A. **All discipline procedures for Union members who are protected by the Public Safety Officers Procedural Bill of Rights Act (POBR) will be conducted in compliance with the applicable sections of POBR.**
- B. An employee may appeal the placement of any document, including a Supplemental Performance Evaluation, which may be used as a basis for subsequent discipline, in **their** permanent record by submitting an appeal letter to the Department Head within ten working days of the employee receiving the document that is to be placed in **their** file. It is mutually agreed that employee performance evaluations where employees “meets standards” are not eligible to be appealed.

Within ten working days after receiving the appeal letter **for a Supplemental Performance Report, in which the appeal letter** becomes an attachment to the document in question, the Department Head or **their** designee will schedule a hearing on the matter. **For all other discipline matters, the Department head or their designee will schedule a hearing on the matter within thirty calendar days after receiving the appeal letter, which becomes an attachment to the disciplinary document in question.** The employee is entitled to representation at the hearing. **For all appeals other than for Supplemental Performance Reports, the Department Head or designee will provide a written decision within thirty calendar days of the conclusion of the hearing as to whether the original document will be retained in or removed from the employee’s record.** Within ten working days after the **Supplemental Report** hearing, the Department Head or **their** designee will provide a written decision as to whether the original document will be retained in or removed from the employee’s record.

It is mutually agreed that when an employee has concerns about evaluations that “meets standards,” the Department Head should designate someone other than the rater and the reviewer to meet with the employee and Union in an attempt to resolve any differences or dissatisfaction.

Reviews of “meets standards” evaluations are discussion items which may result in changes being made to the evaluation but are not to be considered an appeal of the evaluation.

- C. Formal reprimands more than three years old, will be destroyed, and will not be considered for purposes of promotions, transfers, special assignments and disciplinary actions, except as to disciplinary actions when the reprimands show patterns of specific similar misconduct. Reprimands may be retained in the employee’s personnel **file**. Upon request of the employee, reprimands will be destroyed on the schedule set forth in this Article. In the event an employee fails to make such a request, on discovery by Management, any reprimand will be destroyed in accordance with this provision.
- D. A Written counseling and Written warning more than one year old will be destroyed and will not be considered for purposes of promotions, transfers, special assignments, and disciplinary actions, except as to disciplinary actions involving specific similar misconduct as that addressed in the written counseling or written

warning. A written counseling and written warning may be retained in the employee's personnel jacket. Upon request of the employee, such written counseling and written warning will be destroyed on the schedule set forth in this Article. In the event an employee fails to make such a request, on discovery by Management any written counseling or written warning will be destroyed in accordance with this provision.

- E. **If a provision of the City's Dimension in Discipline Manual is inconsistent with the applicable sections of the POBR, then the City will comply with the POBR.**

ARTICLE 37:

Transportation Programs and Parking Subsidy

- A. **"F" Mileage**
"F" Mileage reimbursement will be paid in accordance with the current IRS Standard Mileage Rates for business reimbursement.
- B. **City-Provided Vehicles**
City retains the right to determine unilaterally to provide employees with City vehicles for the performance of City business in lieu of requiring employees to use their personal vehicles and reimbursing them at the above-stated mileage reimbursement rates. However, in making such determinations where multiple employees within the same work group are using personal vehicles, City will focus on the entire work group rather than on individual drivers within a work group. City will discuss any such intention with Union prior to making its decision. In the event City decides to provide City vehicles to employees, City will give employees affected by the decision notice to permit them to make decisions regarding the purchase or lease of personal vehicles with this change in mind.
- C. **Payment of Mileage Reimbursement**
It is City's intent to provide employees their mileage reimbursement checks within two weeks after the employees submit their timely and accurate reimbursement requests to their designated supervisors. **Mileage reimbursement forms must be complete, accurate, approved, and timely submitted in accordance with City policies and procedures.**

ARTICLE 38:

Death or Injury Notification

Union will be notified as soon as possible when a member of Union dies or retires.

ARTICLE 39:

Clean Air

- A. The City agrees to inform Union when building or remodeling activities take place that involve the removal or containment of asbestos.

- B. In cases of emergency removal or containment of asbestos, City will comply with all applicable state and federal laws, including the notification of employees in the affected areas.

ARTICLE 40:
Court Leave / Jury Duty Scheduling

- A. Where feasible and appropriate, Management agrees to make reasonable adjustments in an employee's work schedule when the employee is assigned to jury duty. Such adjustments will be in compliance with Personnel Manual Index Code I-9, Court Leave. In no case will Management be required to pay employees overtime when an employee's jury duty extends beyond the end of the employee's normal work schedule.
- B. Employees are no longer required to deposit with the **Department of Finance** fees paid **them** from the Court.
- C. Upon request, Department shall make its best effort to adjust the schedules of employees who work second or third shifts, rotating twenty-four hour shifts or any schedule which is not a standard five-day "8 to 5" schedule, to "days," Monday through Friday, for a portion of, or duration of, the assigned jury duty.
- D. Pursuant to Personnel Manual Index Code I-9, II C (4) the Mayor's designee will review and resolve disputes regarding reporting to work and the application of leave or rescheduling for court duty purposes.

ARTICLE 41:
Uniform Reimbursement

- A. The intent of this policy is to reimburse employees in certain designated classes who have attained permanent status, for the cost of one initial set of regulation uniform items.
- B. Reimbursement shall be limited to items of a specialized nature, including items with permanent City insignia, to be worn exclusively in line of duty. Street clothes are excluded from this provision. Lifeguard Division employees in designated job classifications will maintain a current price list of items for which reimbursement will be provided. Required items for each job classification are listed in Appendix B.
- C. Employees in the following job classifications will be provided with uniform reimbursement:
- Lifeguard II and III
Lifeguard Sergeant
Marine Safety Lieutenant
- D. All personnel receiving uniform reimbursement or issued a uniform will be required to wear the designated uniform. Failure to wear any of these items may result in discipline of the employee.

- E. Lifeguard I's will be issued their required uniforms by the City upon appointment as listed in Appendix B. Upon promotion to Lifeguard II, probationary Lifeguard II's will be issued items listed in Appendix B for Lifeguards. Probationary Lifeguard II's shall not receive a uniform allowance for the one-year probationary period. **It is the responsibility of all Lifeguards to maintain issued uniform items through the City's yearly uniform reimbursement.**

ARTICLE 42: Uniform Allowance

- A. The following classifications are entitled to uniform allowances:
1. Hourly Lifeguard I: \$277 annually.
 2. Lifeguard II, Lifeguard III, Lifeguard Sergeant, and Marine Safety Lieutenant: \$1204 annually.
 3. Lifeguard II, Lifeguard III, Lifeguard Sergeant, and all Marine Safety Lieutenant, assigned to the Boating Safety Unit shall receive an additional allowance of \$258 annually.
 4. Lifeguard II, Lifeguard III, and Lifeguard Sergeant assigned to the Regional Fire-Rescue Helicopter Program shall receive an additional allowance of \$456 biannually for the cost of one flight suit and one pair of safety shoes.
 5. Women in all Lifeguard classifications shall receive an additional \$120 annually for the cost of two swimsuits with dark colored underlining.
 6. On or about August 1 of each year, City will target to pay the appropriate uniform allowance to permanent personnel and hourly and part-time Lifeguard II's in these classes who were available for assignment in the class on July 1 of each year. Hourly Lifeguard I's will be paid on or about June 15 of each year. This allowance will not be paid for items for which uniform reimbursement has been received in the same year. This allowance is to be used for the replacement and maintenance of the uniforms in Appendix B. Employees on a leave of absence are eligible for the payment upon their return to work.
- B. All employees in these classes are required to have all uniforms described in Appendix B. Failure to have these items may result in discipline to the employee.
- C. City will provide employees with all patches required as part of the uniform.
- D. Lifeguard IIs and IIIs who are assigned as boat operators in the Boating Safety Unit will be provided with safety gear. Lifeguard IIs and above who were regularly scheduled for assignments in the Boating Safety Unit for six months will receive the additional allowance noted in Article 42, Paragraph A(3) in recognition of their different uniform requirements and the unusual wear on their uniforms. Replacement costs for two pairs of safety shoes with non-slip soles are included in these funds.

- E. Effective July 1, 2017, on or about August 1 of each year, employees in the classification of Lifeguard II and above who have been selected and scheduled as members of the Boating Safety Unit (BSU) Specialty Team (either core or supplemental members) will receive the additional allowance noted in Article 42, Paragraph A(3) for recognition of their different uniform requirements.
- F. Employees in the classification of Lifeguard I who have worked for the Lifeguard Services Division for two years or more will be issued a wetsuit at the beginning of their third year of service, or, on July 1, 2016, if the employees have already served two consecutive years with the Lifeguard Services Division.

ARTICLE 43:

Reduction in Compensation

A. Reduction in Compensation

The compensation of any employee or officer of City may be reduced within the **wages** 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.

B. Procedure for Reduction in Compensation

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

1. The inadequate performance of the employee shall be documented, and the employee shall receive a copy of that documentation.
2. Upon being notified of the proposed action to reduce the employee's compensation, the employee has the right to respond orally or in writing to the Appointing Authority. The response must be provided within five working days of the notification of the proposed action.
3. After giving due consideration to the information provided by the employee, the Appointing Authority may elect to reduce the compensation of the employee.
4. At the time the employee is notified of the Appointing Authority's decision, the employee will be informed of **their** representation and appeal rights.

C. Appeal of Reduction of Compensation

1. Within five working days of receipt of notice of reduction in compensation, an employee may file an appeal by filing a written demand to the Civil Service Commission for the right to be heard before the Commission. The Commission, at its discretion, may appoint one or more of its members to hear the appeal and submit a proposed decision to the Commission for ratification.
2. The conduct of the hearing is the same as that prescribed in the Civil Service Rules relating to discharge.

D. Return to Prior Compensation

1. Employees having their compensation reduced in accordance with the provisions of this Article will be placed on a Supplemental Performance **Plan**. At the time of the reduction in compensation, the employee will be informed of the date of the next performance evaluation. An employee's compensation will be reinstated at the step the employee was receiving prior to the reduction in compensation upon receipt of a "meets standards" performance review.
2. The reduction in compensation will not exceed six months of active duty. At the end of that time, the employee will be reinstated to **their** previous **wage** step in the job classification or some type of disciplinary action shall be taken.

ARTICLE 44:
Pay Status of Part-Time Positions

A. Authority

1. Annual Salary Ordinance
2. Civil Service Rule X: Leaves of Absence

B. Policy

1. Intent

The intent of this policy is to ensure that employees who work on a regular basis for forty or more hours each pay period and for a substantial period of time be provided with an appropriate level of fringe benefits. This policy is not intended to apply to employees hired on a seasonal basis.

Positions filled on an on-call or seasonal basis due to fluctuations in work or staffing needs will be paid on an hourly basis.

2. Positions which are at least one-half time but less than full-time, will be appropriately compensated as half or three-quarter time positions paid on a biweekly basis rather than an hourly basis if they average at least forty hours per pay period (sixty for three-quarter time) and require at least forty hours of work (sixty for three-quarter time) in each of twenty-four of the twenty-six annual biweekly pay periods.

3. Overtime Pay

Part-time employees are eligible for overtime pay in accordance with the following:

a. Half- and three-quarter time employees

- i. Are eligible for regular rate compensation in the form of pay or compensatory time credits for all time worked in excess of their scheduled workweek up to forty hours per week.

- ii. Are eligible for premium rate overtime for all time worked in excess of forty hours in their workweek and must receive pay for such overtime.
 - b. Hourly Employees
 - i. Are eligible for premium rate overtime pay for all time worked in excess of forty hours in their workweek and may not receive compensatory time credits in lieu of pay.
 - c. Such employees may not count compensatory time or compensated leave as hours worked in the overtime calculation.
4. Fringe Benefits
Part-time employees paid on a biweekly basis are eligible for holidays, annual leave, and other leaves of absence as provided in Civil Service Rule X. All part-time employees are eligible for Military Leave as provided in Civil Service Rule X.
5. Present Employees
Employees who would be hired on an hourly basis according to this policy, but who are now paid on a biweekly basis, may remain in that status until the termination of their current employment.
- C. Procedure
- 1. Personnel will review the payroll records of all hourly employees every six months. Appointing Authorities will be informed of those employees who qualify for benefits and take appropriate action.
 - 2. If an employee is hired as an hourly employee, and the Appointing Authority intends to work the employee forty hours or more per pay period, on a regular basis for a substantial period of time, the Appointing Authority should ensure compliance with this policy.
 - 3. The Mayor's designee will periodically review the payroll records of all hourly employees. Union may meet periodically with the Mayor's designee to discuss and attempt to resolve problems in the application of this Regulation especially those involving the conversion of hourly employees to part-time status.

ARTICLE 45:

Holidays

A. Fixed Holidays

- 1. Fixed Holidays will be:
 - a. January 1;
 - b. Third Monday in January, known as "Dr. Martin Luther King, Jr.'s Birthday;"
 - c. Third Monday in February, known as "Presidents' Day;"
 - d. March 31, known as "Cesar Chavez Day;"

- e. Last Monday in May, known as "Memorial Day;"
 - f. July 4;
 - g. First Monday in September, known as "Labor Day;"
 - h. November 11, known as "Veterans' Day;"
 - i. Fourth Thursday in November, known as "Thanksgiving Day;"
 - j. December 25; and
 - k. Every day appointed by the City Council for a public fast, thanksgiving, or holiday.
2. If January 1, March 31, July 4, November 11, or December 25 falls on 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.
3. **Holiday Pay**
- a. **An employee who is scheduled to work on a fixed holiday will receive holiday pay up to the number of hours the employee is scheduled to work, in addition to all hours worked. Specifically:**
 - b. **An employee who is scheduled to work on a fixed holiday will receive holiday pay up to the number of hours the employee is scheduled to work, in addition to all hours worked. Specifically:**
 - i. **A full-time employee will receive holiday pay at their regular base rate, in addition to all hours worked at their premium overtime rate.**
 - ii. **A three-quarter time employee will receive holiday pay at their regular base rate, in addition to all hours worked at their regular overtime rate.**
 - iii. **A half-time employee will receive holiday pay at their regular base rate, in addition to all hours worked at their regular overtime rate.**
 - c. **An employee who is not scheduled to work on a fixed holiday will receive holiday pay up to the employee's full-time or part-time status, in addition to all hours worked:**
 - i. **A full-time employee will receive eight hours of holiday pay at their regular base rate, in addition to all hours worked at their premium overtime rate.**
 - ii. **A three-quarter time employee will receive six hours of holiday pay at their regular base rate, in addition to all hours worked at their regular overtime rate.**
 - iii. **A half-time employee will receive four hours of holiday pay at their regular base rate, in addition to all hours worked at their regular overtime rate.**

NOTE: For purposes of this Article, regular base rate is defined as regular base rate plus eligible add-on (i.e. special assignment pay, certification pay). A holiday is observed between the hours of 12:00 a.m. to 11:59 p.m. on the day of the holiday.

B. Floating Holiday

In each fiscal year covered by the term of this Memorandum, each eligible employee available for a duty assignment on July 1 (as defined in Personnel Manual Index Code H-2) will accrue credit for hours of holiday time equal to the hours worked in the employee's shift up to ten hours. Each employee accruing such time must schedule **their** floating holiday to comply with the following conditions:

1. Employee must schedule the floating holiday prior to June 1;
2. The floating holiday must be a one-time absence and it must be used before **June 30th**; and
3. The floating holiday must be taken at a time convenient to the employee's Appointing Authority.

**ARTICLE 46:
In-House Committees**

Department Heads may, at their discretion, create advisory committees to provide information which is necessary to administer their Department. However, prior to implementation, it is Management's responsibility to notify Union to allow for meet and confer as necessary.

**ARTICLE 47:
Exchange of Days Off Between Employees**

Employees in classifications which call for work to be performed seven calendar days per week may exchange days off with employees of the same classification under the following conditions:

- A. Both Parties to the exchange must be willing to make the exchange and must have the approval of the immediate supervisors concerned.
- B. Generally speaking, exchanges of days off will be kept within the Division, section, shift or watch, crew or work site location unless, on an individual basis, the supervisors of the Parties to the exchange otherwise agree.
- C. When practical, requests for an exchange of days off should be made in writing at least five working days prior to the first day of exchange.
- D. An employee must report for the exchanged days off and, with the exception of illness, an employee who fails to report for any other reason will be carried absent without leave.

- E. To avoid administrative problems, an exchange of days off must be made within the same workweek by both Parties.
- F. Such trades must be made in accordance with the provisions of the Fair Labor Standards Act.
- G. Such trades will not be approved if they result in an increased cost to City.

ARTICLE 48: Direct Deposit

- A. City agrees to offer direct deposit of employee paychecks to an expanded network of financial institutions.
- B. All employees will be required to provide authorization to the **Department of Finance** to electronically deposit their paychecks to a financial institution of their choice (subject to electronic compatibility). Employees will not be required to change financial institutions if their financial institution is not compatible with the wire transfer.
- C. An employee who does not have a financial institution at which to provide electronic transfer accessibility may pick up **their** paycheck from **their** payroll specialist or at a designated location as identified by the Department, after 4:00 p.m. on paydays, or have the paycheck mailed to the address of the employee's choice.
- D. The Parties will both communicate and promote the availability and advantages of automatic deposits of paychecks through their respective communication means.

ARTICLE 49: Supplemental Pension Savings Plans / 401(k)

- A. Supplemental Pension Savings Plan (SPSP)
 - 1. Full-time lifeguards, who are defined as Safety Members of the SDCERS and who are hired by the City on or after January 1, 2011, are not eligible for SPSP. The SPSP Program will continue for full-time lifeguards hired before January 1, 2011, in compliance with the SPSP document.
 - 2. The terms of the SPSP document and the terms of the SPSP-H document for **non-standard** hour employees control the SPSP benefit. The following language (through the end of section A) is taken from prior Memoranda[a] and is set forth for historic purposes: A new SPSP **was** implemented for all employees hired on or after July 1, 1986 [through December 31, 2010]. For these employees the voluntary contribution will be reduced from 4.5% to 3.05% to offset the Medicare tax. Future increases in the Medicare or Social Security tax will result in corresponding decreases in the SPSP contribution for the City and the employees.
 - 3. This change **did** not affect or change the SPSP Plan **which covers** employees hired prior to July 1, 1986.

4. The Parties agree that an early retirement provision will be added to the SPSP document so that distributions prior to age 59-1/2, but within the City's normal retirement age provisions, will not be subject to the 10% excise tax on early distributions.
5. Legislation mandated that all employees be covered by a retirement plan effective July 1, 1991 **and this change** impacts all **non-standard** hour employees in the units represented by Union since they do not participate in any retirement system. Mandatory participation for these employees in a version of the SPSP document **was** agreed to by the Parties in order to comply with this mandate.
6. **Accordingly, the** City and Union agreed to maintain SPSP-H document coverage for **non-standard** hour employees, **who are not participating in SDCERS** to avoid compulsory inclusion in the Social Security System as mandated by the Omnibus Budget Reconciliation Act of 1990. These new Federal regulations mandate Social Security for employees not covered by a "retirement system." Current **non-standard** hour employees, who are not participating in the City **SDCERS** do not meet the requirements of the regulations and must be covered by Social Security or a "retirement" plan effective July 1, 1991.
7. In order to comply with this federal law, City and Union agreed to the implementation of a new SPSP-H **Plan** for SPSP-H eligible **non-standard** hour employees with the following key elements:
 - a. 3.75 percent employee contribution matched by a 3.75 percent City contribution to meet the 7.5 percent minimum requirement.
 - b. 100 percent immediate vesting.
 - c. Monies must remain in the SPSP-H **Plan** until termination.
 - d. **Effective July 1, 2014, the City began making an additional 0.5% contribution to SPSP-H for each non-standard hour employee. Effective July 1, 2015, the City began making an additional 1.75% contribution to SPSP-H for each non-standard hour employee. The employee is not required to match these additional contributions but may voluntarily contribute up to an additional 2.25%. Regardless of the employee's voluntary contribution amount, the total required City contribution for non-standard hour employees became 6% effective July 1, 2015.**

- B. 401(k)
All part-time benefitted and non-standard hour employees shall be eligible to participate in the 401(k) Plan that is offered to full-time benefitted employees.

ARTICLE 50: Employee Counseling

- A. Job Counseling
Employees who are interested in promotional opportunities or a transfer to a different department or to another classification should call Personnel. (telephone: 619-236-6400). See also Personnel Manual Index Code E-7, Transfers and Demotions.
- B. Financial Counseling
If an employee's supervisor receives notification from a firm, collection agency, or other source that a debt is owed by the employee, the information should be immediately turned over to the employee. The supervisor should not attempt to ascertain the validity of the debt, collect the money, or determine the method of payment. This is a personal matter between the employee and the creditor. The supervisor may suggest that the employee seek financial counseling, if necessary, and refer the employee to the Employee Assistant Program (EAP) for a referral to an appropriate community resource for financial counseling.
- C. Retirement Counseling
An employee who is planning retirement, or who is leaving City employment, should consult the Retirement Office (619-525-3650) to discuss available retirement benefits, and the SPSP Administrator in Risk Management (619-236-6600) regarding SPSP payout of monies held in the employee's SPSP Plan account.

ARTICLE 51: Transportation Alternatives

- A. Employees who use the Concourse Parkade, Central Library, **Civic Center Plaza, Mission Hills Library, Horton Plaza or any other facility as designated by the Mayor;** and pay on a bi-weekly basis be charged 25% of the prevailing general public monthly rate.
1. **The City will provide reimbursement to employees who have a monthly parking pass and use the Concourse Parkade, Civic Center Plaza, Central Library, Mission Hills Library, Horton Plaza, or other facilities designated by the Mayor, and carpool with other City employees. The rate of reimbursement will be calculated so that an employee who carries three riders will receive free parking.**
 2. **The City may expand parking opportunities to other facilities designated by the Mayor. The City will engage Local 911 in any impact bargaining required under the MMBA, related to new parking opportunities.**
 3. **Management agrees to make its best effort to negotiate with Parking Facility Providers reduced rates comparable to those at the Concourse for employees assigned to City facilities.**

- B. As part of the Transportation Alternatives Program (TAP), the City will provide the following transportation subsidiaries, up to a maximum of \$100.00 per month, per employee, to those employees who purchase monthly transit passes. The City will provide an equivalent reimbursement, subject to the \$100 monthly cap, for the use of the San Diego Bay Ferry or a City-approved vanpool program. Transit passes will be for the exclusive use of the employee/purchaser. Employees must use these subsidized transportation services to commute to and from work at least three days per week to be eligible. To be eligible for subsidized passes or reimbursement, employees may not participate concurrently in the City's discounted monthly parking program. Only one transportation-related benefit may be received in any one month. Enrollment in transit passes takes place through the SAP Portal no later than the 12th day of the current month for the next month's pass, with associated fares and fees pre-paid monthly through automatic payroll deduction. Employees in violation of these provisions will have their transportation incentives discontinued.**
- 1. The following transit passes are subsidized at 75%, subject to the \$100 monthly reimbursement cap and provided in accordance with the following terms:**
 - a. The monthly Adult 2-Zone Coaster Pass and Adult 3-Zone Coaster Pass**
 - b. The SDM Coaster pass (3-Zone Senior Coaster Pass)**
 - c. The All Trolley/Local Bus Route Pass (Adult Regional)**
 - d. The Senior/Disabled SDM Regional Pass**
 - e. The Youth Regional Pass**
 - f. The Adult Rapid Express/Premium Pass is subsidized at 75%, subject to the \$100 monthly reimbursement cap.**
 - g. The Senior/Disabled SDM Rapid Express/Premium Pass**
 - 2. The City will offer discounted All Trolley/Local Bus Route (Adult Regional) Passes and Adult Rapid Express/Premium Passes through a contractual agreement with San Diego Metropolitan Transit System's (MTS) ECO Program. Through this program, employees can pre-purchase the ECO pass at a 75% subsidy. Enrollment in ECO passes takes place through the SAP Portal and will occur each year in May through the term of the MOU. Restrictions issued by MTS for this ECO pass for the term of this MOU include:**
 - a. No refunds**
 - b. No opting out of months**
 - c. Employees are responsible for registering and replacing a lost Compass Card**
 - 3. A City approved vanpool program is subsidized at 90%, subject to the \$100 monthly reimbursement cap.**
 - 4. Use of the San Diego Bay Ferry is subsidized at 75%, subject to the \$100 monthly reimbursement cap.**

5. Employees participating in TAP shall pay 50 percent of the public daily rate at the Concourse Parkade, Central Library, Civic Center Plaza, Mission Hills Library, Horton Plaza, or any other facility as designated by the Mayor, for up to 52 occurrences per year. Parking at the City facilities is limited, and is available to all employees on a first-come, first-served basis.
6. If MTS discontinues or modifies the employer discount program during the term of this MOU, the City will meet and confer before it adjusts the costs of the program, but in no event will the reimbursement be less than 75%, subject to the \$100 monthly cap.

ARTICLE 52:
Labor-Management Committee and Training Committee

- A. Management and Union will continue the joint Labor Management Committee (LMC) for the purpose of discussing common problems including, but not limited to, safety issues and policies, contract interpretation and administration, application and administration of the grievance procedure, the exceptional merit cash payment program, SPSP, air quality in City buildings, alternate work schedules, and use of limited appointments.
 1. The Labor-Management Committee will meet quarterly, or more frequently if needed, at a time and for a duration that is mutually agreeable to both Management and Union. Union and Management will each be able to appoint three members to this Committee.
- B. The Parties also agree to establish a Lifeguard Training Committee which meets quarterly during the term of this Memorandum to discuss any training issues related to Lifeguard duties.
 1. Union may select no more than three Lifeguards which City may meet with to discuss training programs and enforcement responsibilities. Union will bring all matters regarding training and enforcement to the committee prior to seeking resolution elsewhere. Such matters must be dealt with in a reasonable time. This committee will not be used as a vehicle to bypass the management chain of command in the Fire-Rescue, Lifeguard Division.
 2. City agrees the Lifeguard Training Committee will discuss guidelines and training related to the incorporation of performance-based measurements into Employee performance Evaluations.
 3. The Fire-Rescue Training Division shall form a committee with the Lifeguard Training Committee to develop a basic lifeguard training plan and any cross training. The Parties agree that it is of mutual importance that training be provided in the Lifeguard Division to the extent fiscally feasible in order to maintain the most effective level of safety for the benefit of the public and the employees. Discussion areas will include, but are not limited to, how to provide expanded designated training to ensure the training policy requirements are met, how to increase recertification trainings to ensure

maintenance of skills for Lifeguards who assist specialty teams and assist with cliff rescues, and enhanced marine firefighting training.

- C. The Labor Management Committee (LMC) of two Lifeguard Sergeants, two Lieutenants, the Lifeguard Chief and a minimum of one Labor Relations Designee will meet quarterly for the purpose of informally discussing and maintaining open communication between the parties regarding appropriate assignment of job duties to each classification.
- D. The parties understand that any discussions or proposals made during LMC meetings shall not be considered meet and confer negotiations under the MMBA. The parties also understand that only agreements reached by mutual consent, reduced to writing, and signed off on by authorized representatives of both parties will be binding.

ARTICLE 53: Polygraph Examinations

No employee can be compelled to submit to a polygraph examination against **their** will. No disciplinary action or other retaliation will be taken against an employee who refuse 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.

ARTICLE 54: Overtime

- A. For the purposes of overtime compensation, the compensatory time limits set forth in A.R. 95.01 will be amended to permit employees to accrue one hundred and twenty hours of compensatory time off. By the end of the fiscal year, compensatory time balances may not be in excess of forty-five hours.
- B. City agrees to evaluate the current process of making overtime opportunities available to Lifeguard II's and to make reasonable efforts to increase the equity of this process, recognizing that skill levels and availability must continue to be considerations in the process. The goal will be to provide opportunities as equally as reasonably possible considering the skill level of the vacancy and of the available Lifeguard personnel who wish to work overtime.

ARTICLE 55: Layoff

- A. In the event of a layoff involving classes represented by Union, City agrees to provide Union with a copy of the official layoff notice which is provided to affected departments.

- B. City will make its best efforts to counsel and place employees in alternate jobs when employee subject to layoff.
- C. The City's layoff procedures currently provide for an order of layoff for permanent employees in a class determined by City-wide seniority. Seniority will be based upon the employee's most recent hire date with City without a break in service.

ARTICLE 56:

Repair or Replacement of Employee Rights

Risk Management will process employee claims submitted under A.R. 35.70, Repair or Replacement of Employees' Personal Property, within thirty calendar days of receipt. Disallowed claims may be appealed to the Mayor or **their** designee, who will investigate the claim and conduct a hearing as appropriate.

ARTICLE 57:

Long-Term Disability / Industrial Leave

- A. Industrial Leave
For claims filed based on a work-related illness or injury occurring on or after July 1, 1994, City will implement the following changes to the Industrial Leave Policy. The actual policy (A.R. 63.00) should be consulted for detailed language.
 - 1. Industrial Leave payments will not be granted for any injury which occurs as a result of a motor vehicle accident where available safety restraints were not in use, unless Departmental policy permits.
 - 2. Industrial Leave benefits will be terminated when an employee misses a medical appointment designed to determine the employee's work status, if it is determined that the failure to attend the appointment was not excusable.
- B. Long Term Disability (LTD)
 - 1. City will issue an RFP to fully insure and administer the LTD Program by an outside vendor. The City will meet and confer with the Union over the impacts of this decision.
- C. Flexible Benefits
 - 1. City will pay the participant's Flexible Benefits for a maximum of one year while **they are** on LTD. At the end of one-year participants will be referred to COBRA for extension of appropriate coverage.
 - 2. City will pay the participant's Flexible Benefits while the Participant is receiving LTD benefits even if the LTD benefit is 100 percent offset by other income benefits.
 - 3. Participants who are in an LTD status during City's annual open enrollment for its FBP will be enrolled in Flexible Benefits as required during the open enrollment. Participants will keep their current health and life insurance

coverage while receiving LTD. Participants will be allowed to change health care plans provided the health care plans so stipulate.

4. When an employee suffers a work-related injury or illness but is not eligible for Industrial Leave benefits, City will continue to pay the Flexible Benefit allocation on **their** behalf for the period of **their** temporary total disability or participation in internal vocational rehabilitation, not to exceed a total of twelve months.

D. Wellness Program

The City has implemented a Wellness Program for employees represented by the Union.

ARTICLE 58:
Out-of-Class Assignments

- A. Employees represented by Union will be compensated for out-of-class (OCA) assignments on the thirty-first continuous day of assignment or on the thirty-first day of cumulative OCA in the same classification. OCA accrues on a fiscal year basis only. Accumulated days will not be carried into the next fiscal year. An employee in an OCA will receive an increase at least equal to that which would be given if the employee were promoted to the same class from an eligible list established by a promotional examination.
- B. 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.
- C. For employees in classifications in the Lifeguard Unit and Supervisory Lifeguard Unit, 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. In an OCA in excess of thirty days where specialized needs are required, the Appointing Authority will advertise the vacancy Division wide.
- D. Management has discretion to determine when OCA will be made. Management 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 divisional 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 an OCA. If the OCA lasts over five working days, an employee's current shift or station assignment will not preclude **their** eligibility for OCA.
- E. OCA may not exceed thirty consecutive days nor can a series of OCA to any one vacant position exceed thirty calendar days without approval by the Personnel Director. OCA will not be made to avoid filling a position with a limited or permanent appointment.

- F. An employee who is not on an existing or expired eligibility list for the particular class will not be assigned to an OCA which would result in the employee's supervising **their** current supervisor.

ARTICLE 59: Implementation of New Programs

- A. Prior to implementation of any new programs, City will give Union advance notice in writing so that the Parties may address the impact of any new programs on wages, hours, and other terms and conditions of employment.
- B. City will make its best efforts to give Union at least thirty working days advance notice.

ARTICLE 60: Confidentiality of Medical Information

- A. City, its officers, and employees will respect the confidentiality of employee medical records and will abide by the guidelines set forth in Personnel Manual Index Code J-4.
- B. City acknowledges that an employee's Constitutional right of privacy entitles an employee to decline to disclose or to permit **their** physician to disclose the nature of an illness, diagnosis or prognosis unless otherwise required by workers' compensation law, by the employee application for Industrial Leave or LTD benefits, state or federal law, application for employment, or required as part of a City-mandated physical examination. To the extent that an employee's absence or absences due to illness have resulted or may result in discipline the employee, at **their** own option, may disclose these details to the appropriate person in **their** chain of command or directly to the Department Head if the employee wishes. Based on an employee's right of privacy, City forms for an employee's request for a leave of absence does not require disclosure of the nature of an illness or require authorization for release of a medical provider's records.

ARTICLE 61: Department Work Rules

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

- A. All Departmental and Divisional policies, instructions, and work standards must conform to the Civil Service Rules, Personnel Regulations, and applicable Memorandum of Understanding.

ARTICLE 62: Time Off for Blood Donation

An employee will receive paid release time, not to exceed two hours, when **they** donate blood at the annual Lifeguard blood drive or in response to an emergency request from the San Diego Blood Bank. City will release the employee for the actual time the employee spends in travel to and from the blood donation site. Paid release time cannot exceed two hours. The employee will submit **their** "blood receipt" to the payroll clerk as verification of the donation.

ARTICLE 63: Call-Back / Court Pay

A. Call-Back Pay

An employee who has been released from work and has left the workplace and is called back to duty will be paid for the reasonable estimate of the time required for the employee to travel from and to **their** residence and the workplace area and for the time the employee actually works. The total time of call-back pay, including travel time, will not be less than four hours, and will be computed at the employee's premium overtime rate. This callback pay provision also applies when an employee is issued a call-back order before **they** leave the workplace at the end of **their** shift. **This section does not allow for the stacking of pay for multiple calls back to duty within a four-hour period.**

B. Call Back Pay Exceptions

The above-described provisions for call-back pay do not apply in the following situations:

1. When an employee is required by subpoena to appear in court regarding City business prior to **their** scheduled shift, and the appearance is contiguous with the shift; or when an employee attends court then reports to work an hour later;
2. When an employee is already present at the workplace and is required by a supervisor to start work early or to continue work following the end of shift;
3. When an employee is required to attend a meeting scheduled before or after the employee's shift, and which is contiguous with the shift; or
4. When an employee is required to appear in court regarding City business during a session which begins during the employee's regularly scheduled shift, but which continues past the end of shift.

In these instances, and any other not specifically identified as entitling an employee to the four-hour minimum, the employee should receive compensation only for the time **they** actually worked or spent in court or meetings before or after **their** shift.

ARTICLE 64:

Objective Hearing Officers

- A. Objective Hearing Officers will be assigned to hear disciplinary appeals at the Department level. "Objective" means a managerial employee who has not conducted the fact-finding or investigation which led to the proposed discipline and is not the person recommending the discipline.
- B. **City agrees that any time Union feels that the Department Head or their designee who intends to hear an appeal pursuant to Article 10, is unduly biased under the circumstances, Union may immediately bring the issue to the attention of the Human Resources Director. The Human Resources Director agrees to take reasonable steps to assure an employee minimum due process in this regard.**
- C. The primary responsibility for conducting a disciplinary investigation and the resulting Advanced Notice of disciplinary action, when warranted, 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 Advance Notice. This language is in no way intended to preclude any managerial employee from the normal managerial review of actions recommended within a work unit.
- D. The Appointing Authority may delegate the appeal Hearing Officer responsibility to any supervisory or managerial employee at least one level above the employee requesting appeal. Exceptions may be granted by the Human Resources Director. Union-represented employees will not act as hearing officers for terminations of any employee in a job class represented by Union.

ARTICLE 65:

Workloads

- A. After a section undergoes a reduction-in-force, Management will prepare a plan demonstrating how the work will be restructured, reassigned, or delayed. Additionally, new or revised work expectations, standards, and adjusted timelines for work product will be developed.
- B. Before and after implementation of the plan, Management will meet with impacted employees for input. Opportunities for follow-up, feedback, and proposed adjustments in the reorganization plan will be provided to employees.

ARTICLE 66:

Overpayments to City Employees

- A. If it has been discovered that an overpayment or an 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.

- B. If the employee contends that any portion or the entire amount is not owed, **they** may request a meeting with the Appointing Authority to attempt to resolve the 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 employee may have a representative attend the meeting or meetings with **them**.
- C. If the dispute regarding overpayment arises from the interpretation of a Personnel Regulation or Administrative Regulation, the employee may grieve this matter directly to the Department Head.
- D. Repayment of Funds
1. An employee will pay no penalties, fees, or interest as a result of the overpayment.
 2. The employee has the right to select one of the two following options for the repayment of the funds:
 - a. A lump sum payment with a date mutually established by the employee and the Department (lump sum payments must be made if the total amount due is 5 percent or less than the employee's biweekly salary); or,
 - b. Biweekly installment payments through payroll deduction Installment payments must be a minimum of \$10 and repayment must be completed within twenty-six pay periods.
- E. The final agreement on the repayment plan will be in writing, with the lump sum payment date, or the biweekly amount, and the beginning and ending date of the installment plan identified.
- F. Disputes over repayment of funds which were overpaid to an employee through no fault of the employee will not be a factor in Employee Performance Evaluations or discipline.
- G. Referral to Collections
1. Department may refer an employee to the City 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.
 2. 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 67:

Rights of Industrially Injured Employees to Schedule Medical Appointments

- A. An employee, who has suffered an industrial injury, whether on light duty or full duty status, has the right to schedule medical appointments, including physical

therapy, which are related to treatment of the industrial injury, during **their** regularly scheduled work hours without loss of pay.

- B. Employees will make their best effort to schedule appointments close to the beginning or end of their work shift.

ARTICLE 68: Leave-Sharing Plans

A. Catastrophic Leave Plan Program Description

1. Purpose and Scope.

Establish a City of San Diego-administered Catastrophic 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 for a leave under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), Americans with Disabilities Act (ADA), other local, state, or federally protected leave, and other extraordinary circumstances as determined by the Human Resources Director or designee. Although this Program establishes a mechanism for leave transfers, participation is entirely voluntary.

Employees are **entitled to annual leave** are eligible to request a Catastrophic Leave Bank from their date of hire. Catastrophic Leave determinations are non-grievable.

Catastrophic leave coverage shall be extended to events affecting registered domestic partners provided that a City of San Diego Affidavit of Domestic Partnership has been submitted.

2. Procedures.

- a. The Employee initiates a request for a Catastrophic Leave Bank to be established in accordance with this policy.

- 1) The employee must have exhausted or expect to exhaust **their** accrued leave, from both the employee’s annual leave and Catastrophic Leave – Annual Leave (CatLv-AL) buckets (to be verified by the department Payroll Specialist), as a result of a qualifying event in order to establish a **Catastrophic** Leave Bank.

- i. A recipient’s total annual leave balance including donated leave cannot exceed 2,080 hours.

- 2) The employee must receive approval for an unpaid leave of absence from **their** Department Head.

- b. Requests to establish a **Catastrophic** Leave Bank to receive donations will be processed by the Human Resources Department.
 - 1) An eligible employee must submit a completed “Request to Establish Catastrophic Leave Bank” form to the Human Resources Department, accompanied by:
 - i. A signed statement by the employee which includes a brief description of the nature and need for the leave and an estimated time the employee will be out of the workplace, or other appropriate documentation supporting the request. Clarifying documentation may be requested by the Human Resources Department. Any employee who misrepresents information on the signed statement provided to the Human Resources Department may be subject to discipline, up to and including termination.
 - ii. Evidence of the Department Head’s approval of the leave of absence.
 - iii. Employees must also identify, on the Request to Establish Catastrophic Leave Bank Form, the names of individuals or groups that may be informed, upon request, if the **Catastrophic** Leave Bank has been approved. Employees who include a mailing address on the Request will be notified when the **Catastrophic** Leave Bank is approved by the Human Resources Department.
- c. Donations of annual leave may be made to an employee eligible for Catastrophic Leave as defined in the Purpose and Scope of this document. The donor’s annual leave donation will be deducted from the donor department in the amount donated.
 - 1) Donations of leave are strictly voluntary; the City will maintain the identity of **Catastrophic** Leave Bank donors in absolute confidence.
 - 2) Employees may only donate accrued annual leave.
 - 3) Donations must be made in whole-hour increments.
 - 4) **Donation authorization requests that do not contain all requested information will not be processed.**
 - 5) Donors must have at least 160 hours of annual leave (which includes donated Medical Leave) and Catastrophic Leave remaining after the donated time has been deducted.
 - 6) Once donated to the **Catastrophic** Leave Bank, donated leave cannot be returned to the donor.

- 7) **Employees who wish to donate leave must submit an electronic request through the Leave Administration section of the City's SAP System. Employees without access to the City's Active Directory may complete a "Confidential Authorization for Catastrophic Leave Donation" form and submit it to the Human Resources Department.**
- d. Upon receipt of donation authorization forms, the City's SAP System will:
 - 1) **Verify that the donating employee has the minimum required leave balance of 160 hours.**
 - 2) Convert the donated dollars as computed above to hours at the recipient's hourly rate. The donor will be taxed for the leave when it is donated to the recipient.
 - 3) Ensure that all deductions (e.g. health premiums, parking, credit union, union dues, etc.) that have previously been authorized by the recipient will be made unless the recipient has notified **their** Payroll Specialist in writing to cancel deductions.
 - 4) **Subtract the donated time from the donor's designated leave category; and**
 - 5) **Add the donated hours to the recipients Catastrophic Leave – Annual Leave (CatLv-AL) bucket.**
 - e. **An employee who receives donated Catastrophic Leave hours under this Catastrophic Leave Plan may either take the donated Catastrophic Leave as compensated time off, or may request to receive a cash payment via SAP of the Donated Catastrophic Leave, but may not re-donate that time to a Catastrophic Leave Bank, Medical Leave Bank, or Child Care Annual Leave Exchange bucket for use by another employee.**
 - f. Donated **Catastrophic** Leave is treated as annual leave accrued by the recipient of the donation, but the recipient will not be taxed on the donated annual leave.
 - g. **When donated Catastrophic Leave hours are taken as cash payment, the employee may take up to the amount of Catastrophic Leave hours available in their established Catastrophic Leave Bank at the time the employee processes their request for cash payment in the City's SAP System. Catastrophic Leave hours are cashed-out on a prospective basis only.**
 - h. **When donated Catastrophic Leave hours are taken as annual leave for purposes of taking compensated time off, instead of through a cash payment, the employee may take up to 80 hours per pay period until the donated leave has been exhausted.**

- 1) Donated Leave does not alter the employment rights of the City or the recipient, nor does it extend or alter limitations otherwise applicable to leaves of absence or annual leave, except as noted in this Plan.
 - 2) Employees using donated annual leave hours will continue to accrue annual leave in accordance with Personnel Manual Index Code I-2, Annual Leave.
 - 3) Donated Leave can only be used on a going forward basis.
3. Notification of the creation of a Catastrophic Leave Bank to potential donors is the responsibility of the employee, not the department. **An employee may use City email for a one-time notification to other City employees regarding the creation of their Catastrophic Leave Bank. Such email should not contain confidential information (e.g. details of their medical condition). All policies and procedures regarding ethical conduct, and the use of email, apply to such notices sent by employees. Employees are encouraged to only send emails to employees they know and refrain from sending “email blasts” (officewide or citywide emails) that may be viewed as a nuisance to a reasonable person.** Employees may also work with their recognized employee organizations to disseminate their request for leave donation. If requested by the employee in the Request for Establishing Catastrophic Leave Bank form, the City will publicize on the **Leave Administration section of the City’s SAP System**, the employee requestor’s name, and the dates the Leave Bank opens and closes.

B. Medical Leave-Sharing Plan Program Description.

1. Purpose and Scope.

The City of San Diego offers a Medical Leave-Sharing Plan and Leave Bank (Medical Leave Bank) to give City employees the ability to assist other City employees who face extended leaves without pay due to a major health crisis, whether their own, or that of a family member. Although this Program establishes a mechanism for leave transfers, participation is entirely voluntary.

Employees **entitled to annual leave** are eligible to request a Medical Leave Bank from their date of hire. Medical Leave Sharing determinations are non-grievable.

For purposes of this plan, a “major health crisis” is defined as: (1) the employee’s own medically certified “serious health condition,” as defined by the federal Family and Medical Leave Act, (2) the medically-certified “serious health condition” of the employee’s spouse, parent, child, sibling, grandparent, or grandchild (or in-law or step-relative in one of these relationships), (3) the medically-certified “serious health condition” of the employee’s registered domestic partner, or (4) the death of the employee’s spouse, parent, child, sibling, grandparent, or grandchild (or in-law or step-relative in one of these relationships), or employee’s registered domestic partner (provided that a City of San Diego Affidavit of Domestic Partnership

has been submitted). The determination of whether a major health crisis exists is made by the Human Resources Department Director or designee.

2. Procedures.

- a. Employee initiates a request for a Medical Leave Bank to be established in accordance with this policy.
 - 1) The employee must have exhausted or expect to exhaust **their** accrued leave, from both the employee's annual leave and Catastrophic Leave – Annual Leave (CatLv-AL) buckets (to be verified by the department payroll specialist), as a result of a qualifying event in order to establish a Leave Bank.
 - i. If an employee is diagnosed as terminally ill, a Medical 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.
 - ii. A recipient's total annual leave balance including donated leave cannot exceed 2,080 hours.
 - 2) The employee must receive approval for an unpaid leave of absence from **their** Department Head.
- b. Requests to establish a Medical Leave Bank to receive donations will be processed by the Human Resources Department.
 - 1) An eligible employee must submit a completed "Request to Establish Medical Leave Bank" form to the Human Resources Department, accompanied by:
 - i. A medical statement from the attending physician, including a brief statement describing 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.
 - ii. Evidence of the Department Head's approval of the leave of absence.
 - iii. Employees must also identify, on the Request to Establish Medical Leave Bank Form, the names of individuals or groups that may be informed, upon request, if the Medical Leave Bank has been approved. Employees who include a mailing address on the Request will be notified when the Medical Leave Bank is approved by the Human Resources Department.
- c. Donations of annual leave may be made to an employee eligible for medical leave because of a major health crisis, as defined in the Purpose and Scope of this document. The donor's annual leave

donation will be deducted from the donor department in the amount donated.

- 1) Donations of leave are strictly voluntary; the City will maintain the identity of Medical Leave Bank donors in absolute confidence.
 - 2) Employees may only donate accrued annual leave.
 - 3) Donations must be made in whole-hour increments.
 - 4) **Donation authorization requests that do not contain all requested information will not be processed.**
 - 5) The donor will not be taxed on the value of the leave **they** donate, but also cannot claim an expense, loss deduction, or charitable contribution for the donated leave.
 - 6) Donors must have at least 160 hours of annual leave (which includes donated Medical Leave) and Catastrophic Leave remaining after the donated time has been deducted.
 - 7) Once donated to the Medical Leave Bank, donated leave cannot be returned to the donor.
 - 8) Employees who wish to donate leave must **submit an electronic request through the Leave Administration section of the City's SAP System. Employees without access to the City's Active Directory may complete a "Confidential Authorization for Medical Leave Donation" form and submit it to the Human Resources Department.**
- d. Upon receipt of donation authorization forms, the City's SAP System will:
- 1) **Verify that the donating employee has the minimum required leave balance of 160 hours.**
 - 2) Convert the donated dollars as computed above to hours at the recipient's hourly rate. The recipient will be taxed for the leave when it is taken.
 - 3) Ensure that all deductions (e.g. health premiums, parking, credit union, union dues, etc.) that have previously been authorized by the recipient are made unless the recipient has notified **their Payroll Specialist** in writing to cancel deductions.
 - 4) **Subtract the donated time from the donor's designated leave category; and**
 - 5) **Add the donated hours to the recipient's annual leave balance.**

- f. Donated Medical Leave is treated as annual leave accrued by the recipient of the donation. Payments up to 80 hours per pay period will be made to the recipient until the donated leave has been exhausted.
 - 1) Donated Medical Leave does not alter the employment rights of the City or the recipient, nor does it extend or alter limitations otherwise applicable to leaves of absence or annual leave, except as noted in this Plan.
 - 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.
 - 3) Donated Medical Leave can only be used on a going forward basis.
- 3. Notification of the creation of a Medical Leave Bank to potential donors is the responsibility of the employee, not the department. **An employee may use City e-mail for a one-time notification to other City employees regarding the creation of their Medical Leave Bank. Such e-mail should not contain confidential information (e.g. details of their medical condition). All policies and procedures regarding ethical conduct, and the use of email, apply to such notices sent by employees. Employees are encouraged to only send e-mails to employees they know and refrain from sending "e-mail blasts" (officewide or citywide e-mails) that may be viewed as a nuisance to a reasonable person.** Employees may also work with their recognized employee organizations to disseminate their request for leave **donation**. If requested by the employee in the Request for Establishing Medical Leave Bank form, the City will publicize on the **Leave Administration section of the City's SAP System**, the employee requestor's name, and the dates the Medical Leave Bank opens and closes.

C. Child Care Annual Leave Exchange

Annual Leave may be transferred between any City of San Diego employees who jointly parent a child (which includes a biological, adopted, or foster child, a stepchild, or a legal ward, and is under 18 years old or has a mental or physical disability and is incapable of self-care), for the purpose of the birth of the child or joint adoption of the child, or for child care purposes, in accordance with the City's policies, upon the request of both the receiving employee and the transferring employee, and upon approval of the employees' appointing authority, under the following conditions:

- 1. **The receiving employee is required to be absent from work due to the birth of the employee's child or due to the joint adoption of a child, or for childcare purposes.**
- 2. **Each transfer must be for a minimum of (8) hours and in whole hour increments thereafter.**
- 3. **The transferring employee must have at least 160 hours of annual leave (which includes donated Medical Leave) and Catastrophic Leave remaining after the donated time has been deducted.**

4. The total annual leave received by an employee for the purposes of the Child Care Annual Leave Exchange bucket shall normally not exceed 350 hours per fiscal year; however, if approved by the employee's appointing authority, the total credits may be up to 700 hours. Total annual leave hours in excess of 700 hours will be considered on a case-by-case basis by the Appointing Authority.
5. The transfers are irrevocable and will be placed in a separate bucket for Child Care Annual Leave Exchange. The transferred annual leave hours received by the employee for purposes of the Child Care Annual Leave Exchange will not count towards the employee's maximum accumulation of annual leave that is provided for in Personnel Manual Index Code I-2. The transferred annual leave cannot be used for pay-in-lieu cash outs. The transferring employee will be taxed for the leave when it is transferred to the receiving employee.
6. The leave cannot be used for pay-in-lieu cash outs. The transferring employee will be taxed for the leave when it is transferred to the receiving employee.

The transfers shall be administered according to the rules and regulations promulgated by the City beginning on July 1, 2020.

- D. Any unused annual leave under this Article will be paid out upon the employee's separation from the City.

ARTICLE 69: Union Newsletter Distribution

Union may use City's mail system to distribute its newsletter or equivalent communication, to all employees in its Bargaining Unit. City agrees to provide Union with a complete list of workplace email addresses for all employees in the Bargaining Units it represents, as well as a list of all applicable mail stations for represented employees, and to update these lists annually.

ARTICLE 70: Side Letters

Effective July 1, 2021, all side letters previously in effect between the Parties are rescinded. Effective July 1, 2021, any additional agreements must be made in writing between the Union and City, with the approval of the Mayor or their designee and the Chief Steward and their designee.

ARTICLE 71: Tuition Refund Plan

- A. Public Safety Exceptions to Tuition Reimbursements

Management agrees to meet without impasse annually with Union to review specific unique Public Safety exceptions to the Tuition Reimbursement process. Management's decision will be final and non-grievable.

B. Use of Tuition Reimbursement for Job-related Training

100% of the Tuition Reimbursement benefit may be used by an employee each fiscal year for reimbursement of seminars or other training and 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 **their** skills. An employee must submit a request for approval of the proposed reimbursable event in advance of attendance and 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 100% of the Tuition Reimbursement plan benefit will be at the initiation of the employee based on **their** proposal for training or education.

C. Tuition Reimbursement Amount

1. The City agrees to provide tuition reimbursement in the amount of two thousand dollars (\$2,000) annually. Administrative Regulation 70.30 governs the administration of this program.

a. **Hourly Employees (Lifeguard I) Exception**

i. The City will provide tuition reimbursement for hourly employees in the Lifeguard I classification in the amount of \$500 annually as an exception to the prohibition under Administrative Regulation 70.30 that hourly employees are not able to participate in tuition reimbursement. The tuition reimbursement may be used for specific job-related classes approved in advance, at the Lifeguard Chief's discretion.

2. Requests and Reimbursement - Procedure.

a. An employee meeting the eligibility rules fills out Form CM-1578, "Request for Approval of Tuition Reimbursement," with 4 copies attached. The form is available from departmental payroll clerks. A central supply is maintained in City Operations Building - Store No. 4.

ARTICLE 72:
Appointing Authority Interview Feedback

Upon request, an Appointing Authority involved in a selection interview process will provide feedback to those candidates not selected. The feedback will include how the candidate's experience and training compared to the announced criteria, and an assessment of candidate's interview skills.

ARTICLE 73: Drug and Alcohol Testing

A. Random Drug and Alcohol Testing Program

1. A Random Drug and Alcohol Testing Program has been implemented and applies to all Lifeguard personnel. The term "Employee" refers to all members of the Bargaining Unit.

B. Procedures

1. The Department's Medical Representative and Personnel's Random Drug Medical Program Administrator will administer the Random Drug and Alcohol Testing Program.
2. Employees will be tested twice every 18 months for alcohol by way of breath alcohol test, and for the presence of specific drugs by way of urinalysis.
3. The City will test for alcohol, 6-acetylmorphine, amphetamine/methamphetamine, barbiturates, benzodiazepines, cocaine metabolite (benzoylecgonine), codeine/morphine, hydrocodone/hydromorphone, marijuana metabolites (THCA), MDMA/MDA, methadone, oxycodone/oxymorphone, phencyclidine, and any other drugs in accordance with Substance Abuse and Mental Health Services Administration (SAMHSA) guidelines. See: <https://www.govinfo.gov/content/pkg/FR-2017-01-23/pdf/2017-00979.pdf> (Page 22)
4. Screening and confirmation cutoff levels will be based on SAMHSA guidelines.
5. The City may make modifications to the list of drugs tested consistent with SAMHSA guidelines or as requested by the City with prior notification to Local 911.
6. Employees may provide appropriate documentation of legally prescribed drugs. The documentation shall be included in the review of test results by the testing facility.

C. Sample Collection

1. Designated medical personnel will be responsible for administering the breath alcohol test and obtaining the urine sample from the Employee being tested.
2. Designated medical personnel will be available for testing between 8:00 a.m. and 12:00 a.m., seven days per week, to allow Employees to be tested during normal work hours.
3. Medical personnel will not observe the Employee as the urine sample is being given.

4. **Employees to be tested** will be notified at the start of their shift **but no later than one and a half hours after their shift begins. An exception exists for Lifeguards working a ZORA dispatch shift. The ZORA shift sleep period is the eight-hour period during which time Lifeguards working a 24-hour shift (1 a.m. to 1 a.m.) are provided the opportunity to sleep. Lifeguards working this ZORA shift may be notified after the "sleep period" concludes, and this notification may be as late as one hour following the sleep period. Lifeguards working the ZORA shift will present themselves for testing at the earliest possible time following notification and during the shift that does not interfere with the "sleep period" (this may exceed the first four hours from the start of the shift). In instances where the Employee cannot be notified within the timeframe above due to being on an emergency response, the Employee's name shall be withdrawn for that day's testing and put back in rotation for a future test and not counted in the 18-month provision listed in paragraph C(2) above. Employees will present themselves for testing at the earliest possible time during the shift and no later than four hours after the Employee's shift begins.**
5. At the **testing site**, the **Employee** being tested will:
 - a. **Identify themselves by presenting one of the following: their Department identification, City of San Diego employee identification, or their valid driver's license.**
 - b. Complete requested paperwork.
 - c. Remove jackets, bags, or other bulky items of clothing prior to entering the **lavatory to give a urine sample.**
 - d. **Participate in a breath alcohol test and provide a urine sample.**
 - i. **Employees will be required to stay within the urine collection area until the required sample is given.**
 - ii. **Urine sample must be at least 45 ml, the minimum amount required for testing purposes.**
 - iii. **Refusals to complete the breath alcohol test or urine test will be treated as a positive test and referred to the Department's Employee Services Division for investigation.**
6. At the **urine collection area**, the **medical personnel** will:
 - a. Direct the **Employee** being tested to a private lavatory.
 - b. **Place a colored dye in the toilet.**
 - c. Wait outside the lavatory for the sample.
 - d. Upon receipt of the urine sample, and in the presence of the **Employee**, the **medical personnel** will:
 - i. Split the sample into two separate containers.

- ii. Seal the containers.
 - iii. **Direct the Employee** to sign and initial the chain-of-custody forms and documents.
 - e. **Complete the appropriate chain-of-custody forms and procedures for the samples.**
 - f. **Arrange transportation of both samples to the laboratory by an approved courier.**
7. **In the breath alcohol test room:**
- a. **The breath alcohol test should be conducted in a room that provides privacy to the employee being tested.**
 - b. **The technician must open an individually sealed, disposable mouthpiece in view of the employee and attach it to the Evidential Breath Testing Device (EBT).**
 - c. **After the testing procedures are explained to the Employee, the Employee and the technician must complete, date, and sign the City of San Diego's Breath Alcohol Testing Form.**
 - d. **The technician will instruct the Employee to blow forcefully into the mouthpiece to obtain a reading. Following the screening test, the technician must show the Employee the result displayed on the EBT or the printed result.**

D. **Drug Screening Procedure**

- 1. The screening of all collected samples will be conducted within **48** hours by a City-designated laboratory certified by SAMHSA.
- 2. Initial screening of urine samples will be conducted using a testing methodology **such as the** "Enzyme Immunoassay" or other **technique**.
- 3. If a confirmation test is **requested**, it will be conducted by Gas Chromatography/Mass Spectrometry (GC/MS) or other testing methodology of equivalent quality and acceptability.
- 4. Upon receipt of a sample for testing, the designated laboratory will:
 - a. Check the container to ensure **they are** not damaged, and that the seals **are** intact.
 - b. Complete the appropriate chain-of-custody forms for the sample.
 - c. Conduct the initial testing of **one of** the sample using **the** "Enzyme Immunoassay" or other **technique**.
 - d. If the sample tests "negative," all urine samples will be discarded.

- e. If the sample tests “positive,” a confirmation test will be **conducted**.
 - 1. **The confirmation test will be determined by the specific drug found in the sample during the initial test.**
 - 2. **The confirmation test will be conducted using the GC/MS or other alternative technique.**
- f. If the confirmation test confirms the presence of drugs, **both** samples will be retained in a locked freezer for a minimum of one year.
- g. If the confirmation test is “negative,” the whole test will be considered negative and all urine samples will be destroyed.
- h. **A dilute specimen with level of detection for drugs will be subjected to a confirmation test and may be determined as a positive result. The City will follow SAMHSA guidelines regarding diluted specimens and do a repeat collection if recommended by the Medical Review Officer.**

5. Alcohol Test

- a. **If the result of the screening test is an alcohol concentration of less than 0.02, no further testing is required, and the test will be reported to the Personnel Department as a negative test.**
- b. **If the result of the screening test indicates an alcohol concentration of 0.02 or greater, a confirmation test must be conducted.**
- c. **The confirmation test is conducted using the same procedures as the EBT screening test. If the initial and confirmation test results are not identical, the confirmation test result is deemed to be the final result.**
- d. **If the result of the screening test is positive, the medical provider is to inform the Personnel Department’s Medical Administrator of the results.**
- e. **A positive breath alcohol level of 0.02 or greater will be treated as a “positive” result and may be cause for disciplinary action.**

E. Reporting Test Results

- 1. **Test results will be provided to the Personnel Department’s Medical Program Administrator via the City’s contract medical provider.**
- 2. **If the test results are “negative” the Employee will be notified in writing without delay.**
- 3. **If the test results are positive for legally prescribed medications, Personnel will request that the Employee provide written substantiation from their private doctor prescribing the medication. Written documentation from the Employee’s private doctor is to be submitted to Personnel within seven business days from the date Personnel contacts the Employee.**

4. If test results are positive for alcohol (0.024 or above), illegal drugs or inadequately explained legal medications, **the Department's Deputy Chief of the Employee Services Division** will be notified and will be responsible for initiating an investigation. **Disciplinary action may be imposed. Alternatively, the disciplinary action may be held in abeyance and a Condition of Continued Employment (CCE) may be offered by City to an Employee at City's discretion. Any CCE will be held in a sealed envelope in the Employee's departmental personnel file. A copy of the CCE will be forwarded to Personnel's Medical Program administrator for the duration of the employee's employment. Violation of the CCE may result in termination of employment. Upon request of the Employee or discovery by the designated department representative, the discipline related to the positive alcohol or drug test will be removed upon successful completion of the CCE.**

F. Independent Testing

1. If the **drug screening** test results are positive, the affected **Employee** has the right to request that the **split sample obtained at the time they provided the urine sample to be sent for independent testing. The request must be made to the Personnel Department by the employee within five business days of receipt of the notice of drug test results indicating the employee's drug test was positive.**
2. **The testing will be conducted at a SAMHSA-certified laboratory designated by the affected Employee and at the expense of the Employee.**
3. **The split sample will be transported by approved courier to the test laboratory.**

G. Program Records

1. All **alcohol/drug** testing information relating to individual **Employees** is strictly confidential.
2. **Records related to a positive test result shall be maintained as directed by the Assistant Fire Chief and the Personnel Department.**

H. Use of Test Results

The Random Drug **and Alcohol Testing** Program shall be considered an administrative matter, and the results of this test shall not be used in any criminal action. However, if additional information is available through other means to support criminal action against an employee, the **San Diego Fire-Department** shall not be precluded from taking further action.

ARTICLE 74:
Military Leave

- A. Employees who provide service in the "Uniformed Services," meaning the Armed Forces, the Army National Guard, and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons

designated by the President in time of war or national emergency, are entitled to the rights and benefits provided by the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), codified at 38 U.S.C. sections 4301 through 4335, and as amended in the future.

These members are also entitled to the leaves of absence provided by the California Military and Veteran's Code, as stated in Civil Service Rule X, codified at San Diego Municipal Code section 23.1107, and Personnel Manual Index Code I-10, Military Leave. Specifically, employees who have been regularly employed by the City for one year or more immediately prior to requested military leave will receive their regular City compensation during the military leave, but not to exceed 30 calendar days in any fiscal year. Calendar days are computed in the manner stated in the Personnel Regulations Index Code I-10.

- B. Employees must give no less than 21 days of notice to their supervisors prior to the start of the requested military leave, unless there are exceptional circumstances beyond the control of the employee originating from the employee's military unit. If exceptional circumstances occur, employees must provide reasonable notification. Employees must submit Form CS-14-25A (Request for Leave of absence) showing Military Leave.
- C. Union members may use annual leave, compensatory time, or special leave without pay, in addition to military leave to provide military service.
- D. If an employee is scheduled to work on a day of inactive duty training, City management will take all reasonable steps necessary to adjust the employee's schedule to facilitate the military leave.
- E. The Union agrees that the City Council may determine to extend these benefits beyond what is provided in this MOU in cases of national emergencies without an obligation to first meet and confer.

ARTICLE 75:

Reimbursement of Emergency Meals

Employees who ordinarily qualify for a meal during the performance of after-hours emergency work may, with the proper receipts, be reimbursed up to a **maximum allowance as set by the U.S. General Services Administration (GSA) per diem rates for Travel Meals and Incidentals in San Diego. Category (breakfast, lunch, or dinner) of reimbursement will be dependent on the time at which the meal period began. See timetable below for categories of reimbursement:**

- **Breakfast Rate: 2:00 a.m. – 9:59 a.m.**
- **Lunch Rate: 10:00 a.m. – 5:59 p.m.**
- **Dinner Rate: 6:00 p.m. – 1:59 a.m.**

ARTICLE 76: Bereavement Leave

Paid Bereavement Leave **totaling 40 hours (regardless of the number of eligible deaths)** is available to **each** full-time employees for use during each fiscal year of this MOU upon the death of an employee's spouse or state-registered domestic partner, parent (biological, step, adoptive, in-law), sibling (biological step, foster, or adopted), child (biological, step, foster, adopted, miscarried, stillborn), grandparent, and grandchild (biological, adopted). **Bereavement Leave is not authorized for a death that occurred before the employee's hire date with the City of San Diego. Bereavement Leave must be taken within 12 months of the eligible death, not to exceed 40 hours total one eligible death. Unused bereavement leave during a fiscal year does not carry over to the next fiscal year. Proof of death (death certificate, obituary notice, funeral program, etc.) or proof of miscarriage/stillbirth (a note from a healthcare provider) must be submitted within 30 calendar days of when the employee returns to work. If such proof is not submitted within the specified timeframe, the bereavement leave will revert to available compensated leave, or unpaid leave, at the employee's discretion.** The number of hours of Bereavement Leave is prorated for employees working **three-quarter** time (30 hours) and **half-time** time (20 hours).

ARTICLE 77: Alcohol Consumption Prohibited

The consumption of alcohol is prohibited during work hours, including breaks and unpaid meal periods.

ARTICLE 78: Discretionary Leave

- A. **On July 1, 2021**, all full-time employees received 24 hours of Discretionary Leave for use **in Fiscal Year 2022** of this MOU and the Discretionary Leave identified in this Section has no eligibility requirements except as set forth in this Section. Three-quarter time employees received 18 hours of discretionary leave for use during **Fiscal Year 2022**. Half-time employees received 12 hours of discretionary leave for use during **Fiscal Year 2022**.
- B. Each employee will schedule **their** discretionary leave hours in the same manner as annual leave is presently scheduled pursuant to the departmental annual leave guidelines.
- C. All leave granted under this Article must be used by June 30 of each fiscal year, or it will be forfeited.
- D. Section C above does not amend, modify or alter any discretionary leave that may be granted under Administrative Regulation 95.91 (Employee Rewards and Recognition Program).

ARTICLE 79: Volunteers

- A. The City's Volunteer Program is governed by City Council Policy 300-01.
- B. For purposes of this proposal, a volunteer is defined as an individual or groups of individuals who offer themselves for some service or undertaking without being compensated by pay 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, by developing volunteer opportunities throughout the City. Unless the Parties meet and confer during the term of the Memorandum, volunteers are to be utilized only to supplement and complement the work performed by City personnel and without decreasing bargaining unit work or displacing existing City personnel.
- 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. Tasks performed by volunteers include, but are not limited to, the following:
 - 1. Crisis Intervention Program (San Diego Police Department) – The Lifeguard Division utilizes Crisis Interventionist volunteers who respond and assist with victims and family members of traumatic incidents and help console and provide guidance. Additionally, they assist at Lifeguard stations during the summer with lost and found children and general questions.
 - 2. Court Ordered Community Service – The Lifeguard Division sergeants approve and monitor volunteers who must fulfill Court Ordered Community Service to perform functions such as picking up trash or sweeping/cleaning around the beach area/towers.
 - 3. Beach Cleanup – Occasionally volunteers request permission to come out and conduct "Beach Cleanup" for the day. These volunteers request approval from and are monitored by Lifeguard sergeants.

ARTICLE 80: Paid Sick Leave for Hourly Employees

- A. This Article applies to hourly employees, regardless of classification, who receive no paid annual leave or other paid leave. The City intends to provide these employees with a paid sick leave benefit, consistent with the paid sick leave benefit provided by the State of California **Assembly Bill 1522 (AB 1522), which enacted the Healthy Workplaces, Healthy Families Act of 2014**, set forth in California Labor Code sections 245 through 249, **and codified in SDMC section 23.1112**. These employees, referred to as Eligible Employees in this Article, are entitled to **Earned Sick Leave codified in SDMC sections 39.010 through 39.0106**. **Eligible Employees who receive earned sick leave will not receive additional leave under AB 1522, provided the Earned Sick Leave satisfies the requirements of AB 1522. This paid sick leave benefit for Eligible**

Employees will be referred to in this Article as “Paid Sick leave for Hourly Employees” or “Paid Sick Leave”.

- B. Eligible Employees will accrue **Paid Sick Leave** at a rate of one hour for every 30 hours worked, up to a maximum accrual of **48** hours.
- C. Eligible Employees begin accruing **Paid Sick Leave** at the commencement of employment, **or on July 11, 2016, whichever is later**, but may not use the accrued leave until the 90th calendar day following commencement of employment. **After the 90th calendar day of employment, an Eligible Employee may use Paid Sick Leave as it is accrued, up to the maximum number of hours set forth in paragraph E below.**
- D. Under this Article, the 12-month period in which an Eligible Employee may accrue and use **Paid Sick Leave** is defined as the City's fiscal year.
- E. Upon **the Eligible Employee's verbal** or written request, they may use up to **24** hours of **Paid Sick Leave** in any fiscal year for **any of the following reasons**:
 - 1. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, the Eligible Employee or Family Member; or
 - 2. If the Eligible Employee is a victim of domestic violence, sexual assault, or stalking, taking time off from work to appear in court to comply with a subpoena or other court order as a witness in any judicial proceeding; obtain or attempt to obtain any relief, including a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or **their** child; seek medical attention for injuries caused by domestic violence, sexual assault, or stalking; obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking; obtain psychological counseling services related to an experience of domestic violence, sexual assault, or stalking, or participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.
 - 3. **The Eligible Employee is physically or mentally unable to perform their duties due to illness, injury, or a medical condition of the Eligible Employee.**
 - 4. **The Eligible Employee's absence is for the purpose of obtaining professional diagnosis or treatment for a medical condition of the Eligible Employee.**
 - 5. **The Eligible Employee's absence is for other medical reasons of the Eligible Employee, such as pregnancy or obtaining a physical examination.**
 - 6. **The Eligible Employee is providing care or assistance to a Family Member, with an illness, injury, or medical condition, including assistance in obtaining professional diagnosis or treatment of a medical condition.**
 - 7. **The Eligible Employee's absence is for the Eligible Employee's use of Safe Time. (Safe Time means time away from work that is necessary due to Domestic Violence, Sexual Assault, or Stalking, provided the time is used to**

allow the Eligible Employee to obtain for the Eligible Employee or the Eligible Employee's Family Member one or more of the following:

- a. Medical attention needed to recover from physical or psychological injury or disability caused by Domestic Violence, Sexual Assault, or Stalking;
 - b. Services from a victim services organization;
 - c. Psychological or other counseling;
 - d. Relocation due to the Domestic Violence, Sexual Assault, or Stalking; or
 - e. Legal services, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from the Domestic Violence, Sexual Assault, or Stalking.)
8. The Eligible Employee's place of business is closed by order of a public official due to a Public Health Emergency. (Public Health Emergency means a state of emergency declared by any public official with the authority to do so, including officials with the City, the County of San Diego, the State of California, or the United States government.)
9. The Eligible Employee is providing care or assistance to a Child, whose school or childcare provider is closed by order of a public official due to a Public Health Emergency.
- F. Under this Article, family member means the Eligible Employee's child (biological, adopted, or foster child, stepchild, legal ward, **child of a spouse, child of a domestic partner**, or child of the Eligible Employee standing in loco parentis regardless of age or dependency status of the child), spouse, registered domestic partner, grandparent, grandchild, sibling, **parent** (biological, adoptive, or foster parent, stepparent, **or parent of spouse or domestic partner**, or legal guardian of the Eligible Employee or the Eligible Employee's spouse or registered domestic partner, or a person who stood in loco parentis when the Eligible Employee was a minor child.
- G. The City may require Eligible Employees to provide documentation substantiating the facts justifying the use of **Paid Sick Leave**, to the extent permitted by California law.
- H. **Paid Sick Leave** will be paid at the Eligible Employee's current hourly pay rate for regular work hours **at the time the leave was taken**. If an Eligible Employee, in the 90 days of employment before using accrued **Paid Sick Leave**, had different hourly pay rates, then the Eligible Employee will be compensated at the highest hourly pay rate **earned**, not including overtime premium pay, during the prior 90 days of employment. **The City will pay Eligible Employees for accrued, used Paid Sick Leave on the payday covering the payroll period when the leave was used.**
- I. Eligible Employees must provide their supervisors with reasonable written or **verbal** advance notice of their request to use **Paid Sick Leave** when the need for the leave is

foreseeable. If the need for the leave is unforeseeable, Eligible Employees must provide notice of the need as soon as practicable.

- J. Any unused, accrued **Paid Sick Leave** will carry over to the following fiscal year of employment, up to a maximum accrual of **48** hours.
- K. Eligible Employees may not cash out **Paid Sick Leave** at any time.
- L. If an Eligible Employee separates from employment with the City and is rehired within one year from the date of separation, the City will reinstate previously accrued and unused **Paid Sick Leave**. Eligible Employees may use the previously accrued and unused **Paid Sick Leave** and accrue additional **Paid Sick Leave** immediately upon rehire, under the conditions set forth in this Article. If an Eligible Employee does not return to City service within one year from the date of separation, all accrued and unused **Paid Sick Leave** will be forfeited.
- M. If an Eligible Employee moves into a position or status, which entitles **them** to paid annual leave, then the employee will no longer be an Eligible Employee under this Article. **However, once in this new position or status, the employee does not forfeit but is entitled to use any unused Paid Sick Leave they accrue under this Article.**
- N. The **Paid Sick Leave** benefit under this Article accrues concurrently with any additional sick leave benefit authorized by the City or approved by voters in the future, meaning the accumulated leave amounts under this Article and any future ordinance will not be added together to create a more generous benefit, unless a future ordinance specifies otherwise.
- O. This Article is not intended to waive any rights of Eligible Employees under local, state, or federal law.

ARTICLE 81:

Workers' Compensation Presumptive Illness

- A. The City agrees to provide presumptive illness coverages for workers' compensation benefits for employees in the classifications of Lifeguard II and higher, in accordance with, but limited to the following California Labor Code provisions:
 - 1. Labor Code section 3212 – Hernia and Pneumonia only;
 - 2. Labor Code section 3212.6 – Tuberculosis;
 - 3. Labor Code section 3212.8 – Blood-borne infectious disease or MRSA skin infection
 - 4. Labor Code section 3212.85 – Exposure to biochemical substances; and
 - 5. Labor Code section 3212.9 – Meningitis
- B. The provisions of this Article require City Council approval, and paragraphs A through D of this Article only apply to conditions that are diagnosed after the date of the City Council approval of this Article (See San Diego Resolution R-31027, March 10, 2016.
- C. Notwithstanding the provisions in paragraphs A and B above, the City reserves its rights to assert any applicable defense to a workers' compensation claim, as

permitted by the California Labor Code and other applicable law and regulations interpreting the California Labor Code.

- D. The provisions of this Article are intended to be read in accordance with the provisions of the California Labor Code as in effect and as may be amended from time to time in the future. Under California Labor Code sections 3212 (Hernia and Pneumonia only), 3212.6 (Tuberculosis), 3212.8 (Blood-borne infectious disease), 3212.85 (Exposure to biochemical substances) and 3212.9 (Meningitis), presumptions “shall be extended to a member following termination of service for a period of three calendar months for each full year of the requisite service, but not to exceed 60 months in any circumstance, commencing with the last date actually worked in the specified capacity.” The presumption under California Labor Code section 3212.8 for MRSA skin infection “shall be extended to a person covered by subdivision [3212.8] (a) following termination of service for a period of 90 days, commencing with the last day actually worked in the specified capacity.”

ARTICLE 82:

Flexible Work Arrangements

- A. To better adapt to the changing landscape of the workplace, the City supports, where appropriate, flexible work locations and flexible work schedules to promote the City’s Climate Action Plan and to optimize the use of City facilities and equipment. Based on a Department’s operational needs and the job duties of a specific classification, flexible work schedules, referred to as “Flexible Work Arrangements”, may be made available to employees.
1. **Alternative Work Schedules** - Schedule alternatives to the traditional eight-hour day, five-day work week, such as the 4/10 or 44/36 schedules and flexible hours within a Department’s core hours.
- B. For this Flexible Work Arrangement options described in section A above, the City will not be required to provide a five working days’ notice prior to changing a flexible work schedule unless extenuating circumstances warrant a 24-hour notice to return to their original work schedule. All Departments and employees that participate in any Flexible Work Arrangements will enter into a Flexible Work Agreement. The Flexible Work Agreement is approved at the discretion of the Department appointing authority based on operational needs and feasibility. Flexible Work Arrangements may be modified by the Department at its sole discretion at any time for any reason. This article is not subject to the grievance procedure.

ARTICLE 83:

Use of Technology

During the term of this MOU, the City will roll-out new technologies to improve operational efficiencies and to deliver digital services to better adapt to the changing landscape of the needs of public facing services. The City will provide notice to Local 911 and at the request of Local 911 will meet and confer, as necessary, in accordance with the Meyers-Milias-Brown Act prior to implementation.

ARTICLE 84:

Emergency Contact Information

The City and Local 911 agree employees should keep the City updated on any changes to the employee's home and personal cellular telephone number, any personal email addresses on file with the City, and the employee's home address. This information is necessary for the City to ensure employees receive any and all communications from the City, and that any contact information the City provides Local 911 pursuant to Government Code section 3558 or any other provision in this MOU is accurate. To assist in this endeavor, employees are required to update any changes in the above referenced contact information that is on file with the City by using the Employee Self-Service Portal within 14 calendar days of such a change. Any employee who willfully fails to provide this information within 14 calendar days will be subject to discipline.

In accordance with Government Code section 6254.3(c), the City will not provide Local 911 with the home telephone number, personal cellular telephone number, personal email address, or birth date of any employee who has made a request to the City through the Employee Self-Service Portal in SAP regarding non-disclosure of said information.

ARTICLE 85:

Copies of the Agreement / MOU

Local 911 may obtain copies of this MOU from the City by reimbursing the City for its cost. This MOU will be posted electronically on the City's website in a location easily accessible to all Local 911-represented employees.

ARTICLE 86:

Educational Incentive Pay

A. Educational Incentive Pay

1. Beginning January 1, 2022, Full-time Lifeguards II, III, Sergeants, and Marine Safety Lieutenants who have obtained an Associate's Degree or above, from an accredited college or university in the United States, shall be eligible for an additional one percent of their base wage.
2. To receive educational incentive pay, an employee must submit an advance written request with proof of qualification to the Fire-Rescue Department Payroll via email to SDFDPayroll@sandiego.gov. It is the employee's responsibility to submit the written request in a timely manner as no retroactive pay will be processed for late submittals. Incentive pay will only be paid to employees on a prospective basis from the pay period that the Department receives proof.

3. **Payment of educational incentive pay shall begin the pay period following verification of the employee's qualification of degree from an accredited college or university.**
4. **Employees will only be permitted to receive educational incentive pay for one degree at a time.**

APPENDIX A

Bargaining Units

SUPERVISORY LIFEGUARD UNIT

Lifeguard Sergeant
Marine Safety Lieutenant

LIFEGUARD UNIT

Lifeguard I
Lifeguard II
Lifeguard III

APPENDIX B

Uniforms

A. LIFEGUARD II, LIFEGUARD III, LIFEGUARD SERGEANT, AND MARINE SAFETY LIEUTENANT.

Items Required:

Wetsuit*

Wetsuit Hood*

Hat*

Dress Shirt/BDU (3)*

Trousers/BDU (3)*

Black Boots*

Boat Shoes*

Orange Float Coat (1)* (Boating Safety Unit (BSU) Members only)

Swim Shorts (2)*

Swim Suits – Female (2)*

Fins

Name Tag (2)*

Belt *

T-shirts (3)

Sunglasses*

Shoes with Non-Slip Soles (2) (BSU Members Only)

Shorts, Navy Blue (2) (BSU Members Only)

Golf Shirts (5)*

Lifeguard Chief approved Lightweight Jacket*

Lifeguard Chief approved Foul Weather Jacket*

Lifeguard Chief Approved Weather Trousers*

Lifeguard Chief Approved Foul Weather Boots*

Equipment Bag*

*Article 41 E items issued upon promotion to Lifeguard II

B. LIFEGUARD I (Hourly).

Items Required:

Hat

Swim Suit

Fins

T-Shirts (3)

Sweat pants (2)

Lifeguard Chief Approved Lightweight Jacket

These items are issued upon appointment to Lifeguard I's and to Lifeguard II's and above for those who have not served as a Lifeguard I. City agrees to continue to meet on Lifeguard uniform and equipment requirements through the term of this Memorandum to resolution of those issues.

APPENDIX C

Smoking Policy

No smoking in the workplace.

APPENDIX D

Appearance Guidelines

- P. All bargaining unit employees shall maintain a professional appearance through attire reflecting the specific requirements of **their** duties.
- Q. All employees shall dress in clean clothing, free of tears.
- R. Each employee shall maintain an inoffensive level of personal hygiene.
- S. Each employee shall wear any required **personal protective** equipment.
- T. No employee may wear any article of clothing, which bears a sexually suggestive or profane symbol or word.
- U. All Bargaining Unit employees shall adhere to the Lifeguard Division Uniform Policy.
- V. These guidelines establish minimum standards normally applicable to Lifeguards. They will be reasonably applied in order to accommodate the various situations not susceptible to enumeration.

APPENDIX E

COALITION AND CITY OF SAN DIEGO

FY2013 PROPOSITION B IMPLEMENTATION NEGOTIATIONS TENTATIVE AGREEMENT

The San Diego Municipal Employees Association, International Association of Fire Fighters, Local 145 ("Local 145"), International Brotherhood of Teamsters, Local 911, Deputy City Attorneys Association of San Diego and Local 127 American Federation of State, County, and Municipal Employees (collectively the "Coalition"), and City of San Diego ("City") have negotiated and reached a tentative agreement on certain terms for an Interim Defined Contribution (DC) Plan on August 16, 2012. Negotiations between the Coalition and City (collectively the "Parties") continue over a Permanent DC Plan.

In accordance with Ground Rule 5, the Parties agree that final approval of the tentative agreement is subject to approval of the City Council.

TERMS FOR INTERIM DC PLAN

INTRODUCTION

1. The purpose of this proposal is to provide a means for an Interim DC Plan to be established expeditiously to accommodate the City's hiring needs without undermining the time otherwise needed for a good faith meet and confer process over the terms of a Permanent DC Plan with disability/death benefit features pursuant to Proposition B. Non-safety employees initially hired after July 19, 2012, who are excluded from SDCERS, will not participate in the 2009 401(a) Plan.
2. The Parties acknowledge and agree that, by entering into this agreement on terms for an Interim DC Plan neither party is prevented from making different proposals during negotiations on the Permanent DC Plan over any aspect of the DC Plan, including the vehicle, vesting schedule for City contributions, the definition of compensation which could include a cap on eligible compensation, the death benefit, disability benefit, and/or the percentage for employer and employee contributions

SPSP-H VEHICLE

3. The SPSP-H Plan (as proposed and modified by this agreement) will be used for purposes of this Interim DC Plan. The City also agrees that any and all "reservation of City's rights" as stated in the SPSP-H Plan document, which relate to employees' rights or benefits under the Plan, is limited by the City's obligations under an agreement for an Interim DC Plan, as well as its obligations under the Meyers-Milias-Brown-Act ("MMBA").

CITY CONTRIBUTIONS

4. Effective October 2, 2012, the City's total mandatory contribution for each Eligible Class Employee as defined in SPSP-H Plan document Article I, section 1.15, subdivision (a)(ii) will be 9.2% for non-safety employees and 11% for safety employees under the Interim DC Plan. These percentages will apply to all compensation as defined in Article I, section 1.10 of the Plan document. For the purpose of this agreement, Eligible Class Employees excludes all hourly employees.
5. The SPSP-H Plan document will also be amended to expand the definition of compensation to include pay in lieu of compensatory time and pay in lieu of cycle time.

EMPLOYEE CONTRIBUTIONS

6. Effective October 2, 2012, the total mandatory post-tax contribution for each Eligible Class Employee will be 9.2% for non-safety employees and 11% for safety employees under this Interim DC Plan. These percentages will apply to all compensation as defined in Article I, section 1.10 of the SPSP-H Plan document and as amended under paragraph 5 above.

VESTING

7. The employee will be 100% vested at all times in all amounts held in his or her SPSP-H account whether contributed by the employee or by the City.

DEATH/DISABILITY

8. The City agrees that the terms of the disability/death benefit adopted in conjunction with a Permanent DC Plan will be made retroactively applicable to any Eligible Class Employee or his/her beneficiary(ies) who suffers a qualifying event during the period of time when this Interim DC Plan is in effect. By this provision, the City agrees to extend to any such Eligible Class Employee or beneficiary the full benefits and rights which would otherwise have been available to him or her had the disability/death benefit adopted in conjunction with a Permanent DC Plan been in effect when the incident giving rise to the Eligible Class Employee's disability or death occurs.

NO UNILATERAL CHANGES

9. No benefits or monies received by employees may be altered by the City during this Interim DC Plan. The Parties acknowledge that negotiations are continuing over a Permanent DC Plan. After the effective date of the Permanent DC Plan the terms may change as set forth in paragraph 2.



RESERVATION OF RIGHTS

10. Each union is participating in this proposal for an Interim DC Plan under continuing protest and objection and while expressly reserving its claims which include but are not limited to the following: (a) Proposition B is unlawful as applied to represented employees due to the City's violation of the MMBA; (b) the City's insistence on altering the terms and conditions of employment for new hires due to the chaptering of Proposition B – and after unilateral imposition of a hiring freeze – is unlawful because each Union has an MOU in effect, which was adopted and made final and binding by the City Council on June 18, 2012, and these MOUs establish the terms and conditions of employment for all new hires through June 30, 2013.

MAKE-WHOLE

11. The parties acknowledge that this agreement for an Interim DC Plan may eventually be impacted by any order or decision in pending consolidated unfair practice cases before PERB once such order or decision becomes final after the exhaustion of all appeals under Government Code section 3509.5.

FOR THE CITY

	9/5/2012	
_____ Timothy Davis Lead Negotiator, City of San Diego	_____ Date	_____ Jay Goldstone, COO, City of San Diego

FOR MEA

 9/5/12

Date

FOR LOCAL 145

 9/5/12

Date

COALITION AND CITY OF SAN DIEGO
FY2013 PROPOSITION B IMPLEMENTATION NEGOTIATIONS
TENTATIVE AGREEMENT

FOR LOCAL 127

Jim Bal 9.5.12
Date

FOR LOCAL 911

Christy Nodan 9-5-2012
Date

FOR DCAA


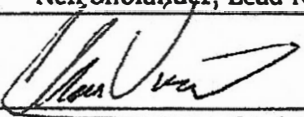
Michael Anderson 9.5.12
Date

APPENDIX F


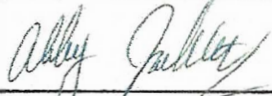
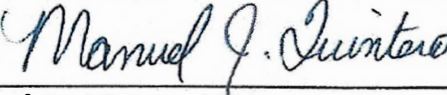
Exhibits A, B, and C to FY 2022 Salary Ordinance

IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding effective July 1, 2021, to the appropriate bodies.

Teamsters Local 911

 Neil Sholander, Lead Negotiator	<u>7/28/2021</u> Date
 Chris Vanos, Chief Steward	<u>07-28-2021</u> Date

City of San Diego

 Timothy L. Davis, Lead Negotiator	<u>08/04/21</u> Date
 Abby Jarl-Veltz, Assistant Director, Human Resources	<u>08/04/21</u> Date
 Manuel Quintero, Senior Human Resources Officer	<u>08/04/21</u> Date

APPROVED AS TO FORM: MARA ELLIOTT, CITY ATTORNEY

By: 
Miguel Merrell, Deputy City Attorney

DATE SIGNED: August 5, 2021