

Memorandum of Understanding



This **MEMORANDUM OF UNDERSTANDING (MOU)** was made and entered into at 12:01 am on **July 1, 2020**, and shall expire and otherwise be fully terminated at 11:59 pm on **June 30, 2021**.

By and Between:

The City of San Diego
and

San Diego City Firefighters, I.A.F.F. Local 145



MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING made and entered into this 1st day of JULY, 2020.

BY AND BETWEEN

**CITY OF SAN DIEGO AND
SAN DIEGO CITY FIREFIGHTERS,
I.A.F.F. LOCAL 145**

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Parties to the Agreement

This Memorandum of Understanding (MOU), is made and entered into on July 1, **2020**, by and between the City of San Diego (City) and San Diego City Firefighters, International Association of Firefighters Local 145, hereinafter referred to as Local 145.

ARTICLE 1

Payroll Deductions

- A. It is agreed that Local 145 dues, assessments, and other authorized deductions shall be deducted by Management from the **wages** of each member and past member **to the extent permitted by law**. Remittance of the aggregate amount of all deductions shall be made to Local 145 by Management biweekly. All deductions shall be wire transferred to the pre-designated Local 145 accounts. There will be no cost to Local 145 for this transfer.
- B. Deductions shall be for a specified amount or for total compensation and shall be made **based on the information provided by Local 145**. **Local 145 will maintain records of employee authorization for dues deductions. Local 145 will provide the City with information regarding the amount of dues deductions and the list of Local 145 employees who have affirmatively consented to or authorized dues deductions. The City shall not request Local 145 to provide a copy of any member 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 Local 145 in processing dues deductions for Local 145 employees. Deduction authorization or cancellation shall be made based on the information provided by Local 145. Local 145 is responsible for providing the City with timely information regarding changes to member employees' dues deductions.**
- C. Local 145 shall disburse funds received from City in accordance with the deduction authorizations received.
- D. Local 145 shall indemnify, defend, and hold City harmless against any claims or suits instituted against City, **which may arise as a result of the application of provisions of this Article, including, but not limited to** contesting the collection or dispersal of any authorized deductions. In addition, Local 145 shall refund to City any amounts paid to it in error upon presentation by City of evidence supporting the error.
- E. Special Deduction – **Local 145 Fire Fighters' Assistance VEBA Fund – Mass Changes**.
 - 1. The **Department of Finance**, upon receipt of notification from Local 145, shall deduct the specified amount from the paychecks of members of the fund, **to the extent permitted by law**.
- F. If an employee submits a payroll deduction authorization change to City which has not been processed by Local 145, City will **direct the employee** to Local 145.
- G. **Employees who choose to electronically deposit their paychecks to a financial institution of their choice (subject to electronic compatibility)** will be required to provide authorization to the **Department of Finance**. Employees **will** not be required to change financial institutions if their financial institution is not compatible with the **Automated Clearing House (ACH)** transfer.
- H. **Employees are required to enter their own time; if unavailable to do so, a Department Payroll Specialist can enter the time if they are provided written documentation indicating hours worked and approved by a Supervisor. Employees' time is required to be approved by their direct Supervisor and/or designee in their absence.**

Exceptions can be made for entering time on behalf of an employee or approving employee time on behalf of a Supervisor only for circumstances for that specific pay period and should not be an ongoing practice. Department Payroll Specialists can approve time for Supervisors, who do not have current access to approve in the system, under “exceptional” circumstances as authorized by Department of Finance. In these circumstances, Department Payroll Specialists must be provided written documentation approved by the Supervisor.

- I. Employees must adhere to the Employee Time Entry and Approval deadlines. Any overtime hours not entered and approved by the payroll deadlines may not be paid until the following payday.

ARTICLE 2

Trades

- A. City agrees to continue the practice of allowing employees to trade work schedules, subject to the provisions of the Fair Labor Standards Act (FLSA). Disputes regarding the impact of a trade or trades upon hours worked for retirement and overtime computation purposes, shall be resolved by reference to the records maintained by Department payroll.
- B. Approval of trades will be subject to the staffing requirements of the San Diego Fire-Rescue Department (Department) as determined by the Fire Chief or **their** designee. Once a trade has been approved, the employee who accepts the trade assumes the responsibility for completing the assigned shift.
 - 1. Trades shall be limited to the exchange of scheduled work shifts, time for time, between two employees of the same classification.
 - 2. All trades must be between the original employees agreeing to the trade. All trades of scheduled shifts must be completed within one year.
 - 3. Trades of will-work assignments of four hours or less will be allowed with the proper payroll documentation.
 - 4. The above procedures apply to all trades regardless of the amount of time involved.
 - 5. Employees shall be allowed to trade holidays within the **28**-day cycle.
- C. Fire Engineers wishing certification on equipment for which they have not previously been certified, shall make a request to the Fire Chief or **their** designee. To the extent feasible, the Fire Chief shall arrange for the Fire Engineer to be assigned to a work station where **they** can achieve such certification during **their** normal work shift.
- D. Effective July 1, 2017, no employee shall work more than 96 consecutive hours including trades without a minimum 24 hour off-duty rest break. The Fire Chief or designee may extend this **96 consecutive hour** timeframe due to disaster situations, need for strike teams, or other operational circumstances that warrant immediate coverage.

1. **Personnel deploying on a strike team shall continue to receive the rate of pay in effect until the end of the regularly scheduled work shift.**
2. **Personnel who return from a strike team on their regular duty day, whether over or under the 96-hour consecutive work rule, shall continue to receive the rate of pay in effect until the end of the regularly scheduled work shift.**

ARTICLE 3

Will Work List

- A. Local 145 agrees to support a will-work list consisting of sufficient numbers of volunteers to fill normal staffing vacancies. An employee who has volunteered for the will-work list may remove **their** name from that list any time prior to being called for work. In the event that there are insufficient numbers of suitable volunteers, Local 145 agrees to the use of mandatory call-back according to the agreement in the **Staffing** Policy Manual.
- B. Members wishing to volunteer for will-work will use the approved methods outlined in the Telestaff Manual and in the **Staffing** Policy Manual as incorporated in this MOU.
- C. Changes to the existing **Staffing Manual** policies shall be made by mutual consent of the Parties.
- D. City and Local 145 agree to develop a section in the **Staffing** Manual that will outline a bidding procedure to transfer among the various sections in the **Community Risk Reduction**. Said policy will further clarify the procedures for transferring from forty-hour assignments to fifty-six-hour assignments

ARTICLE 4

Seniority

- A. The Parties agree that layoffs shall be governed by the provisions of Civil Service Rule V. Changes to Civil Service Rule V which affect members of Local 145 shall be by mutual consent of the Parties.
- B. For purposes of this Article:
 1. City-wide seniority shall mean service in a classification regardless of the department or division.
 2. Right of competition shall mean the right of an employee who has been laid off to compete for positions in lower classes in which **they have** served satisfactorily, subject to the superior rights of any other employee who has been laid off.
- C. In cases of intra-Departmental processes, seniority shall be established as follows:
 1. Relative seniority among employees in the same Academy hired into the Fire Fighter classifications will be established by class standing in their Academy. **Open enrollees shall be ranked by class standing order following those hired into fire recruit positions.**

2. Relative seniority among employees promoted into the same classification on the same effective date shall first be established on the basis of seniority in the classification from which they were promoted. In the event seniority is equal in that classification, standing in the Academy will be used to determine seniority. If a tie remains, a lottery shall be used to determine seniority. The Department will make a reasonable and documented effort to offer the opportunity to attend the lottery to all Parties with a material interest in the results.

ARTICLE 5

Provisions of Law

- A. This MOU is subject to all current and future applicable federal, state and local laws, regulations and the San Diego Charter (Charter).
- B. If any part or provision of this MOU is in conflict or inconsistent with applicable provisions of federal, state, or local laws or regulations, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, those parts or provisions shall be suspended and superseded by the applicable laws or regulations, and the remainder of this MOU shall not be affected.

ARTICLE 6

Employee Rights

- A. Both Parties agree not to discriminate against any employee for the exercise of rights guaranteed by applicable state and/or federal law, which prohibits 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 affiliation or employee organization affiliation.
- B. The Parties mutually recognize and agree to fully protect the rights of all employees falling into the classifications listed in Article 10 to join and participate in the activities of Local 145, or not to join and participate in these activities, and all other rights guaranteed by law.
- C. No employees shall be interfered with, intimidated, restrained, coerced, or discriminated against because of the exercise of these rights.
- D. The provisions of this MOU apply equally to all covered employees without favor or discrimination because of race, color, sex, age, disability, national origin, political or religious opinions or affiliations, pregnancy, or sexual orientation.
- E. Local 145 agrees to recognize and support Equal Opportunity plans and policies promulgated in accordance with procedures established by the City Council and the Department that are consistent with state and federal law. These policies shall be submitted to Local 145 and shall be met and conferred upon if required by the Meyers-Milias-Brown Act (MMBA).
- F. The Parties agree to support and comply with City's Human Dignity Ordinance.

ARTICLE 7

Station and Work Site Living Conditions

A. City agrees to continue to furnish and maintain in proper working condition those items or facilities now provided for all represented personnel.

1. **Essential living conveniences.** Items that will be replaced include, but are not limited to:

- a. Mattresses
- b. Microwaves
- c. Refrigerators
- d. Dishwashers
- e. Tables and chairs
- f. Carpet
- g. Washers and Dryers
- h. Heating and Air Conditioning systems

2. **Facility Infrastructure**

- a. Exhaust extraction systems
- b. Programable commercial washing machine, for the laundering of Personal Protective Equipment, unless replaced by NFPA 1851 compliant laundering process by an ISP. (Individual Service Provider)
- c. Station fencing
- d. Commercial Ice Maker (select stations only)

3. **Apparatus**

- a. David Clark Communication Systems
- b. Back-up cameras, on any apparatus originally equipped or retrofitted

City agrees to initiate repairs or replace the above-referenced equipment within one month of official notification of need. Department must meet and confer with Local 145 on modifications of station sites and space utilization of station sites should modifications to station sites impact working conditions.

B. City will provide Local 145 with a copy of the Capital Improvement Program as it relates to Department facilities, after the City Council has approved the CIP budget.

C. City will ensure that employees are held reasonably accountable for the security of their uniforms and related equipment during their assigned shifts.

D. Nothing in this Article shall be interpreted to prevent City from complying with applicable state health and safety laws. City shall comply with applicable federal, state, and local health and safety laws on a timely basis. City and Local 145 shall jointly study National Fire Protection Association standards for training and equipment for future adoption.

E. In the event a repair necessitates closure of a facility for more than 48 hours, alternative accommodations will be made available.

ARTICLE 8

Mileage and Meal Allowance

- A. City agrees to reimburse members of the Bargaining Unit for use of their private vehicles to travel from one work station to another work station when the travel results from a reassignment of work station during the employee's work hours. City agrees to reimburse members of the unit for the use of their private vehicles in the event they are on page and are called back to work.
1. **To receive mileage reimbursement for the use of a personal vehicle, personnel shall record all mileage information on the SDFD Mileage Report.**
 2. **Reimbursable mileage will be paid for the following:**
 - a. **From regular duty station to mandatory shift station**
 - b. **From an overtime or mandatory shift station to a mandatory shift station**
 - c. **From regular duty station to RDSS station**
 - d. **From a mandatory shift station or RDSS station to home or regular duty station (whichever is fewer miles)**
 - e. **To and from mandatory training if sent by supervisor during shift (for example: IST, BMO, battalion level training, etc.)**
 - f. **To and from scheduled meeting when no city vehicle is assigned or available (straight day personnel only)**
 - g. **When transferring equipment between locations using personal vehicle (requires Battalion Chief approval)**
 3. **While driving a personal vehicle while on city business (reimbursable mileage) personnel must adhere to city driving rules and regulations (see City of San Diego City AR's 45.10 75.05, and 75.85) including vehicle accident procedures (San Diego City AR 75.12).**
 4. **At the end of the month, reimbursable miles driven should be totaled, and the reimbursable mileage amount should be calculated by multiplying the total reimbursable miles by the mileage rate. Personnel will be expected to provide supporting documentation for all reimbursable mileage requests. The SDFD Mileage Report AC-1145 form is to be checked for accuracy and signed by the supervisor before sending the completed document to your payroll specialist.**
- B. Mileage reimbursement will be paid in accordance with the current IRS Standard Mileage Rates for business reimbursement.
- C. In the event an employee is transferred to a different work site after reaching **their** normally assigned work site and does not have transportation available, the Department will arrange transportation to the new work site. At the end of the duty shift, the employee has the option of leaving the assigned work site upon being relieved or requesting that the Department arrange for transportation to the original work site. In the event the employee requests return transportation, the **employee shall notify the Department, and the** Department shall arrange such transportation as soon as practical. The employee shall be compensated for time spent in excess of one hour waiting for transportation after being relieved by **their** replacement.

- D. Employees, pursuant to Fire-Rescue Department policy, who qualify for a meal **accommodation**, shall be reimbursed up to a maximum allowance as set by the U.S. General Services Administration (GSA) per diem rates for San Diego.

ARTICLE 9

Appendices and Amendments

- A. All appendices and amendments to this MOU shall be numbered (or lettered) dated and signed by the authorized agent of each of the Parties and shall be subject to all provisions of this MOU.
- B. All current amendments and appendices resulting from meeting and conferring over this MOU shall be listed and published as a part of this MOU.

ARTICLE 10

Formal Recognition

- A. City recognizes Local 145 as the exclusive representative for employees in the Fire Fighter Unit.
- B. The Fire Fighter Unit consists of all employees in the following classes:
1. Fire Recruit
 2. Fire Fighter I
 3. Fire Fighter II
 4. Fire Fighter III
 5. Fire Engineer
 6. Fire Captain
 7. Fire Battalion Chief
 8. Fire Prevention Inspector I
 9. Fire Prevention Inspector II
 10. Fire Prevention Supervisor
 11. Assistant Fire Marshal
 12. Paramedic II (**Terminal**)
 13. Fire Helicopter Pilot
 14. Air Operations Chief
- C. City agrees not to meet and confer with organizations other than Local 145 on matters falling within the scope of representation including, but not limited to, hours, wages, working conditions, and hiring and promotional policies.
- D. In the event that the Department assumes the contract for paramedic services, all **emergency medical technician and** paramedic classifications shall be placed in the Local 145 Bargaining Unit.
- E. Fire Fighters who were hired as “limited” employees and are performing at a satisfactory level shall be moved into “permanent” positions as positions become available.
- F. Effective July 1, 2009, no future hires into the **Community Risk Reduction Division** will be civilians.

- G. **The San Diego Fire-Rescue Department supports Local 145 requesting the Personnel Department review the creation of a Fire Prevention Inspector 3 (FPI3) classification. The parties agree the Civil Service Commission and City Council has the final authority to create the new classification.**
- H. Local 145 represents several General Member Employee classifications. Management shall not fill these positions with newly hired employees. Subject to Personnel's revision of minimum qualifications to reflect the Safety Member Employee status of future hires into the former General Member Employee classifications, employees hired on and after July 1, 2008 into the classifications of Fire Inspector Series I and II, Fire Inspector Supervisor, and Assistant Fire Marshal, shall be classed as Safety Member Employees. The existing transfer list for these classifications shall remain valid. Non-safety (general) transfers from the list and current General Member Employees in the above classes shall not become Safety Member Employees.

ARTICLE 11

Employee Representation

- A. Employee representation during meetings with Management shall be governed by the Firefighters Procedural Bill of Rights Act (Cal. Gov't Code §§ 3250, *et seq.*) (FBOR). The Parties agree that FBOR applies to all unit members, except for Fire Recruits.
- B. Fire Battalion Chiefs **and Assistant Fire Marshals** are not authorized to represent Fire Fighters, Fire Engineers, Fire Captains, **Fire Prevention Inspectors or Fire Prevention Supervisors** on matters of discipline or grievances. Fire Captains are not authorized to represent Fire Fighters, Fire Engineers **or Fire Prevention Inspectors** on matters of discipline or grievances. Members of the Board of Directors may represent employees in all Fire classifications in matters of discipline and grievances.

ARTICLE 12

Indemnification

- A. City agrees that the provisions of Government Code section 825 are applicable to members of the Bargaining Unit.

ARTICLE 13

Fire/Police Coordination

- A. It is the policy of City for the Department to coordinate its activities with the San Diego Police Department (Police).
- B. Department employees will not be required to involve themselves in a Police situation in which the ranking Fire Officer on scene reasonably believes that Department employees are endangered absent Police support.
- C. The Fire Chief shall coordinate with the Police Chief to provide appropriate support in the event Fire Fighters become involved in threatening situations.
- D. Department employees shall not be required to identify suspects while on duty. Fire stations shall not be utilized as suspect I.D. meeting points.

- E. The Fire Chief and representatives from Local 145 will mutually develop a policy on Police and Fire coordination.

ARTICLE 14

Bulletin Boards

- A. City will furnish and maintain suitable bulletin boards to be used by Local 145 in mutually convenient places in each station for the posting of responsible, non-controversial material related to Local 145 business. Local 145 shall limit its posting of notices and bulletins to the designated bulletin boards, and Local 145 shall furnish the Fire Chief with a copy of each item to be posted at the time each item is posted.
- B. Present locations and space allocations for bulletin boards are considered adequate.
- C. As a courtesy, the Fire Chief shall furnish Local 145 with a copy of all correspondence which is directed to be posted in fire stations. Such correspondence shall be emailed to Local 145 24 hours prior to being **electronically posted to employees**.
- D. Local 145 may use City's email system to direct employees to information contained on the Local 145 website. No further use or access of 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 **the City's Human Resources Department**, responding to disciplinary actions or appeals, submitting grievances, and communicating a tentative agreement for ratification purposes. Local 145 agrees to comply with all City policies on the use of City resources.

ARTICLE 15

Modification and Waiver

- A. The Parties shall provide reasonable written notice 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 or by the Civil Service Commission, or by the Retirement Board or by the Fire Chief, and shall be given the opportunity to meet and confer with the appropriate person prior to adoption, as required by law.
- B. 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 Local 145, the City Council or the board or commission of City responsible for changes shall provide notice and opportunity to meet to Local 145 at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.
- C. It is recognized that from time to time, the Department may, in its discretion, issue Departmental procedures in writing which pertain to matters not within the scope of representation. In order to provide information to Local 145, the Department agrees to provide a copy of proposed written Departmental procedures to Local 145 prior to publication. Nothing in this Article is intended to require or obligate, directly or indirectly, the Department to meet and confer on any subject contained as proposed Departmental procedures, which is not within the scope of representation.

- D. All communications or notices required to be provided to Local 145 by City shall be delivered to the President of Local 145, or to the Vice-President in the noticed absence of the President, at **their** current **email** address on file in the Human Resources Department. Seventy-two hours is considered reasonable notice.
- E. Nothing in this Article shall limit or otherwise restrict the Department from immediately publishing Departmental procedures which, in the determination of the Department, are of an emergency nature. Communications shall be sent via email to Local 145 simultaneously.

ARTICLE 16

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 shall not preclude Local 145 from meeting and consulting or meeting and conferring with Management representatives as required by law about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment, and shall not supersede the provisions of this MOU.

ARTICLE 17

Special Assignment Pay

- A. Uniformed members will receive an additional **five** percent of their base **wage** while either (1) permanently assigned or (2) certified and working in the following specialties below:
 - 1. Post Academy Training Stations (PAT)
 - 2. Technical Rescue Team (TRT) (minimum of three crews per Division)
 - 3. Hose Repair station (minimum of two crews per Division)
 - 4. Small Equipment Repair station (minimum of one crew per Division)
 - 5. Emergency Medical Services (EMS) station (minimum of two crews per Division)
 - 6. Annual Pump Testing station (minimum of two crews per Division)
 - 7. Breathing Apparatus Repair station (minimum of one crew per Division)

8. Ladder Repair station (minimum of two crews per Division)
9. Staffing Desk station **and Chief Officers with designated staffing duties**
10. Metro Arson Strike Team (MAST) Personnel
11. Special Tactics and Rescue (STAR) Team
12. Canine Handler
13. Battalion Medical Officer (BMO)

B. Uniformed members will receive an additional **ten** percent of their base **wage** while either (1) permanently assigned or (2) certified and working in the following specialties:

1. Bomb Squad
2. HazMat Squad (including qualified Battalion Chiefs conditioned under the HIRT contract who oversee the HAZMAT team)
3. Air Operations

C. Administrative Assignment Pay

1. All employees in classes represented by Local 145 who are permanently assigned to straight-day administrative assignments shall receive 15 percent Administrative Assignment pay when working in their administrative assignment. This shall not apply to personnel in temporary or light-duty assignments.
2. Administrative assignments are only those in a **40-hour** work week in a non-operational assignment.
3. Individuals assigned to straight-day administrative assignments shall also be subject to the following:
 - a. Absent a Management-determined business purpose at the conclusion of an administrative assignment of two or less years, the employee shall be permitted to return to the pre-administrative assigned station.
 - b. Upon agreement of Management and the effected employee, the administrative assignee shall be assigned to a flexible schedule which can be fixed at a 5/8, 44/36 or 4/10.
 - c. **Employees regularly assigned to a 4/10 schedule may trade regular duty day off (RDO) in the same workweek with supervisor approval.**

D. Canine Handler Pay

1. The Accelerant Canine handler **and the US&R Team Canine handlers (number determined by the Fire Chief)** will be paid a **five percent** specialty pay when the handler is assigned a dog. Should grant funding to support **the US&R Canine** program be discontinued, this program, support for the program, and associated special pays will be terminated effective immediately upon termination of the grant funding.
2. A vehicle may be provided by the City at the City's discretion. Management is under no obligation to provide vehicle support in the future. Vehicle use is approved as full take home in accordance with the San Diego Fire-Rescue Assigned Vehicle Policy.

E. Additional Special Pay Requirements

1. Technical Rescue Team (TRT) personnel are eligible to receive up to an additional **five percent** specialty pay for a total of **ten percent** pursuant to the agreement on file with the **City's Human Resources Department**, and as described in the TRT Administration Manual.
2. Special assignment pay will only be paid for hours worked in the specialty station **or capacity** designated for the employee's specialty duties. Will-work or light duty work performed in non-specialty stations **or capacity** is not eligible for specialty pay.
3. **Personnel** who receive specialty pay as part of a permanent assignment to a specialty station will not lose the specialty pay when rotated out of the specialty station **by management** to meet **staffing or training needs**.
4. If Fire-Rescue Department Management displaces a bargaining unit member due to managerial rights, the bargaining unit member will continue to receive that specialty assignment pay for the period of time in which they are involuntarily displaced, but not to exceed one year following the date of displacement. This provision does not apply if the displacement is a result of the bargaining unit member's decision to voluntarily bid on an assignment.
5. **A Specialty Station Employee Performance Report Addendum (SSEPRA) will be completed for each employee permanently assigned to a recognized specialty station upon, (1) completion of an initial six-month period; and (2) annually, on July 1st, thereafter in accordance with the existing rules for the Employee Performance Review Program as set forth in City of San Diego Personnel Manual Index Code G-7.**
6. **The Fire Chief may remove an employee from permanent assignment at a specialty station without the continuance of specialty pay if:**
 - a. **Employee receives an overall performance rating less than 'Satisfactory' on two consecutive annual Employee Performance Reports (EPR) or SSEPRA.**
 - b. **Employee fails to demonstrate improvement within 90 days after receipt of a less than satisfactory Supplemental Performance Report and the subsequent placement on a Performance Development Plan.**
 - c. **Employee receives final sustained discipline or suspension related specifically to the specialty assignment or specialty station within the last two years.**

Any employee removed from a specialty station(s) will be placed on relief and will be precluded from bidding back into the same specialty station(s) for one year. The removed employee may bid for other stations or specialties in accordance with all other Staffing Manual rules.

7. **Within 30 calendar days of administrative assignment, either the member or management can, for reasonable cause, retract the assignment and return the**

member to their previous assignment with previous pay and benefits. In the event that either party wishes to exercise this clause, notification to the other party should be made as early as possible to attempt to resolve the issue which is anticipated to prevent completion of the administrative assignment. This clause is not intended to replace the due diligence necessary to understand and properly prepare for an administrative position sought, on the part of the member; or to circumvent existing performance improvement processes within the Employee Performance Review Program, on the part of Management. A member who returns to their previous assignment and pay under the 30-day clause is not eligible for displacement pay described in Section E.4. of this article.

F. Bilingual – English Pay

1. City agrees to continue a program which will provide extra compensation for employees whose job assignment requires the ability to communicate orally in Spanish, Tagalog, or Indo-Chinese, as well as English. Participants in this program who are certified by Personnel and who are otherwise eligible shall receive 3.5 percent of base **wage** while in the job assignment requiring this additional skill. City reserves the right to establish criteria which will enable candidates in this program to qualify for the extra compensation.
2. Employees will be required to be periodically retested in order to ensure that their bilingual language skills are current. The retest will be administered on City time by the Personnel Department. City may retest an employee every three years.
3. The number of participants eligible to receive bilingual pay shall be limited to a maximum of 65 positions per shift.
4. **Other employees may receive bilingual pay for incidental use of a language other than English during the pay period when the language was used, without having to pass the Personnel Department language fluency examination, when the employee's appointing authority or Fire Chief's designee requests or directs the employee to use the language as part of their job duties and certifies the use to the Personnel Department.**

ARTICLE 18

Business Representatives

- A. Authorized Local 145, full-time paid business representatives, and the President or elected officers of Local 145, shall be granted access to work locations in which employees covered by this MOU are employed, for the purpose of conducting grievance investigations and observing working conditions. Authorized Local 145 representatives seeking access to work locations shall first request access from the Fire Chief or **their** designee, at which time the authorized representative shall inform the Fire Chief or **their** designee of the purpose of the visit. The Fire Chief or **their** designee 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 Fire Chief or **their** designee will recommend an alternative time for the visit. The Local 145 representative shall not unduly interfere with the operations of the Department during a visit. Local 145 representatives shall be allowed access to work locations during lunch or after 5:00 p.m.

- B. Solicitation of membership and activities concerned with the internal management of Local 145 such as collecting dues, holding membership meetings, campaigning for office, conducting elections, and distributing literature to individual employees, shall not be conducted during working hours.
- C. Elected or appointed officials of Local 145 may, at the discretion of the Fire Chief or **their** designee, be allowed to use holiday or annual leave credits for time off as necessary to conduct Local 145 business.
- D. On July 1 of each year, Local 145 shall provide the Fire Chief a written list identifying by name all elected officers of Local 145 and any full-time paid Local 145 business representatives, and the list shall be kept current by Local 145. Access to work locations will be granted only to representatives on the current list.
- E. Handling Grievances
 - 1. When an employee has a grievance, **they** may request that a Board member, with permission of **their** supervisor, investigate the grievance in **their** assigned work area and assist in its preparation and presentation. If no Board member is assigned to the employee's work area or if the Board member assigned to the employee's work area is not available at the time the grievant makes **their** request, another Board member may investigate the grievance.
 - 2. After notifying and receiving approval of the immediate supervisor, a Board member shall be allowed reasonable time off during working hours, without loss of time or pay, to investigate, prepare and present such grievances. The immediate supervisor will authorize the Board member to leave **their** work assignment, unless compelling circumstances require refusal of such permission. In such case, the immediate supervisor shall inform the Board member of the reasons for the denial of release time and establish an alternate time when the Board member can reasonably be expected to be released from **their** work assignment.
- F. Board of Directors Meetings

Three members of the Board shall be permitted to attend, while on-duty, meetings of the Board of Directors (once per month, generally from 8:00 a.m. - 5:00 p.m.; or every two weeks, 8:00 a.m. - 1:00 p.m.) and General Membership meetings (normally scheduled on the third Tuesday from 7:00 p.m. - 10:00 p.m. and third Wednesday of every other month from 8:30 a.m. - 11:30 a.m. Additional members of the Board may be permitted to attend under these arrangements on the condition that Local 145 provides relief for them. Board members working an overtime shift will be released without pay for the eight hours of the board meeting (or four hours if the meeting frequency is two times per month) and will be allowed to return to the station to work the remainder of the shift.
- G. Local 145 officers and Board members may be granted use of City facilities for meetings, provided space can be made available without interfering with City's needs.

ARTICLE 19

Out of Class Assignment

Any person covered by this MOU, who is assigned to a position or rank above that normally held, shall be assigned, and credited in accordance with the following provisions:

- A. Out-of-Class Assignment (OCA) budgeted positions shall be made in rotational order from the top of the list of on-duty eligible employees. The list shall be comprised of those employees on the promotional list for each rank or position.
 - 1. Each employee is expected by City to reasonably consider accepting the assignment when notified. Names of employees who are excused from an OCA by the Fire Chief or **their** designee for good reason shall remain in their respective positions on the list for rotational assignment.
 - 2. Taking all things equally, first consideration will be given for appointment to an OCA of thirty days or more 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 necessitates appointment of an employee not on the eligible list.
 - 3. If no eligible, on-duty personnel are available for an OCA, employees not on a promotional list shall be eligible based on Personnel Manual Regulations and the section on seniority agreed to in this MOU.
 - 4. OCA for straight-day employees shall be limited to their functional division.
 - 5. Employees who fulfill an OCA in a budgeted position shall be rotated to the bottom of the list at the completion of the OCA. For this purpose, a minimum of eight hours will be considered an assignment.
 - 6. Under emergency conditions, as determined by the Fire Chief, personnel may be assigned OCA without restriction.
- B. Copies and/or information regarding OCA lists or assignments shall be made available to Local 145 on request.
- C. Personnel who satisfactorily work OCA shall be eligible for a reduction of the time between promotion and the first step increase according to the following:
 - 1. Each employee wishing to participate in this program shall be responsible for obtaining the approved form and shall have **their** supervisor enter time served in an OCA capacity after each assignment.
 - 2. After being promoted, the employee shall give the form to the Fire Chief or **their** designee for verification.
 - a. Time served in OCA during the four-year period immediately preceding promotion shall reduce the time element for the first step increase from the rate received at the time of promotion to the next highest rate for which the employee is eligible. However, OCA time shall not reduce the normal time for a step increase to less than one-half the normal time nor shall OCA time affect requirements for additional step increases.

- b. Any employee who loses the OCA form and who fails to report the loss to the Fire Chief or **their** designee shall not be eligible to receive any credits under this provision.
- D. Credit for OCA to operate brush rigs shall be limited to emergency in-service operating time.
- E. The standard for shift conversion to calendar time shall be nine shifts per month. Time served credit shall be apportioned accordingly.
- F. Employees on OCA will be compensated at the rate of their regular job classification. Employees shall be compensated for OCA at the rate of the higher paid class only after thirty cumulative days of being assigned to the same higher-level class. Compensation would begin on the **31st** day and would be prospective.
- G. Mandatory recall of personnel shall be in accordance with the Staffing Manual on a rate for rate basis.

ARTICLE 20

Hours

- A. Members of the unit assigned to **the Operations Division** shall normally work an average **56**-hour week consisting of **24**-hour work shifts **or an alternate work schedule as determined by mutual agreement of Department and Local 145 and codified in the Department Staffing Manual**. All other members of the unit shall work an average **40**-work week. City agrees that a permanent alteration to existing work schedules during the term of this MOU shall be subject to meet and confer.

All employee work schedules, whether 56-hour, 40-hour or alternate, will be regularly reoccurring and in compliance with the Fair Labor Standards Act (FLSA).
- B. Straight-day schedules will normally fall between the hours of **6:30** a.m. – 6:00 p.m.
- C. In-service training will normally not be scheduled for fire suppression companies on City holidays.
- D. Fire Fighters of equal rank assigned to **56**-hour work weeks shall be allowed to relieve each other from duty up to **60** minutes prior to scheduled changes of shifts subject to approval of the duty officer:
 - 1. Personnel participating in early relief shall do so on a voluntary basis.
 - 2. Any increase in time that may develop from an early relief will not result in additional compensated hours of work.
 - 3. City will not be required to keep records of any individual's time worked in early shifts.
 - a. In the event of legislative action requiring compensation for time worked in early relief, this policy shall become null and void.

ARTICLE 21

Uniforms and Safety Equipment

A. Department Issued Equipment

1. City shall issue to and maintain for each Fire Fighter:

<u>Structure</u>	<u>Quantity</u>		<u>Wildland</u>	<u>Quantity</u>
Turnout Jacket	2		Wildland Coat	2
Turnout Pants	2 pair		Wildland Pants	2 pair
Turnout Boots	1 pair		Wildland Boots	1 pair
Structure Helmet	1		Wildland Helmet	1
Turnout Suspenders	1		Webgear	1
Hood	2		Shelter	1
Gloves	2 pair		Gloves	2 pair

<u>Miscellaneous Items</u>	<u>Quantity</u>
Breathing Apparatus Face Piece	1
Spanner	1
Utility Strap	1
Rescue Belt for Personal Escape System	1
Wire Cutters	1

City agrees to immediately provide dual certification wildland/station boots for all recruits upon successful completion of the Academy. Repair or replacement of boots will be determined pursuant to Department policy.

B. Fire Fighter's Uniform

1. Initial requirement

Each employee in this Bargaining Unit shall be required to obtain and maintain in a manner acceptable to City a Class B and Class C uniform. This shall include a knife and a flashlight as specified for Department use by the Safety Committee. In recognition of the initial expense, City shall **reimburse** each Fire Fighter who attains permanent status the current cost of obtaining the Class B and Class C uniform. Current cost is determined by City. City agrees to provide reimbursement for safety boots and pants to Fire Fighters as soon as they complete the Fire Academy.

2. At the successful completion of probation, City agrees to provide a complete Class A uniform to include:

<u>Item</u>	<u>Quantity</u>
Dress Jacket with 2 Department Patches	1
Dress Trousers or Skirt	1
Dress Shirt	1
Dress Hat	1
Dress Shoes	1 pair
Tie	1

Belt	1
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C. Maintenance and Upkeep

1. The uniform allowance for all employees is \$1,000 per fiscal year **and shall be paid** on the first pay day in September of **each year**.
2. **In order to qualify for C(1)**, Fire Fighters must have completed twelve months of service as a Fire Recruit/Fire Fighter I **by September 1 of each year**.
3. City will provide an ongoing reimbursement in September of each year of up to \$650 for the purchase of tools by **12** employees designated to perform maintenance and repair work by the **Logistics** Division. The list of “essential” tools that will be eligible for this reimbursement will be mutually developed by Department and Local 145.
4. This uniform allowance will be used by members of the Unit to purchase and maintain their own linen to include pillow cases and sheets.
5. City will continue to maintain brush gear specifications which are equal to or better than equipment currently in use by Department. City will provide replacement brush gear to all members of the Fire Suppression Unit. Replacement gear will be provided based on need in accordance with California Department of Occupational Safety & Health Administration (OSHA) standards.

D. Uniforms and Safety Equipment for EMS Employees

1. **Single-role Paramedics are not eligible for the Fire Fighters uniform provisions in Article 21(A) and (B).**
2. **The following items of a Class B uniform will be furnished by the Department as needed for single-role Paramedics.**
 - a. **Belt (1)**
 - b. **Class B Shirt (3)**
 - c. **Class B Pants (2)**
 - d. **Station Shoes (1 pair)**
3. **The safety items listed below will also be furnished by the Department.**
 - a. **Brush Jacket (1)**
 - b. **Personal Protective Equipment Pack (1)**
 - c. **Eye Protection**
 - d. **Respiratory HEPA Mask**
 - e. **One-way mouth-to-mouth valve/mask**

E. Administration

1. **Employees** reporting for duty are expected to have the uniforms as described in **Article 21**. Failure to have any of these items may result in discipline of the employee.

2. For the term of this MOU, Local 145 agrees that City has discharged City's obligation pursuant to state law requirements to provide safety equipment as set forth in California Labor Code section 6401.

F. STAR

Members of the STAR Team will receive \$300, in addition to the uniform allowance, on the first payday in September of each year for the purchase and maintenance of required uniforms. The City agrees to provide the initial uniform to include one of each item:

- 1. Long sleeve uniform shirt with appropriate patches**
- 2. Uniform pant with name patch**
- 3. Short sleeve STAR Team t-shirt**
- 4. Long sleeve STAR Team t-shirt**
- 5. Pair of tactical boots**
- 6. Tactical uniform belt**

Personnel assigned to the STAR Team, shall also be provided with:

- 1. Badge**
- 2. Tactical backpack with medical equipment**
- 3. Level IIIA body armor with steel plates and appropriate patches**
- 4. Radio and equipment pouches for body armor**
- 5. Ballistic helmet with integrated communications**
- 6. Gas mask with pouch and appropriate filters**
- 7. Gas mask belt**
- 8. Helmet flashlight**
- 9. Hearing protection**
- 10. Equipment storage container**

G. US&R

Members of the US&R Team will receive \$300, in addition to the uniform allowance, on the first payday in September of each year for the purchase and maintenance of required uniforms.

H. MAST

MAST will receive \$300, in addition to the uniform allowance, on the first payday in September of each year for the purchase and maintenance of required uniforms. Personnel regularly assigned to MAST, shall be provided with:

- 1. Handgun and ammunition**
- 2. Badge**
- 3. Protective vest and cover**
- 4. Pepper Spray and nylon Pepper Spray holder**
- 5. Handcuffs and nylon holder**
- 6. Dig out uniform**
- 7. Respirator**
- 8. Inner Belt**
- 9. Outer Belt**
- 10. Belt Keepers**

11. Holster
12. Radio Holder
13. Magazine Holder
14. Key Keeper
15. Knife or Multi-Use Case
16. Flashlight Holder
17. U-Dig It Shovel

I. Bomb Squad

Bomb Squad will receive \$300, in addition to the uniform allowance, on the first payday in September of each year for the purchase and maintenance of required uniforms. Personnel regularly assigned to the Bomb Squad, shall be provided with:

- 1. Nomex Jump Suit**
- 2. Light Body Armor to include helmet**

J. Air Operations

Personnel regularly assigned to Air Operations shall be provided with:

- 1. Flight Jacket - Nomex FR**
- 2. Flight Helmet**
- 3. Two Flight Suits - Nomex FR (Single or Two Piece)**
- 4. Two Pairs of Flight Gloves - Nomex FR**
- 5. Flight Boots - Danner Wildland**
- 6. Flight gloves - Nomex FR**

K. Technical Rescue Team (TRT)

Permanent members of the TRT will receive \$300, in addition to the uniform allowance, on the first payday in September for the repair and replacement of required uniforms as described in the TRT Administration Manual. Personnel regularly assigned to a TRT station **and TRT relief members** will be provided with:

- 1. One Technical Rescue Helmet**
- 2. One Helmet Light, Front**
- 3. One Helmet Light, Side**
- 4. One Set of Technical Rescue Safety Goggles**
- 5. One Pair of Technical Rescue Safety Glasses**
- 6. One Pair of Extrication Gloves**
- 7. One Pair of Rope Rescue Gloves**
- 8. One Technical Rescue Jacket**
- 9. One Technical Rescue Pant**
- 10. One Rescue Belt**
- 11. One Pair of Technical Rescue Boots**
- 12. One Gear Bag**

ARTICLE 22

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, 2020

1. For eligible employees hired before July 1, 2020, total Flex Credits of \$1,750 (Waiver) and \$9,830 (Employee Only) are available for FY21 with the customary cash-back option. These options allow the maximum cash-back opportunity for employees who waive medical insurance or cover only themselves. However, for FY21, 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, 2020, 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 \$1,750 (Waiver) and \$9,830 (Employee Only) in FBP Credits and Take Cash-Back

During open enrollment for the FY21 fiscal year which begins on July 1, 2020, employees hired before July 1, 2020 who wish to maximize the cash available to them from their total \$1,750 (Waiver) and \$9,830 (Employee Only) in FBP Credits, must select 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 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 City-Paid Medical Coverage for Employee-Plus Tiers and Use Remaining FBP Credits for Other Benefits But Take No Cash Back**

During open enrollment for the FY21 fiscal year which begins on July 1, 2020, employees hired before July 1, 2020, will have the option to get more Flex Credits to cover themselves plus a spouse, domestic partner, children or family as follows:

Employee and Children	\$15,000
Employee and Spouse/Domestic Partner	\$18,250
Employee and Spouse/Domestic Partner and Children	\$20,750

Once an employee has selected 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, 2020**

1. For eligible employees hired on or after July 1, 2020, 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, 2020, will have the following Flex Credits available for FY21. 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.

Employee Only	\$7,600
Employee and Children	\$15,000

Employee and Spouse/Domestic Partner	\$18,250
Employee and Spouse/Domestic Partner and Children	\$20,750

For employees hired on or after July 1, 2020, 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.
- E. The benefits available through the FBP and the respective annual costs of the benefits are reflected in the Flexible Benefits booklet provided to each employee each year.
- F. Significant changes to the benefit options FY 2020-2021 are:
 - 1. Effective August 1, 2020, Local 145 will make available its own HMO medical plan through City’s FBP.
 - 2. Local 145 members will have the option of enrolling in City’s Kaiser HMO Medical Plan, City’s PPO Medical Plan, **City’s Cigna Select Plan**, or Local 145 HMO Medical Plan.

G. 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 shall 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.
- 3. Eligible employees may designate a specific amount of pre-tax money (IRS restrictions apply) to be withheld from their paycheck 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.
- 4. Eligible employees are required to enroll for their benefits each year during the designated open enrollment period. If an employee fails to complete enrollment within the open enrollment period, the employee’s current options for medical coverage (or a comparable plan if that option is unavailable), including dependent medical 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.

5. The City agrees that it will not arbitrarily or unreasonably deny Local 145 the opportunity to offer a medical insurance plan to active or retired employees. The City and Local 145 agree to meet and discuss Local 145's proposal to establish a 501(c)(9) trust ("Trust"), with adequate notice to the City, for the sole purpose of providing medical, dental, vision, and other related benefits to Local 145 members. Establishment of the Trust is subject to compliance with applicable tax and fiduciary rules, regulations, and guidance, as determined by the City Attorney. If a trust is established, the City will make monthly payments to the Trust on behalf of each eligible active employee represented by Local 145, and these payments will equate to and be in lieu of, the annual FBP credit allotments the City provides to eligible employees in paragraphs two and three above.
6. Local 145 agrees to indemnify the City against any and all claims arising out of the administration of Local 145's benefits plans.

7. Audit and Inspection of Records.

The City Auditor is authorized to audit all necessary documents pertaining to the health insurance plans offered by Local 145, and Local 145 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.

8. Local 145 will be given the opportunity to answer questions about the FBP and its plan offerings during open enrollment and in New Employee Orientation sessions.
- H. With 90-days prior written notice to Local 145, 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, 2022:
1. Rate renewals with group health insurance providers in early calendar year 2021 will need to account for transition to calendar year plan (17-month rate renewal for coverage dates starting in August 1, 2021 through December 31, 2022).
 2. A first open enrollment will be held in June 2021 for short plan year. (Health plan coverage effective dates will be August 1, 2021 through December 31, 2021).
 3. A second open enrollment will be held in November 2021 for a new calendar year plan. (Health plan coverage effective dates will be January 1, 2022 through December 31, 2022).
 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.

- I. **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 23

Retirement

A. **SDCERS Employee Offset.**

Effective July 1, 2009, the City's offset of employee pension contributions for employees in Local 145 Represented bargaining units is eliminated.

B. **DROP.**

1. City contends that the Deferred Retirement Option Plan (DROP) is an employment benefit subject to modification through the meet and confer process. Despite Local 145's disagreement with this contention, the Parties agree that, during the term of this MOU, they will meet and confer over proposals to modify DROP to make DROP "cost free" to City. The Parties acknowledge that City's proposals will modify DROP to make DROP "cost free" as defined by City and may include any and all aspects of DROP, including but not limited to, all of the DROP alternative plan design proposals set forth in a study by Buck Consultants presented by City to Local 145 on March 14, 2012, or any variations of the alternative proposals which changes numbers or percentages reflected in the Buck study. However, by agreeing to meet and confer regarding proposals to modify DROP, Local 145 is not waiving its right to challenge any proposed modification to DROP on the basis that it may impair a constitutionally protected, individually vested pension benefit, or on any other ground. Local 145 further reserves its right to argue, despite any contrary assertion by City, that the current unmodified DROP is, in fact, "cost free" within the meaning of reasonable actuarial principles and appropriate margins of error. Moreover, in agreeing to meet and confer regarding proposals to modify DROP, neither Party is waiving its rights to make any legal arguments or pursue any legal action related to any proposed DROP modification.

In the event City and Local 145 reach agreement on any modifications to DROP, these modifications will become effective on the date agreed upon. In the event the Parties fail to reach an agreement, any impasse hearing related to DROP will be conducted in accordance with Council Policy 300-06 on a date to be agreed upon by the Parties but in no event before January 1, 2013. However, any impasse hearing related to the Parties' meet and confer over DROP, including the aspects of DROP described above, will be separate from and not combined with any issues remaining for impasse in connection with the Parties' meet and confer process for a new MOU for Fiscal Year 2014.

2. Effective July 1, 2009, interest will be credited to the Member's DROP account at a rate determined by the SDCERS Board of Administration (SDCERS Board).
3. Employees hired on or after July 1, 2005, are not eligible for DROP. Article 4, Division 14 of the Municipal Code has been revised to reflect this change.

C. **General Retirement Provisions.**

Paragraphs 1 through 9 below of this Article reflect the Parties' agreement regarding

retirement contributions and benefits resulting from prior negotiations.

1. 2005 Benefit Changes.

a. Retirement Contribution Adjustments.

1. The following language in paragraphs 1.a.(2) through 1.a.(3) has been left in the MOU for historical purposes only and has no force and effect during the term of this MOU.
2. Effective July 2, 2005, the employee pension contribution for employees in Local 145-represented Bargaining Units will increase by 3.0% of the employee's base **wage**. This negotiated increase in the employee pension contributions represents a decrease in City's offset of the employee pension contributions.
3. The 3 percent negotiated employee pension contribution increase effective July 2, 2005, is in addition to the employee pension contribution increase that will take effect automatically upon depletion of the Employee Contribution Rate Reserve in 2005. City will calculate the amount of this automatic pension contribution increase by September 1, 2005. As initial payment of this automatic pension contribution increase beginning July 2, 2005, the employee pension contribution for Local 145-unit members will increase by 1.5 percent of the employee's base **wage**, with the goal of applying the increase in approximately equal amounts over the entirety of Fiscal Year 2006. City will adjust the 1.5 percent figure as needed following calculation of the actual amount of the automatic pension contribution increase.

b. Use of Negotiated Employee Pension Contribution Increases.

1. The following language in paragraphs 1.b.(2) through 1.b.(3) has been left in the MOU for historical purposes only and has no force and effect during the term of this MOU.
2. All monies resulting from the 3 percent negotiated employee pension contribution increase effective July 2, 2005 (i.e., City savings that result from substituting those increases for City offset of employee pension contributions), shall be designated exclusively for payment to support a leveraged mechanism to reduce the San Diego City Employees Retirement System (SDCERS) unfunded actuarially accrued liability ("UAAL"), such as Pension Obligation Bonds, lease capitalization, or a similar mechanism selected by City. If City does not implement a leveraged mechanism to reduce the UAAL within the term of this MOU, then these monies shall be deposited into the SDCERS Employee Contribution Rate Reserve and used to defray the pension contribution obligation of employees in Local 145-represented Bargaining Units.
3. The Parties agree that Local 145 will not contend that City has breached Article 23(2)(B) of the Fiscal Year 2006 MOU, provided that for Fiscal Year 2007, City uses the negotiated employee pension contributions of Local 145 members from Fiscal Year 2006 and 2007 to support a leveraged mechanism to reduce the SDCERS "UAAL", such as Pension Obligation Bonds, lease capitalization, or a similar mechanism selected by City. If

City does not implement a leveraged mechanism to reduce the UAAL within the term of this MOU, then these monies shall be deposited into the SDCERS Employee Contribution Rate Reserve and used to defray the pension contribution obligation of employees in Local 145-represented Bargaining Units.

c. Retirement Contribution Offsets.

Upon termination of employment, an employee will have no vested right in employee pension contribution offsets contributed by City. Substitution of this portion of the employees' contribution by a City payment will not decrease the total amount applied toward the required retirement contribution and will not affect retirement benefits. Provided, however, such payment shall not exceed any employee's total contribution to the Retirement System.

d. Purchase Of Service Credit.

Employees hired on or after July 1, 2005, are not eligible for the purchase of service credit ("airtime") in SDCERS, 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.

e. "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 Sections 24.1502(c) and 24.1503 of the Municipal Code.

f. Calculation of Service Retirement Allowance.

The service retirement allowance calculation formulas for employees hired on or after July 1, 2005 and before July 20, 2012, will be 2.5% at age 55 for General Members and 3.0% at age 50 for Safety Members, with the existing tiers for those formulae. 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 formulas will remain as currently provided under Article 4, Division 4 of the Municipal Code. Limiting the Defined Benefit Plan to employees hired before July 20, 2012 is subject to the reopener provisions on Proposition B in Article 31, Section E.

2. Retirement Contribution Offsets.

- a. The following language in paragraphs 2.b. through 5 has been left in the MOU for historical purposes only and has no force and effect during the term of this MOU.
- b. City agrees to continue to offset or pay for 4.3% of the employee's portion of the required retirement contribution to SDCERS. The employee, upon termination, will have no vested right in the amount so contributed by City. Substitution of this portion of the employee's contribution by a City payment will not decrease the total amount applied towards the required retirement contribution and will not affect retirement benefits. Provided, however, such

payment shall not exceed any employee's total contribution to the Retirement system.

- c. City agrees that it will apply an amount that is approximately equal to 7.3% of the base **wage** of employees covered by this MOU who are SDCERS Safety Members, into the City Retirement System, thereby reducing the amount deducted from employee's paychecks as the employee's retirement contribution by that amount. Effective July 1, 2002, this amount for Safety Members will be increased to 9.0%. This increase will remain in effect until the Employee Contribution Reserve is exhausted. Effective July 5, 2003, this amount, for Safety Members, will increase to 10% of base **wage**. This increase will remain in effect until the Employee Contribution Reserve is exhausted. For SDCERS General Members represented by Local 145, effective July 5, 2003, City agrees that it will apply an additional 1.6%, for a total of 7.0%, of the base **wage** of employees covered by this MOU, into the Retirement System, thereby reducing the amount deducted from employee's paychecks as the employee's retirement contribution by that amount. This increase is to remain in effect until the Employee Contribution Reserve is exhausted. The employee, upon termination, will have no vested right in the amount so contributed by City. Substitution of this portion of the employee's contribution by a City payment will not decrease the total amount applied towards the required retirement contribution, and will not affect retirement benefits provided, however, such payment shall not exceed any employee's total contribution to the Retirement System.
 - d. City agrees not to propose reductions in the retirement offset through 2002.
3. 1981 Pension Plan.

Effective July 1, 1991, for the purpose of benefit calculation only, 1981 Plan service is equivalent to SDCERS Service.
 4. COLA.

Effective July 1, 1992, the cost of living adjustment (COLA) for retirees who retired before October 6, 1980, will increase from 1.5 percent to 2 percent per year.
 5. Widows Benefit.

Effective July 1, 1992, and thereafter, a group of widows of deceased Safety Members from the special safety class will receive a benefit of \$350 per month.
 6. Internal Revenue Code section 414(h)(2).

Beginning January 3, 1993, City agrees to implement Internal Revenue Code (IRC) section 414(h)(2) for Local 145 employees, allowing employee contributions to the Retirement System to be made pre-tax.
 7. 1997 Benefit Changes.
 - a. The Disability Income Offset provision is eliminated. There will be no reduction of retirement benefits if the retiree has other income.

- b. A five-year purchase of service credit provision is established effective January 1, 1997. Under this provision, the eligible members 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 to make the Retirement System whole for such time. In addition, eligible 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, SLOWP occurring prior to January 1, 1997, the difference in time between part time and full-time prior to January 1, 1997, LTD, Vocational Rehabilitation Maintenance and Temporary Total Disability, FMLA periods, special leaves of absence with job to be saved periods, and any period preceding reinstatement by the Civil Service Commission following a termination appeal.
- c. DROP is established effective April 1, 1997. DROP provides an alternative form of benefit accrual while allowing an eligible 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 Flex Benefits Plan for the classification and is not eligible for "Retiree" Health Benefits until such time as the Member completes or terminates the DROP period. Under DROP, a monthly service retirement allowance along with any COLA increases, Supplemental Benefit checks and any adjustments to such payments applicable to retirements effective on the date the Member entered 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 the 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 the DROP. The Member's contribution is made on a pre-tax basis pursuant to IRC section 414(h)(2). These employee and employer contributions are credited to the Member's DROP Account 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 is credited to the Member's DROP Account at a rate determined by the SDCERS Board. The Member is 100% vested in **their** DROP Account at all times.
- 1 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, and the employee shall retain all of the DROP and matching contributions. 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.
 - 2 After the Member terminates City employment, the DROP account will be distributed as a lump sum, or in any other manner permitted by the IRS.

- d. 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.
 - e. 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.
 - f. 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.
 - g. A retirement allowance cap of 90% of Final Compensation, **as defined in Municipal Code section 24.0103**, is established for eligible Fire Safety Members.
 - h. This paragraph has been left in the MOU for historical purposes only and has no force and effect during the term of this MOU. City and Local 145 agree to jointly support a request to the SDCERS Board to pay 0.49% of the employee's contribution from SDCERS' undistributed earnings effective July 1, 1998. This 0.49% represents a portion of the increase in employee's contribution scheduled to go into effect July 1, 1998, as a result of benefit improvements, which were implemented January 1, 1997.
8. 2000 Retirement Benefit Changes.

City and Local 145, 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. Formula Change for Calculation of SDCERS Monthly Retirement Benefit.

The Retirement Calculation Factor to be applied to the Fire Safety Member's **Final Compensation, as defined in Municipal Code section 24.0103**, at specified ages may be increased from the current levels to those shown below for all retirements effective on or after July 1, 2000 if the Fire Safety Member selects this option.

Retirement Age	Retirement Calculation Factor Effective 1/1/1997 – 6/30/2000 [Current]	Retirement Calculation Factor Effective 7/1/2000 [New]
50	2.50%	3.00%
51	2.60%	3.00%
52	2.70%	3.00%
53	2.80%	3.00%
54	2.90%	3.00%
55+	2.9999%	3.00%

b. Member Option.

Pursuant to the class action settlement, a Member may choose, upon application for retirement, one of the following two options:

1. The Retirement Calculation Factor in effect on July 1, 2000, with no change in the Fire Safety Member's Final Compensation; OR
 2. A 10% increase in the Fire Safety Member's Final Compensation, with the Fire Safety 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.
- d. Fire Safety Member's SDCERS Contribution Rate Change.

This paragraph has been left in the MOU for historical purposes only and has no force and effect during the term of this MOU.

1. On July 1, 2001, Fire Safety Members' contribution rates to SDCERS will be increased by 0.53%.
 2. Effective July 1, 2000, Fire Safety Members' Contribution rates will increase by an additional 0.16% to pay for the cost of providing the choice of Retirement Calculation Factors described above. The additional 0.16% increase will be paid from the Employee Benefit Reserve described in Municipal Code section 24.1507 until the Reserve is exhausted.
- e. Eligibility for Industrial Disability Retirement Change.

A Fire Safety Member may be eligible for an industrial disability retirement if it has been medically determined that the Fire Safety 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, 2002, 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.

9. 2002 Benefit Changes.

a. Change of Retirement Calculation Factors for City GENERAL Members.

1. The Retirement Calculation Factors used to calculate a General Member's Allowance will increase to the levels shown below ("New Factors") for all retirements effective on or after July 1, 2002, unless the General Member elects, before retirement, to have **their** Allowance calculated using the Old Factors (2% at age 55, etc., with 10% added to the Member's Final Compensation) or the Corbett Factors (2.25% at age 55, etc.). The New Factors will apply to all City employees who join the Retirement System after June 30, 2002, and their Allowances will be capped at 90%. The 90%

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

Retirement Age	Benefit
55-59	2.50%
60	2.55%
61	2.60%
62	2.65%
63	2.70%
64	2.75%
65+	2.80*

2. Any General Member whose Allowance as of July 1, 2002 is 90% or more using the New Factors may continue to accrue benefits above the 90% cap until December 31, 2002. The General Member's Allowance will be capped at that time.
 - a. Any General Member who joined the Retirement System before July 1, 2002 may continue to accrue benefits above the 90% cap using either the Old Factors or the Corbett Factors. If the Member selects one of these options, the Member's Allowance will not be capped, and the Retirement System will refund to the Member, at retirement, any excess contributions the Member made to fund the New Factors.
 - b. Any General Member who joined the Retirement System before July 1, 2002, and reaches the 90% cap by choosing the New Factors, may continue to accrue benefits above the 90% cap until December 31, 2002, at which time the Member's Retirement Calculation Factor and Creditable Service are capped; the Member's Final Compensation is not capped. On January 1, 2003, the Member must choose one of the following options:
 - i. If the Member is eligible for a service retirement on January 1, 2003, **they** may:
 - (i) Continue working and contributing to the Retirement System,
 - (ii) Enter DROP, or
 - (iii) Retire.
 - c. A General Member may exceed the 90% cap if the Member:
 - i. Applied to purchase creditable service on or before June 5, 2002, and thereafter signed the contract to purchase that time,
 - ii. Was hired at age 24 or younger, and

- iii. Will exceed the 90% cap because of the Creditable Service **they** applied to purchase on or before June 5, 2002. The Member may not exceed the cap by creditable service that **they** applied to purchase after June 5, 2002.
- d. When a Member who meets the conditions of paragraph 3 first becomes eligible for a service retirement, **their** Retirement Calculation Factor and years of creditable service will be capped at that time, even if the Member continues to work and contribute to the Retirement System. The Member's Final Compensation will not be capped. When eligible to retire, the Member may:
 - i. Continue working and contributing to the Retirement System,
 - ii. Enter DROP; or
 - iii. Retire.
- b. GENERAL Members SDCERS Contribution Rate Change.

This paragraph has been left in the MOU for historical purposes only and has no force and effect during the term of this MOU.

On December 20, 2003, General Members' contribution rates to SDCERS will be increased by an approximate additional 0.53%.

c. Annual Leave Conversion.

1. During the meet and confer between City and Local 145 for Fiscal Year 2009, the Parties met and conferred in good faith and reached a tentative agreement on April 11, 2008. During this meet and confer, the Parties did not discuss any changes to the below section of the Operating Procedures. It provided as follows:

Employees in the Bargaining Unit will no longer be eligible to exercise any cash out feature of annual leave accrued from July 1, 2002 prospectively. Since employees cannot cash out post-July 1, 2002 annual leave, employees who have balances of post-July 1, 2002 annual leave at the end of their DROP period, will be permitted to extend the DROP period beyond the five-year maximum by that amount of post-July 1, 2002 annual leave not converted to service credit prior to entering DROP. Specific procedures for implementing this benefit will be subject to IRS rules, as interpreted by the City Attorney's Office.

2. On April 21, 2008, the City Council approved the tentative agreement for Fiscal Year 2009 subject to the final MOU returning to the City Council for ratification on a future date. On April 1, 2008, the City Council passed an ordinance amending the Municipal Code to require a lump sum payment for the purchase of San Diego City Employees Retirement System service credit and prohibiting the practice of purchasing service credit with annual leave. SDCERS has not allowed any member to purchase service credit with annual leave since April 1, 2009.

10. After July 1, 2008, Local 145 shall have the right to notice City in writing of the intent to implement a medical expense reimbursement plan to provide a tax-favored benefit to retirees in accordance with the Plan's Trust document. Local 145 notice shall specify the proposed date of implementation, which shall be no earlier than July 1, 2008. The notice shall include a copy of the trust document and other pertinent operational documents that are sufficient for City to determine compliance with IRS regulations. It is understood that the trust shall be established, governed and administered by the trust and Local 145. City shall not be responsible for the trust and appropriate hold harmless and indemnity provisions shall be endorsed by Local 145 prior to implementation. Once City has approved the trust, City agrees to implement payroll withholding from all employees in the Bargaining Unit in an amount designated by the trust and approved by Local 145 for deposit to the trust. Local 145 will not authorize payroll withholding from employees on a unit wide mandatory basis that has not been approved by Local 145 membership in the Bargaining Unit covered by this MOU. Membership approval shall be determined by a majority of ballots cast following the notice of election.

- a. City shall fund an amount not to exceed \$80,000, as and for the purpose of formation of the trust. The maximum \$80,000 City-funding shall be utilized only for the initial formation of the trust and shall not be a recurring City-funded expenditure. The "formation" process for which the maximum City-funded amount of \$80,000 is applicable, shall terminate when the trust is lawfully empowered to accept employee deposits.
- b. Under no circumstance shall City be required to participate in administration of the trust or in funding any expenses of or deposits to the trust, other than the amount described above, which shall be used solely for trust formation.

11. City Initiation of Retirement-Related Litigation.

- a. It has been, and continues to be, the position of the City that the above described DROP and service credit purchase provisions are not vested benefits and are therefore subject to modification without compliance with the strict rules governing modification of vested retirement benefits. Local 145 disagrees. Therefore, the Parties acknowledge that during the term of this agreement, City shall initiate a declaratory relief and/or other civil causes of action as in City's the sole determination are deemed appropriate by which to secure a determination as to any or all of the following issues:
 1. Are the above- described Deferred Retirement Option Plan (DROP) and/or any and all MOU/Code provisions allowing for the purchase of service credit for retirement benefit calculation purposes, "vested" benefits.
 2. Can the purchased service credits be utilized to determine vesting into the Retirement System.
 3. Are benefits subject to modification pursuant to any and all provisions of the Charter or other applicable rules and regulations.
 4. And/or what, if any, conditions precedent exist to the implementation of City-initiated steps by which to modify and/or eliminate DROP and/or service credits.

- b. Although Local 145 reserves its rights to plead any and all substantive defenses which it deems appropriate as to such future litigation, Local 145 shall not take a position to the effect that initiation of such future litigation is barred.
12. During the term of this MOU, if any provision regarding the level of pension benefits, pension contributions, or the availability of a defined benefit pension plan is invalidated by court order or by an amendment to the California Constitution, the reductions in the offset contained in Article 23 of this MOU will immediately sunset and revert back to the level of offset in effect on June 30, 2005, and the Parties will reopen negotiations on pension issues.
13. Retiree Health Benefits.

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 145), which the City Council adopted by San Diego Ordinance O-20131 (February 17, 2012) and amended by San Diego Ordinance O-20171 (June 26, 2012).

- a. The following language in paragraph 9.d.(2) has been left in the MOU for historical purposes only. City and Local 145, having met and conferred, have agreed to benefit improvements to the Retirement System for Health Eligible Retirees.
 - b. 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 percent 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:
 - 1. For non-Medicare eligible retirees: \$489.16
 - 2. For Medicare eligible retirees: \$460.67
14. New Retirement Factor Computation for Safety Members hired on or after January 1, 2012 but before July 20, 2012, as Fire Fighters of the City Fire-Rescue Department.

A Safety Member, who is employed as a Fire Fighter of the City Fire-Rescue Department and is hired by City on or after January 1, 2012, but before July 20, 2012, will have a Retirement Calculation Factor of 3% when the Safety Member reaches age 55 with at least ten years of Creditable Service. A Safety Member who

is employed as a firefighter of the City Fire-Rescue Department and is hired by City on or after January 1, 2012, will have the option to retire at the age of 50 after twenty years of Creditable Service with a proportionately reduced Unmodified Service Retirement Allowance, as follows:

Retirement Calculation Factor is 2.5% at age fifty; 2.6% at age 51; 2.7% at age 52; 2.8% at age 53; 2.9% at age 54; and 3.0% at age 55. For purposes of determining retirement allowance for these Safety Members, "Final Compensation" will be defined as the average of the Safety Member's three highest years of Base Compensation at any time during **their** Membership in the System. Limiting the Defined Benefit Plan to employees hired before July 20, 2012 is subject to the reopener provisions on Proposition B in Article 31, Section E.

15. Retirement Benefits for Employees Initially Hired on or After July 20, 2012.

On October 1, 2012, the City Council approved an agreement between the City and Local 145 on the terms of 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. The agreement is attached as Appendix A and is incorporated into this MOU. This paragraph is subject to the reopener provisions on Proposition B in Article 31, Section E.

ARTICLE 24

Compensation

A. General Wage Increase

1. Effective July 1, **2020**, there will be a general **wage** increase of **0%** for all employees covered by this MOU.

B. Total Compensation Survey

City shall conduct or have conducted a complete compensation survey of the largest municipal government organizations within the County of San Diego and within the State of California, as determined by the City. City will have the survey completed in time for the initiation of bargaining for a successor MOU. City will meet and consult with Local 145 over the list of agencies it will use for the compensation survey. The survey shall include, at a minimum, **the ten largest cities in the State and every city in San Diego County, and at a minimum, include** information regarding the wage scale utilized by each agency and the **medical benefits and retirement benefits**.

ARTICLE 25

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 MOU, or Management policies or regulations, including, but not limited to, Administrative and Departmental Regulations which affect wages, hours, or other terms and conditions of employment.

2. Actions which are covered in the Management Rights Article of this MOU are not grievable, but this does not preclude employees or their representatives from consulting with Management about the practical consequences actions taken pursuant to the Management Rights Article may have on wages, hours, and other terms and conditions of employment. In addition, actions covered by another appeals process as described in the Civil Service Rules, Personnel Manual, or this MOU are not grievable and cannot be processed through this grievance procedure.
3. Wherever applicable, in this MOU, the term “working days” means the actual work days of the employee who filed the grievance. In grievances filed by Local 145 on behalf of a group of its members, “working days” means calendar days, excluding Saturdays, Sundays, and recognized City holidays. For 56-hour employees, each working shift constitutes two “working days” for the purpose of determining time limits for this grievance procedure.
4. If the grievance system is abused by an unreasonable number of submittals by one individual or group designed to thwart orderly processing, or if the grievances are patently irrelevant or incomprehensible, they will be rejected as “non-grievable” and returned to the grievant.

B. Policy.

1. Employees have the right to file grievances without jeopardizing their positions.
2. Employees may represent themselves or select whomever they wish to represent them at any or all steps in the grievance procedure.
 - a. The employee has the right to the assistance of a Local 145 representative in the investigation, preparation, and presentation of a written grievance.
 - b. Employees may have no more than one City employee and one non-City employee as representatives for grievance hearings.
 - c. Battalion Chiefs and Fire Captains may not represent Fire Fighters and Fire Engineers. Battalion Chiefs may not represent Fire Captains. Members of the Board of Directors may represent employees in all Fire classifications in grievances.
3. 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 MOU, the representation must come from Local 145.
4. The employee’s or Local 145’s first contact regarding job and working conditions is with **their** immediate supervisor who shall attempt to settle grievances informally at this level.
5. A grievance will normally be presented and processed on City time, and a grievant attending a grievance meeting on **their** own behalf on City time will not lose pay. In scheduling the time, place, and duration of any grievance meeting, the employee, a steward and Management will give due consideration to all the participant’s responsibilities in the essential operations of the Department. However, the final decision for scheduling hearings rests solely with

Management. 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. An automatic referral to the next level shall not be construed as removing the responsibility of Management at the next level from hearing the grievance and responding within applicable time limits, if it is within the authority of that level to settle the grievance.
 - b. Any level of review, or any time limits established in this procedure, may be waived or extended for good cause and only by mutual agreement confirmed in writing.
 - c. If an employee fails to appeal from one level to the next level within the time limits established in this grievance procedure, the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.
 - d. By mutual agreement, the grievance may revert to a prior level for reconsideration.
 - e. If a grievant fails to appear for a scheduled grievance meeting, the failure to appear without an approved excuse by the Appointing Authority shall entitle 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 the grievance and it is deemed denied. The grievance shall not be subject to further appeal or reconsideration.
 - f. When a grievant is on approved leave the time limits established in this procedure shall be suspended for the period of the leave.
 - g. No grievance shall be finally dismissed for an unexcused failure to appear at a scheduled hearing unless the grievant had been given twenty-four hours advance notice of the hearing.
7. Local 145 agrees to pursue all claims of violation of this MOU through the grievance procedure. Resort to other remedies shall not be pursued until all steps of the grievance procedure have been exhausted.
8. Management shall provide Local 145 with copies of all grievances regarding this MOU filed by employees within the Local 145 Bargaining Unit, who choose to represent themselves.

C. Procedures.

1. General.

- a. Management of the Department (i.e., Captains and higher ranking officers) 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 shall:
 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 shall be returned to the employee along with a memorandum explaining why the matter is not grievable and what alternative procedures, if any, the employee may follow to process **their** complaint.
 - b. When a group of identical grievances develop, only one grievance form shall 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 shall be recognized if it is brought to the attention of the immediate supervisor either informally or formally within ten working days, as defined in section A.3.
 - d. If the grievance is between the employee and **their** immediate supervisor, the Step 1 may be to the employee's next higher-level supervisor.
 - e. If Local 145 wishes to process a grievance on behalf of a class of represented employees which will require resolution by the Fire Chief, it may submit the grievance directly to the Fire Chief or **their** designee, pursuant to Step 4 of this grievance procedure. Thereafter, should this grievance not be resolved, the remaining steps of this grievance procedure may be implemented by Local 145. However, Local 145 shall meet with the Chief to discuss the matter prior to submitting the matter as a formal grievance.
 - f. To be recognized, a grievance must state which policy, rule, regulation, is involved in the matter and the nature of the remedy sought by the employee or Local 145.
2. Steps.
- a. Step 1: At the employee's or Local 145'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. If the grievance is presented in

writing, the procedure is formal, and the answer must be given in writing within five working days after submission.

- b. Step 2: If the grievance cannot be resolved at Step 1, the employee or Local 145 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 ten working days of the receipt of the grievance by a second-level supervisor, a hearing shall be held. The Management representative shall give a written decision to the employee and the Local 145 representative.
- c. Step 3: If the grievance is not resolved at Step 2, the employee or Local 145 may submit the grievance to the Division Head within five working days of receipt of Management's written decision. Within ten working days of the receipt of the grievance, a hearing shall be held and the Department Head shall give a written decision to the employee and Local 145 representative.
- d. Step 4: If the grievance is not resolved in Step 3, the employee or Local 145 may present the grievance to the Department Head within five working days of receipt of Management's written decision. Within ten working days of the receipt of the grievance, a hearing shall be held and the Department Head or **their** designee shall give a written decision to the employee and Local 145 representative. In non-managerial departments this shall constitute the final resolution of a grievance involving Management policy or regulations.
- e. Step 5: Final Resolution of Grievance: If the grievance is still in dispute after Step 4, the employee or Local 145 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 Local 145, 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. Within **30** working days, a hearing shall be held and the written decision issued. The employee or Local 145 may only request a hearing before the Civil Service Commission on matters solely involving Civil Service Rules or the Personnel Manual.
- f. Step 6: Grievances arising out of a disagreement on interpretation or application of this MOU shall follow Citywide grievance procedure. Local 145 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 Management. Management will refer the grievance to the City Council for hearing and decision.
- g. The City Council shall have one year from the date that Local 145 serves written notice on Management of its desire to have the grievance heard before the City Council, within which to calendar the grievance for hearing. If the City Council does not calendar the matter for consideration within the one-year period, then the grievance shall be considered granted.

ARTICLE 26

Implementation

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

- A. The tentative agreement shall be submitted to the City Council and the membership of Local 145 for their action as soon as possible after agreement has been reached by the Management Team and Local 145 negotiating team.
- B. The members of Local 145 act, by majority vote, formally to approve and adopt the successor MOU, no later than **June 15, 2020**. Local 145 shall notify Management of the result of the Local 145 vote no later than **June 15, 2020**.
- C. The City Council and Civil Service Commission act, by majority vote, to formally approve and adopt these Articles within their respective jurisdictions.
- D. City shall act as soon as possible to make the necessary changes in ordinances, resolutions, rules, policies, and procedures to conform to this MOU. All such changes shall be submitted to Local 145 prior to their submittal for implementation to **ensure** that the proposed changes are consistent with this MOU.

ARTICLE 27

Term

This MOU begins at 12:01 a.m. on **July 1, 2020**. This MOU expires and is terminated at 11:59 p.m. on **June 30, 2021**.

ARTICLE 28

Leave Programs

- A. **The maximum accumulation of annual leave for employees hired before July 1, 1994 with 15 or more years of service is 980 hours. The maximum accumulation of annual leave for employees hired before July 1, 1994 with less than 15 years of service is 840 hours. The maximum accumulation of annual leave for employees hired on or after July 1, 1994 and before July 1, 2016 is 552 hours. The maximum accumulation of annual leave for employees hired on or after July 1, 2016 who regularly work administrative schedules of 40-hour workweeks is 395. The maximum accumulation of annual leave for employees hired on or after July 1, 2016 who regularly work suppression schedules of 56-hour workweeks is 552.**
- B. **Effective the first full pay period following July 1, 2016 and continuing at the same time each fiscal year thereafter, the City will process a mandatory payment-in-lieu of annual leave for employees who have not reduced their accrued annual leave balances below the maximum accumulation amounts set forth in Paragraph A of this Article, as follows:**

1. If an employee has more than 1,000 hours of annual leave accrued and unused on the last day of the first full pay period following July 1 of each fiscal year, the City will process a mandatory payment-in-lieu of 175 hours.
 2. If an employee has more than 2,000 hours of annual leave accrued and unused on the last day of the first full pay period following July 1 of each fiscal year, the City will process a mandatory payment-in-lieu of 350 hours.
 3. If an employee has more than 3,000 hours of annual leave accrued and unused on the last day of the first full pay period following July 1 of each fiscal year, the City will process a mandatory payment-in-lieu of 525 hours.
- C. Prior to January 1, 2019, if an employee, who has not entered DROP, has earned and unused annual leave over the maximum accumulation of annual leave amounts set forth in Paragraph A of this Article, the employee may elect to receive voluntary payment-in-lieu of annual leave for any hours above the maximum accumulation amounts.
- D. Effective January 1, 2019, employees, who have not entered DROP and who have 160 hours or more of accrued annual leave, may elect to receive a maximum voluntary payment-in-lieu of 125 hours per fiscal year for employees with regular work schedules of 40 hours per week and 175 hours per fiscal year for employees with regular work schedules of 56 hours per week. Voluntary payment-in-lieu of annual leave will be administered in accordance with agreed-upon and approved procedures intended to comply with Internal Revenue Service regulations related to constructive receipt of income.
- E. Effective July 1, 2019, for Fiscal Year 2020, employees who have not reduced their annual leave balances below the maximum accumulation amounts set forth in Paragraph A of this Article by July 1, 2019 will cease to accrue annual leave as of that date until their accrued annual leave falls below their maximum accumulation amount.
- F. Effective June 30, 2020, for Fiscal Year 2021 and thereafter, employees who have not reduced their annual leave balances below the maximum accumulation amounts set forth in Paragraph A of this Article by their City anniversary date cease to accrue annual leave. However, employees, who have not entered DROP and expect to be in this situation, may submit a written plan by which to reduce excess annual leave by taking specified time off. If the Appointing Authority denies the specific request for time off and provides no alternative time off which is acceptable to the employee, the cease-to-accrue provision will not apply until the employee is granted and takes the time off. It is the City's intent to accommodate employees' requests to use annual leave and avoid any loss of this benefit.
- G. Employees in DROP may notify the City of their intent to extend their DROP period by the amount of accrued, unused annual leave, in accordance with the rules on DROP set forth in Article 4, Division 14 of the San Diego Municipal Code. Any annual leave used to extend an employee's DROP period will not count towards the cease-to-accrue provisions.
- H. Employees in DROP no longer have access to voluntary payment-in-lieu of annual leave and must use their annual leave for time off. However, employees in DROP with unused annual leave remaining at the end of their five-year DROP period may

extend their DROP period by the amount of accrued, unused annual leave, in accordance with the rules set forth in Article 4, Division 14 of the San Diego Municipal Code. If an employee in DROP separates from City service prior to the end of the five-year DROP period, the City will cash out the employee's accrued, unused annual leave at the employee's separation or retirement. If an employee extends the DROP period by accrued, unused annual leave, the City will cash out any annual leave earned during the DROP extension period upon the employee's retirement.

I. Payment In-Lieu of Annual Leave

- 1. Effective for all calendar years beginning on and after January 1, 2019, employees may convert up to 125 hours of annual leave, adjusted to 175 hours for 56-hour workers, to cash as pay-in-lieu each calendar year, subject to the following rules:**
 - a. If an employee fails to elect by December 31st of the preceding calendar year 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 I-2.**
 - b. If an employee irrevocably elects by December 31st of the preceding calendar year to receive a portion of the annual leave hours they will earn in the following calendar year, not to exceed 125 hours total, adjusted to 175 hours for 56-hour workers, 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 their annual leave being earned each pay period which they wish 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, adjusted to 175 hours for 56-hour workers. 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 their 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 of the preceding calendar year 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 of the preceding calendar year 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 their 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 their 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, adjusted to 175 hours for 56-hour workers, which an employee allocates to their 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.
 - b. "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 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 they have unused amounts accrued in their PIL Bucket, if any.

J. Designation of Annual Leave Toward DROP Extension

- 1. Effective for all fiscal years beginning on and after July 1, 2019, eligible Local 145-represented employees who are officially approved by SDCERS as being in DROP, via the electronic communication to the City through the regularly scheduled PADE file, in accordance with the Chapter 2, Article 4, Division 14, §24.1402(b)(8) of the San Diego Municipal Code may designate annual leave toward DROP extension each fiscal year, subject to the following rules:**
 - a. If an employee fails to designate by June 30th each year, any of the annual leave hours they will earn in the following fiscal year toward DROP extension, their annual leave will accrue in accordance with the applicable Personnel Regulation, Index Code I-2.**
 - b. If an employee irrevocably designates by June 30th each year, a portion of the annual leave hours they will earn in the following fiscal year, the City will create an account where the eligible employee's designated annual leave accruals will be credited. This account will be referred to as a "DROP Extension bucket" ("DROP EXT 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 for the following fiscal year the amount of their annual leave being earned each pay period which they wish to have credited to the DROP EXT 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 fiscal year, the DROP EXT Bucket will be credited with the designated amount of the employee's annual leave each pay period. Any annual leave being earned in a pay period which is not credited to the employee's DROP EXT Bucket will be credited to the employee's AL Bucket. The balance available in the employee's DROP EXT Bucket, if any, will be specified on their timecard.**
 - c. An employee must make an irrevocable designation by June 30th each year, if the employee wishes to designate annual leave toward their DROP EXT Bucket for the following fiscal year. Designation of annual leave will not carry over from one fiscal year to the next fiscal year. An employee who fails to designate hours by June 30th each year, toward DROP Extension for the following year will be deemed to have elected not to participate and they will be prohibited from designating any annual leave toward DROP Extension during that year.**

K Benefits While on Special Leave Without Pay (SLWOP)

1. All benefits will be coordinated and/or offset by benefits the employee receives under any other City program, including but not limited to Long Term Disability, and Family Medical Leave.
2. After one year on SLWOP, City may charge the employee a 2 percent administrative fee or offer continuation of benefits under COBRA.
3. Employees will not be eligible for City sponsored Supplemental Life Insurance while on SLWOP.

L. Military Leave

1. 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.

2. 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.
3. Union members may use annual leave, compensatory time, or special leave without pay, in addition to military leave to provide military service.
4. 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.

M. Bereavement Leave

Paid Bereavement Leave **totaling 60 hours (regardless of the number of eligible deaths)** is available to **each** full-time employee **for use during each fiscal year of this MOU** upon the death of the employee’s spouse **or state-registered domestic partner**, father, mother, **(father and mother to include: step-father and step-mother)**, **father-in-law, mother-in-law**, brother, sister **(brother and sister to include: step,**

foster, or adopted), son, daughter (son or daughter to include: step, foster, or adopted), grandfather, grandmother, granddaughter, grandson, or for a member of the employee's regular and/or immediate crew in the case of a death while on duty. 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 60 hours total per 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.) 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 (45 hours) and half-time time (30 hours).

N. Approved Unpaid Leave

The Department can grant so-called "Red A" leave, which is approved unpaid leave, at Management's sole discretion, per Personnel Manual Index Code I-7.

O. Modify Administration Manual Standard Instruction 6, VIII, Letter D by replacing existing language with:

1. Use of more than 12 consecutive shifts of leave (Trade, Holiday, Compensatory Time, Annual Leave or Annual Leave Trade) shall require approval through the employee's chain of command, to Shift Commander or Division Head. Employees who wish to take leave in excess of the 12, 24-hour shifts shall write an FD-7 that details the reasons for the request, and the expected date of the employee's return to duty. Employees are required to maintain all appropriate licenses, permits, and training requirements during their approved shift exchanges and show proof of meeting all requirements upon their return to duty.
2. During the period of leave, TeleStaff access will be blocked for that employee, and reinstated upon **their** return to duty.
3. Employees who request the use of leave in anticipation of retirement shall state that as the reason for their request, and, if the leave is granted, the employee shall be required to:
 - a. Relinquish their Station assignment
 - b. Relinquish Station bidding privileges turn in all Department issued PPE, Identification and equipment as if the employee's separation from service was complete
 - c. Lose TeleStaff access and privileges

P. If use of annual leave would require absence on a management-designated "restricted day," the leave shall only be granted as an annual leave trade.

Q. Paid Sick Leave for Hourly Employees

1. 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, Health 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 39.0101 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.”**

2. Eligible Employees will accrue **Paid Sick Leave** at a rate of one hour for every 30 hours worked, up to a maximum accrual of **80** hours.
3. 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.**
4. 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.
5. Upon the Eligible Employee’s **verbal** or written request, **they** may use up to **40** hours of **Paid Sick Leave** in any fiscal year for **any of the following reasons**:
 - a. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, the Eligible Employee or Family Member.
 - b. 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.
 - c. **The Eligible Employee is physically or mentally unable to perform their duties due to illness, injury, or a medical condition of the Eligible Employee.**
 - d. **The Eligible Employee’s absence is for the purpose of obtaining professional diagnosis or treatment for a medical condition of the Eligible Employee.**
 - e. **The Eligible Employee’s absence is for other medical reasons of the Eligible Employee, such as pregnancy or obtaining a physical examination.**

1. 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.
2. 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.)
3. 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.)
4. The Eligible Employee is providing care or assistance to a Child, whose school or child care provider is closed by order of a public official due to a Public Health Emergency.
6. Under this Article, Family Member means the Eligible Employee's Child (biological, adopted, or foster child, stepchild, legal ward, **child of spouse, child of domestic partner**, or child of Eligible Employee standings 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.
7. 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.
8. **Paid Sick Leave** will be paid at the Eligible Employee's current hourly pay rate for regular work hours **at the time the leave is 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.**
9. 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.

10. Any unused, accrued **Paid** Sick Leave will carry over to the following fiscal year of employment, up to a maximum accrual of **80** hours.
11. Eligible Employees may not cash out **Paid** Sick Leave at any time.
12. 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.
13. 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 accrued under this Article.**
14. 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.
15. This Article is not intended to waive any rights of Eligible Employees under local, state, or federal law.

ARTICLE 29

Personnel Regulations

Reference to the City Personnel Manual or City Administrative Regulations is made in this Article with the understanding that City shall not make modifications to the provisions of such referenced sections that relate to wages, hours, or other terms and conditions of employment that would affect employees covered by the MOU during the term of the MOU except by mutual consent.

For these purposes, the following Personnel Manual sections, Administrative Regulations, and policies are made part of the MOU:

A. Personnel Manual Index Codes

H-1, Bilingual Pay
H-2, Holidays
H-4, Overtime Compensation
I-2, Annual Leave

B. Administrative Regulations

63.00, Industrial Leave
70.30, Tuition Refund Plan
95.01, Overtime Compensation
95.60, Conflict of Interest and Employee Conduct
95.90, Unused Sick Leave and Accrued Annual Leave Reimbursement
95.89, Parental Leave
95.91, Employee Rewards and Recognition Program
97.00, Substance Abuse Policy
97.10, Threat Management Policy

C. Other Regulations and Procedures

Department Infection Control Plan
Long Term Disability Program (on file with the Office of the City Clerk)
Council Policy 300-06, Employee-Employer Relations Policy
Will Work Policy, Department **Staffing** Policy Manual.
**Fire-Rescue Department Standard Instruction 06, Section 23, Station Management:
Bed Bug Policy**

ARTICLE 30

Formal Representation

- A. Local 145 may select three representatives to attend scheduled meetings with Management on subjects within the scope of representation during regular work hours without loss of compensation. In addition, Local 145 may select one representative to attend City Council and Council Committee hearings and Retirement Board meetings when subjects within the scope of representation are being discussed, all Civil Service Commission, and Retirement Board meetings, during regular work hours, without loss of compensation. Local 145 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 shall leave **their** duty or workstation or assignment without specific approval of the Department Head or 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.
- B. Nothing provided in this Article shall limit or restrict Management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances.
- C. Effective July 1, 2013, the City authorizes eight hours of release time every four months for Local 145's trustee representative for the purpose of attending Southern California Firefighters Benefit Trust board meetings. No overtime is authorized. The City may grant additional release time subject to the approval of the Human Resources Director.
- D. **The City and Local 145 agree that collaboration between Management and Local 145 are in the best interests of the citizens of San Diego and Department personnel. To promote efficient and timely communication between Management and Local 145, the Fire Department will maintain an administrative assignment for the Local 145**

President. Duties of the administrative assignment will be determined by the Fire Chief.

- 1. A union officer while on administrative assignment will report to the Fire Chief or authorized designee and may work in coordination with Assistant Chiefs, PSU, Human Resources, Personnel, EAP or other Department persons as situationally appropriate.**
- 2. The Fire Department will provide a secure office for the union officer to discuss confidential subjects with their members.**
- 3. The City acknowledges the union officer has the right to have release time from the administrative assignment on any matter as required by the Meyers-Milias-Brown Act.**
- 4. The union officer is prohibited from managing the affairs of Local 145, as an independent corporation, during working hours unless on authorized leave or otherwise off duty.**
- 5. Additionally, a union officer is prohibited from participation in political elections or campaigns during working hours unless on authorized leave or otherwise off duty.**

ARTICLE 31

Renegotiation

- A. In the event Local 145 desires to meet and confer in good faith on the provisions of a successor MOU, it will serve upon the City its written request to commence meeting and conferring in good faith, as well as its written non-economic proposals for successor MOU by **October 2, 2020**. Local 145 will submit its economic proposals no later than **December 4, 2020**. Upon receipt of the written notice and proposals, meet and confer over non-economic proposals will begin no later than **November 6, 2020**, and meet and confer over economic proposals will begin no later than **January 22, 2021**.**
- B. The City agrees to notify Local 145 by **October 2, 2020** of its non-economic proposals and will submit its economic proposals no later than **December 15, 2020**. If federal or state governments take action that has a direct effect upon the areas which fall within the scope of representation, the City may submit proposals concerning these areas at later dates. Any terms and conditions of this MOU, not subject to this reopener provision shall remain in force and effect. The impasse hearing will take place in advance of the first reading of the salary ordinance for Fiscal Year **2022**.**
- C. The City will request the City Council to schedule an impasse hearing, if necessary, after 5:00 p.m. on a regular work day in order to permit Local 145 Bargaining Unit members the opportunity to attend and testify.**
- D. Unless otherwise agreed to, the parties agree that Local 145's final offers are due by **March 19, 2021** and the City's final offers are due **April 5, 2021**. Local 145 agrees to provide the City a written statement of its positions regarding any issues should there be impasse.**

- 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 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 24 will remain in effect.
- F. **Subject to the requirements of Article 31. E, the City provides Interim Death and Disability benefits through the City's Long-Term Disability Plan in accordance with Appendix C for employees hired by the City on or after July 20, 2012 and who are not members of SDCERS.**

ARTICLE 32

Impasse Procedure

The impasse procedure is found in Council Policy 300-06, which is incorporated into this MOU by reference in Article 29, Personnel Regulations.

ARTICLE 33

Transfer of Union Officers

- A. City agrees to notify Local 145 as promptly as possible of the intended transfer of an employee who is a Local 145 officer. City agrees to meet with Local 145 at a mutually convenient time within ten working days after notice of the proposed transfer is delivered, if Local 145 requests a meeting, for the purpose of explaining the reasons for the transfer.
- B. "Transfer", for purposes of this Article, means any permanent change of work schedule, station assignment, or division assignment of a Local 145 officer having a permanent schedule or assignment. "Local 145 officer" means an employee who has been elected or appointed an officer of Local 145 and whose name has been given in writing to City as currently holding a Local 145 such office. Assignments expected to exceed eight shifts shall be considered permanent assignments.

ARTICLE 34

Vacation Selection Procedure for Fire Suppression Personnel

- A. The Appointing Authority is responsible for arranging vacations so that adequate personnel is available to carry on necessary City work.
- B. Individuals may indicate their list of preferences for vacation and submit them in accordance with the Fire-Rescue Department's vacation policy. The annual leave balance will be determined for all Local 145-represented employees (excluding Fire Recruits) annually. At the discretion of the Fire Chief, any employee who has accrued and unused annual leave in their Leave Bucket that is over their annual leave cap as of January 1st of each year (i.e. "snapshot"), will be required to participate in a mandatory vacation draw for the following fiscal year.
 - 1. For personnel working a 56-hour shift work schedule, a vacation is defined as four consecutive 24-hour shifts selected from the predetermined vacation draw calendar.
 - 2. For all other employees a vacation is defined as four consecutive work days off within the same work week. This is inclusive of all non-operational schedules (44/36, 4/10, 5/8). These vacations will be arranged as normal time off and approved by the employee's supervisor. They will not be part of the vacation draw process described in the Vacation Policy.
- C. Annual leave shall be granted when requested, subject to the operating needs of the Department.

ARTICLE 35

Mandatory Mess

All uniformed personnel shall participate in a Mandatory Mess unless religious, dietary, medical considerations, or other good causes as determined by the Fire Chief preclude them from participating.

ARTICLE 36

Overtime

- A. Premium compensation at the rate of one and one-half times the base rate shall be paid to **represented employees** under the following conditions:
 - 1. When an employee is called back to work, **or for an unscheduled administrative meeting**, from a non-duty status, **they** shall receive premium pay for all call-back time worked with a four-hour minimum of compensation in each instance.
 - 2. When an employee is scheduled to attend an administrative meeting, occurring during off-duty hours and not contiguous with employee's shift, employee shall receive premium pay at the straight day rate for meeting time with a two-hour minimum of compensation in each instance.

3. When an employee is required under subpoena to appear in court during non-duty hours, **they** shall receive premium pay for court time with a four hour minimum of compensation in each instance.
4. When an employee's shift is extended beyond its normal ending time, **they** shall receive premium pay for the time of the shift extension but shall not be eligible for minimums referred to in Sections 1 and 2 above.
5. The minimum call-back and court time provisions shall not apply in the following situations:
 - a. When an employee is required by subpoena to appear in court 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;
 - b. When an employee is already present at the work station and is required by a supervisor to start work early or to resume work following the end of shift;
 - c. 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
 - d. When an employee is required to appear in court 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 others not specifically identified as entitling an employee to the four-hour minimum, the employee should receive overtime compensation only for the time **they** actually worked or spent in court or in meetings before or after **their** shift.

6. Compensatory Time

- a. **Overtime will be paid or Compensatory Time Off (CTO) 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 120 hours annually of accrued CTO.**
- b. **An employee may only use or cash out CTO during the calendar year in which it is earned.**
- c. **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.**
- d. **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. No unused CTO hours may be carried over to a subsequent calendar year. No CTO can be elected for overtime worked during the last pay period of the calendar year.**
- e. **Overtime earned in accordance with the FLSA will be paid in the pay period in which it is earned.**

7. Fire Fighters, Fire Engineers, Fire Captains, and Fire Battalion Chiefs mandated to attend training sessions on non-regularly assigned shifts will be compensated at the rate of one and one-half times their base rate.
 8. Forty-hour employee working over eight hours per day if on the 5/8 schedule, or a **40**-hour employee working over nine hours per day on a 44/36 schedule will be compensated at the rate of one and one-half times their base rate.
 9. Forty-hour employee working over **40** hours per week at a rate one and one-half times their base rate.
 10. If a suppression employee (**56**-hour schedule) is scheduled or directed by the Department to work on an actual holiday (versus on a City-observed holiday), **they** shall receive pay at premium rate (no comp time) for the time worked, during the first **12** hours of the shift beginning the morning of the actual holiday only.
- B. City and Local 145 agree that Fire Fighters, Fire Engineers, Fire Captains, and Fire Battalion Chiefs will work a **28**-day work cycle in accordance with section 207k of the FLSA.
1. Effective July 1, 2017, Fire Fighters, Fire Engineers, Fire Captains, and Fire Battalion Chiefs who work more than 212 hours in any 28-day work cycle will be paid premium overtime for their hours worked in excess of 212. The wage types identified in Appendix D of the MOU will be counted as hours actually worked during the 28-day work cycle in determining eligibility for premium overtime.
 2. **City and Local 145 agree that Firefighters, Fire Engineers and Fire Captains, permanently assigned and performing peace officer duties on the Metro Arson Strike Team (MAST), who work more than 171 hours, in any 28-day work cycle will be paid premium overtime for their hours worked in excess of 171. The wage types identified in Appendix D of the MOU will be counted as hours actually worked during the 28-day work cycle in determining eligibility for premium overtime.**
 3. During the term of this MOU, the City and Local 145 agree to meet and consult regarding a change in the FLSA period from a 28-day cycle of 212/**171** hours to a 14-day cycle of 106/**86** hours. Any change to the FLSA cycle may only be done by mutual agreement.

ARTICLE 37

Station Transfer Procedures

- A. The Fire Chief may transfer firefighting personnel to any position within the Department if **they determine** that a position requires specific skills, ability, or knowledge or if **they find** that a reassignment is necessary for the efficiency and harmony of the Department.
- B. Any vacancy in Fire Suppression not filled by the provisions in paragraph A, shall be filled on the basis of seniority as vacancies occur.

1. The Department shall make all vacancies known to suppression personnel at the beginning of each bid cycle (approximately one month) prior to filling that vacancy.
 2. In the event that additional stations come open for bid during intervening bid cycles, those vacancies will be advertised for the full period of the next complete bid cycle.
- C. All station transfers shall be made in accordance with the Department **Staffing** Policy Manual.
- D. City agrees to operate the foregoing program strictly in conformance with the seniority provisions in Article 4 of this MOU. City further agrees to treat all employees in the unit fairly and equitably in administering this program. Any alleged violation of this Article shall be subject to a grievance to the Fire Chief.
- E. In accordance with existing practice, Fire Battalion Chiefs cannot bid for assignments through the formal bid procedure. Management will continue to give employee preference serious consideration in the assignment of Fire Battalion Chiefs to Fire Operations areas. Upon a request from the employee, Management will provide feedback to those Fire Battalion Chiefs not selected, based on knowledge, skills and abilities or Management needs to an assignment where the employee has expressed a preference.
- F. Probationary Fire Fighter personnel during their first year of employment will not be allowed to bid for permanent station assignments.
- G. Employees who are married or members of the same immediate family shall not be assigned to the same fire station.
- H. Except when a specific policy applies, if an employee is absent from **their** permanent assignment for more than six months due to a non-job-related medical condition, then **their** permanent assignment will be declared vacant. The vacant position will then be filled according to the current procedures pertaining to that position.
- I. City will comply with the OSHA policy for two in/two out, for two Fire Fighters inside a structure and two Fire Fighters outside a structure, as required by law.

ARTICLE 38

Non-Duty Weekend/Holiday Training

Training sessions occurring on non-duty shifts will normally not be scheduled on Saturday, Sunday, or legal holidays.

ARTICLE 39

In House Committees

- A. The Fire Chief may, at **their** discretion, create advisory committees to provide information which is necessary to administer the Department. The committees shall be precluded from considering subjects which relate to the scope of representation of the recognized Bargaining Unit.

- B. In the event that the Fire Chief requires input on matters falling within the scope of representation, **they** shall consult Local 145. Local 145 will provide data on the subject requested.
- C. The Department agrees to meet with Local 145 to receive its input on developing and implementing any training programs for Fire Fighters.

ARTICLE 40

Implementation of New Programs

- A. The Parties agree that they will meet and consult or meet and confer as required by law on the implementation of any new programs and the impact of any new programs on working conditions.
- B. The provisions of this MOU, together with those provisions of wages, hours, and other terms and conditions of employment subject to meet and confer currently in existence and not changed by this MOU shall not be revised to adversely affect the employees in the Unit during the term of this MOU.
- C. Any claim of a violation of this provision shall be pursued through the grievance procedure.
- D. This Article shall not apply to any policy, procedure, or practice established by a member of the Unit which was not approved by a superior authority.
- E. The Parties acknowledge that this Article in no way diminishes the exercise of Management rights as provided for in Article 16.
- F. Local 145 agrees that, should City introduce a proposal to amend the Charter in a manner that would change the reporting relationship of the Personnel Director from the Civil Service Commission to the Mayor or **their** designee, that Local 145 will promptly meet and confer at the time during the term of this MOU, regarding any aspect of that proposal that would affect wages, hours, and other terms and conditions of employment.
- G. Local 145 further agrees that should City introduce a proposal to amend the Charter in a manner that would permit City to privatize functions which are currently performed by Bargaining Unit employees, Local 145 will promptly meet and confer, at any time during the term of this MOU, regarding any aspects of that proposal that would affect wages, hours, and other terms and conditions of employment.

ARTICLE 41

Grocery Shopping

One company from each fire station will be allowed to shop for groceries once per day.

ARTICLE 42

Holidays

Effective July 1, 2009, 140 hours of annually accrued holiday time is eliminated. This includes the reduction of **24** hours for a Floating Holiday, **and 12** hours for Cesar Chavez Day.

A. Fixed Holidays

1. Fixed Holidays will be:

- a. January 1;
 - b. Third Monday in January, known as "Dr. Martin King, Jr.'s Birthday";
 - c. Third Monday in February, known as "President's Day";
 - d. March 31st, 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 "Veteran's 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. For personnel working **administrative or light-duty assignments**, if January 1, March 31, July 4, November 11, or December 25 falls upon a Sunday, the Monday following is the City-observed holiday. If any of the dates listed in this section fall on a Saturday, the preceding Friday is the City-observed holiday.
3. For suppression personnel, all holidays will be observed on the day of the actual holiday, not the City observed holiday.

B. Floating Holiday

Each eligible employee **who is on an administrative assignment** that is available for a duty assignment on July 1 of each fiscal year (as defined in Personnel Manual Index Code H-2) shall accrue credit for eight hours of holiday time. Each employee accruing such time shall schedule **their** floating holiday to comply with the following conditions:

1. Schedule the floating holiday prior to June 1 of each fiscal year;
2. Take the floating holiday **by June 30th**;
3. The floating holiday is a one-time absence; and
4. The floating holiday must be taken at a time convenient to the employee's Appointing Authority

C. If an employee is scheduled or directed by the Department to work **in suppression** on the actual holiday, **they** shall receive pay at premium rate (no comp time) for the time

worked, during the first 12 hours of the shift beginning the morning of the actual holiday only.

ARTICLE 43

Disciplinary Actions and Appeals

To the extent that FBOR is applicable to disciplinary actions and appeals, those Government Code sections shall govern the process, and shall be applicable to all Unit members.

FBOR shall govern administrative appeals of “punitive action or denial of promotion on grounds other than merit,” as those terms are defined in Government Code section 3251(c). “Punitive action” means any action that may lead to dismissal, demotion, suspension, reduction in salary (**wages/compensation**), written reprimand, or transfer for purposes of punishment.

Government Code section 3254(b) provides that any firefighter who has successfully completed the probationary period shall be provided an opportunity for administrative appeal by which to challenge punitive actions. Section 3254.5 provides that:

An administrative appeal instituted by a firefighter under this chapter shall be conducted in conformance with rules and procedures adopted by the employing department or licensing or certifying agency that are in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2.

Government Code section 11501(c) provides that:

Chapter 4.5 (commencing with Section 11400) applies to an adjudicative proceeding required to be conducted under this chapter, unless the statutes relating to the proceeding provide otherwise.

City shall conduct administrative appeals mandated by section 3254.5, as follows:

- A. Disciplinary Sanctions Not Involving Discharge, Demotion or Suspension
 - 1. Pursuant to Government Code section 11445.20, City shall use an informal hearing procedure in those situations where a disciplinary sanction against an employee does not involve discharge, demotion or suspension. Section 11445.20, is specifically incorporated into sections 11500 through 11529 (see section 11501(c)).
 - 2. Accordingly, Government Code section 11400 through 11475.70 are incorporated into this MOU, with specific reference being made to section 11445.40, which provides the basis for an informal hearing in matters subject to sections 11400 through 11475.70.
 - 3. In an informal hearing, the Fire Chief or **their** designee shall be the hearing officer. The Fire Chief or **their** designee shall conduct the informal hearing in accord with the procedural guidelines set forth in Government Code sections 11445.40 through 11445.60. The determination of the Fire Chief shall be final and binding.

B. Disciplinary Sanctions Involving Discharge, Demotion or Suspension

In those instances where the procedures in Government Code sections 11400 through 11475.70 are inapplicable to an administrative appeal, the administrative appeal shall be conducted in procedural compliance with sections 11500 through 11529. Pursuant to section 11512, City has determined that in those instances that the hearing shall be presided over by an administrative law judge, the agency shall continue to hear the case through pre-existing Civil Service Commission appeals procedures with the administrative law judge presiding at the hearing pursuant to section 11512(b). The Civil Service Commission shall issue its decision, with the administrative law judge being present during the consideration of the case and, if requested, providing assistance and advice to the Commission in the conduct of its hearing.

C. Disciplinary actions shall remain a permanent part of the employee's file, with the exception of the following:

1. Formal reprimands **with or** without further penalty more than two 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 as set forth in this Article. Upon request of the employee, such reprimands will be destroyed in accordance with these provisions. In the event an employee fails to make such a request, on discovery by Management any reprimand will be destroyed in accordance with these provisions and shall not be relied upon for subsequent disciplinary action.
2. Written counselings and written warnings, 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 letter of counseling or letter of warning. Letters of counseling and letters of warning may be retained in the employee's personnel jacket as set forth in this Article. Upon request of the employee, such letters of counseling and letters of warning will be destroyed in accordance with these provisions. In the event an employee fails to make such a request, on discovery by Management any counseling or warning will be destroyed in accordance with these provisions and shall not be relied upon for subsequent disciplinary action.
3. Suspensions of 24 hours or greater within the last two years will be considered a bar to promotion but suspensions will only remain a bar for a two-year period following the date the suspension is served by the employee. Suspensions related to tardiness, mandatory overtime refusal, unscheduled leave, unapproved leave without pay, and lost equipment will not be a bar to promotion unless they exceed 48 hours in length.
4. Employee performance evaluations with satisfactory or above ratings are not eligible for appeal.

5. When an employee is placed on a Performance Development Plan (PDP) for less than satisfactory performance, the employee will remain under the oversight of the supervisor that issued the PDP for the entire review period. If the employee or supervisor successfully bids into another station, or is accepted for a specialty assignment, then the station or assignment will be held until the completion of the PDP.
 6. Nothing shall be included in an employee's personnel file, which is uncomplimentary, disparaging, or negative, without prior notification.
 7. Prior grievances filed by an employee will not be retained in the employee's personnel files without the employee's consent.
 8. An employee may attach a rebuttal or explanatory statement to any written counseling, written warning, written reprimand, Annual Performance Report, or Skelly document in an employee's personnel file within 30 calendar days.
- D. If any discipline is sustained, overturned, modified, or reduced on appeal, its effective date shall be the same date on which the original discipline was issued to the subject employee
- E. City shall follow the procedures contained in this Article and in the City's Dimensions in Discipline Manual when administering discipline. No discipline procedure other than those outlined in the Article shall be used by Fire Management unless by mutual agreement. **If a provision of the City's Dimensions in Discipline Manual is inconsistent with the FBOR, the City will comply with the FBOR.**

ARTICLE 44

Emergency Medical Services

- A. Paramedic Program.
1. Paramedic Premium Pay
 - a. Paramedic – For purposes of this MOU, is an employee who maintains paramedic certification and is authorized by the City EMS Medical Director to work in the City EMS System.
 - b. Paramedic premium pay will be paid to Paramedics in the classifications of Fire Fighter, Fire Engineer, and Fire Captain when serving as the paramedic of record.
 - c. Paramedic premium pay will be paid to additional personnel as determined by the Fire-Rescue Department to meet other EMS needs of the department.
 - d. The City Agrees to maintain a minimum of **six** paramedics, per Division, for the EMS specialty station(s).
 - e. The paramedic premium pay shall be the difference between E Step Fire Fighter II and E Step Fire Engineer per month.

2. A paramedic certification bonus of \$500 shall be paid to all personnel in the Bargaining Unit upon certification or re-certification. EMS Fire Battalion Chiefs certified as paramedics will be eligible for the \$500 bonus.
3. **The City will reimburse unit members, excluding Fire Recruits, for paramedic re-certification upon receipt of documentation.**
4. **The City will provide a minimum of 64 hours of compensated continuing education (CE) every two years to all Department personnel, who are certified paramedics, in order to maintain skill proficiency and State/County paramedic certification.**
5. During the term of this MOU, if additional Firefighters are to be trained as paramedics it will be determined by mutual agreement.
6. **Paramedic Specialty Pay**
 - a. The five percent Paramedic Specialty Pay will be paid to Paramedics in the classifications of Firefighter, Fire Inspector, Fire Engineer and Fire Captain. The Fire-Rescue Department will evaluate the continuation of Paramedic Specialty Pay for Paramedics in the Firefighter classification by June 30, 2017. To remain eligible to receive the 5 percent paramedic specialty pay, Paramedics must:
 1. Participate in the required continuing education as determined by the Department;
 2. Perform the paramedic of record duties as referenced in the staffing policies;
 3. Participate in quality assurance; and
 4. Serve as a back-up Battalion Medical Officer (BMO).
7. **Paramedic Training Officers**
 - a. The Fire-Rescue Department may designate Paramedic Training Officers, who shall receive an additional \$1.52 per hour for the duration of their assignment. Supplemental or part-time trainers designated by the Fire-Rescue Department shall receive an additional \$1.52 per hour for the duration of their assignment in a Field Training Capacity with an assigned trainee.
8. **Battalion Medical Officers (BMO)**
 - a. **One Battalion Medical Officer will be selected from each battalion, on each division (A,B,C). Additional BMO's may be assigned at the Fire Chief's discretion. BMO's will be responsible to provide emergency medical training to all personnel, within their assigned battalion, on their respective division.**
 - b. **BMO program content and oversight will be provided by the Department.**
 - c. **Battalion Medical Officers will receive BMO specialty pay of five percent of employee's base pay.**

B. EMT

1. All bargaining unit members, excluding Fire Recruits, who are EMT-certified will receive an EMT premium of 8.5 percent of employee's base pay.
2. **The City will reimburse unit members, excluding Fire Recruits, for EMT re-certification upon receipt of documentation.**
3. **The City will provide at least 24 hour of compensated continuing education (CE) every two years to all Department personnel, who are certified Emergency Medical Technicians, in order to maintain skill proficiency and State/County EMT certification.**

C. Paramedic Program

Should the City Council elect to bring the outside privately contracted dedicated paramedic program into the Department, the Parties agree to meet and confer on all mandatory subjects of bargaining in a timely manner.

D. Emergency Medical Services (EMS)

1. The provisions of this Article related to Emergency Medical Services (EMS) employees listed below will supersede any other provisions contained in this Agreement in the event those other provisions conflict with the provisions as they apply to personnel in the following new classes added to the Bargaining Unit effective July 1, 1997, who work exclusively in the EMS program.
 - a. Paramedic II
2. Annual Leave Accrual

Employees working a 24-hour shift schedule will receive their maximum regular biweekly accrual of annual leave based on full completion of their work schedule which averages 112 hours per pay period. Annual leave credits are not earned during period of unpaid leave.
3. Overtime

Notwithstanding the provision of Personnel Manual section H-4, overtime will be based only on all hours actually worked beyond 40 hours in a workweek. For purposes of the above provision, and for only those EMS employees identified in this Article, compensated leave will count as hours worked in the overtime calculation.
4. Special Assignment Station Pay

Employees who work 12-hour shifts will be eligible to receive a special add-on pay of approximately 8.6 percent per hour worked or on compensated leave.
5. Will Work

As is the case with Fire Fighters, EMS Program employees who "will work" for employees on a different shift schedule and different standard hour rate will

have hours worked in the “will work” assignment adjusted by a factor of 1.4 to reflect the different hourly pay rate in effect for the shift worked.

ARTICLE 45

Transportation Incentives

- A. Employees who use the Concourse Parkade, Civic Center Plaza, **101 Ash Street, and the Central Library** and pay on a monthly basis will be charged 25 percent of the prevailing general public monthly rate.
- B. Employees participating in the Transportation Alternative Program (TAP) shall pay 50 percent of the public daily rate, for up to **52** instances per year. Participation in TAP is limited and is available to employees on a first-come, first-serve basis.
- C. City will provide 75 percent reimbursement up to \$100 per month to those employees who wish to purchase monthly passes for transportation on the public bus, trolley, and commuter rail services. Transportation passes will be for the exclusive use of the employee/purchaser. City will provide an equal amount to employees who use the San Diego Bay ferry and to employees participating in a vanpool program. Employees must utilize these subsidized transportation services to commute to and from work at least three working days per week to be eligible for reimbursement. Employees in violation of these provisions shall have their Transportation Incentives discontinued. Payments for passes are made payable to the City Treasurer no later than the 12th day of the current month for the next month’s pass. Payment is loaded on to issued Compass Cards.
- D. City will provide reimbursement to employees who use the Concourse Parkade, Civic Center Plaza, **101 Ash and the Central Library**, and carry riders. The rate of reimbursement will be calculated so that an employee who carries three riders will receive free parking.
- E. **The City may expand parking opportunities to other facilities designated by the Mayor, including Horton Plaza. The City will engage Local 145 in any impact bargaining required under the MMBA, related to new parking opportunities.**

ARTICLE 46

Driver’s License and Certification

- A. All Fire Engineers shall maintain a valid Class B driver’s license (with appropriate endorsement) and training certificate for triple combination, tractor/trailer, aerial ladder, **and** brush apparatus. Any Fire Fighter, Fire Engineer or Fire Captain required by special circumstances (Bomb apparatus with trailer, HRT truck with trailer or US&R (tractor trailer)) to drive and operate a Department Class A vehicle shall maintain a Class A license with appropriate endorsement and medical examiner certificate.
- B. Management will provide **36** hours of compensated **Driver-Operator** training for all Fire Fighter **IIs and IIIs who choose to pursue certification to drive Department commercial vehicles. Training will be compensated on an overtime basis and will include classroom and manipulative exercises to prepare** for the triple combination pumper certification and Class B driver’s license (with appropriate endorsement).

- C. Management will make available for off-duty members not presently certified, a minimum of four hours of instructor-provided training to assist the Fire Fighter meeting the Department of Motor Vehicle (DMV) licensing requirements and to demonstrate their skills as a pump operator. Fire Fighters must be certified on the following fire apparatus to be eligible to take the Fire Engineer's promotional exam **and any other apparatus that is agreed to by the parties:**
1. Triple Combination
 2. Aerial Ladder
 3. Brush Apparatus
- D. Fire Fighters participating in the **Driver-Operator Course** may schedule on-duty a DMV physical through **the Department's Wellness Program**. The Department will pay for the cost of the physical. DMV fees for a Class B license will be paid by the employee.
- E. The Department will pay for DMV fees and the physical of Fire Fighters regularly assigned to drive fire support equipment requiring a Class A or Class B driver's license. **Additionally, Fire Fighters regularly assigned to drive fire support equipment requiring a Class A or B driver's license will be permitted to attend DMV exams on-duty.**
- F. City reserves the right to implement a Drug and Alcohol Screening Program for all employees undergoing the biennial medical examination required by state law for DMV Class A and B driver's licenses. All employees required to have a Class A or B license for the performance of their regular duties must have the medical examination and drug and alcohol test conducted by the medical examiner and testing laboratory designated by City. The scheduling of these medical examinations, to include drug and alcohol testing, will be determined by Management.

ARTICLE 47

Copies of the Agreement

Local 145 may obtain copies of this MOU from City by reimbursing City for its cost. City will provide **12** copies to Local 145 at no expense and will supply each fire station with one copy. City shall print and publish this MOU within **90** working days after final approval of this MOU language by both Parties. In addition, City shall provide to Local 145 a copy of this MOU electronically. This Memorandum will be posted on City's website in a location easily accessible to all Union members.

ARTICLE 48

Tuition Reimbursement

The City agrees to provide tuition reimbursement in the amount **up to \$2,000** annually for **each employee**. Administrative Regulation 70.30 **and Department Standard Instruction 05 - Tuition Reimbursement** will govern the administration of this program.

It is the intent of the Parties that this **tuition reimbursement** will supplement rather than replace training funds previously made available by the Department for the benefit of employees.

ARTICLE 49

Rehabilitation Program

- A. When an employee is injured and is in a light duty status or off the job for a period in excess of **60** days, City will ensure that the employee has completed an appropriate rehabilitation program prior to returning to full duty.
- B. **The City agrees to create a local Peer Support and Crisis Referral Program that is compliant with the standards set forth in Assembly Bill 1116 (2019-2020 Regular Session) titled "Firefighters: Peer Support".**

ARTICLE 50

Employee Privacy of Information

No employee shall be required or requested for purposes of job assignment or other personnel action, to disclose any item of **their** property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of **their** family or household) unless such information is obtained or required under state law or proper legal procedure, tends to indicate a conflict of interest with respect to the performance of **their** official duties, or is necessary for the employing agency to ascertain the desirability of assigning the employee to a specialized unit in which there is a strong possibility that bribes or other improper inducements may be offered.

ARTICLE 51

Access to Department-Provided Equipment

Employees of the Department may be assigned Departmental-owned vehicles, lockers, desks, cabinets, and cases for the mutual convenience of the Department and its personnel. Retention of personal items in such containers or facilities is at the risk of the employee and the Department will not be responsible for any losses. Searches of Department-provided equipment shall be conducted pursuant to Government Code section 3259.

ARTICLE 52

Polygraph Examinations

No employee shall be compelled to submit to a polygraph examination against **their** will. No disciplinary action or other recrimination shall be taken against an employee who refuses to submit to a polygraph examination, and no comment shall 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 a any hearing, trial, or proceeding, whether judicial or administrative.

ARTICLE 53

Health Management Program

- A. City and Local 145 agree to support a Health Management Program. Local 145 will be allowed to provide input annually into the Wellness Program. Local 145 input must be

received by Fire Management prior to September 1 of each fiscal year. The selection of the provider will be in accordance with Council Policy 300-07.

- B. During the term of this MOU, City shall continue to fund the Wellness Program. During the term of this MOU, City shall fund up to \$35,000 per year to be utilized for the maintenance or purchase of exercise machines and/or similar equipment.
- C. During the term of this MOU, City shall provide Hepatitis B vaccinations to all members of the unit.

ARTICLE 54

Fire Fighter Career Ladder

- A. Local 145 and City agree that the following career ladder has been established:
 - 1. Fire Recruit
 - 2. Fire Fighter I
 - 3. Fire Fighter II
 - 4. Fire Fighter III
- B. Promotions to all classes represented by Local 145 will be at the steps that have been established by past practice, during the term of this MOU.
- C. City and Local 145 agree to study and propose changes to Personnel regarding Minimum Qualifications for Fire Recruit, the promotional process, and the candidate physical abilities exam

ARTICLE 55

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ARTICLE 56

Side Letters

Effective July 1, 2007, all side letters executed by both Parties not specifically referenced by the current MOU shall expire and be of no further force or effect. The current MOU as printed will represent all agreements between Local 145 and City **with the exception of the Wellness Program Implementation Agreement, signed by the City and Local 145 on November 24, 2004.** All agreements, including Department level agreements, from July 2, 2007 to June 30, 2012, will remain in effect. Effective July 1, 2020, any additional agreements must be made in writing between Local 145 and City, with the approval of the Mayor or **their** designee and the President or **their** designee of Local 145.

ARTICLE 57

Drug and Alcohol Testing Program

- A. A random Drug and Alcohol Testing Program has been implemented and applies to all Fire Fighter Unit personnel. The term Fire Fighter refers to members of the Fire Fighter Unit which consists of the following classifications:

1. Fire Recruit
2. Fire Fighter I
3. Fire Fighter II
4. Fire Fighter III
5. Fire Engineer
6. Fire Captain
7. Fire Battalion Chief
8. Fire Prevention Inspector I
9. Fire Prevention Inspector II
10. Fire Prevention Supervisor
11. Assistant Fire Marshal
12. Paramedic II
13. Fire Helicopter Pilot
14. Air Operations Chief

B. Procedures.

1. The Department's Human Resources Manager, City's Human Resources Director, and Personnel's Medical Program Administrator will administer the Drug and Alcohol Screening Program.
2. Fire Fighters will be tested twice every eighteen months by urinalysis, which will be screened for the presence of specific drugs.
3. The drug screening shall be conducted to detect the following drug groups at the following testing levels:

<u>Drug group</u>	<u>Screen Level</u>	<u>Confirmation</u>
a. Amphetamines/Methamphetamine (e.g., Speed, Crystal)	1000 ng/mL	500 ng/mL
b. Benzodiazepines (e.g., Valium, Librium, Oxazepam, Serax, Dalmane, Ativan);	300 ng/mL	300 ng/mL
c. Barbituates (e.g., Amobarbital, Butabarbital, Pentobarbital, Phenobarbital, Secobarbital);	300 ng/mL	200 ng/mL
d. Cocaine;	300 ng/mL	150 ng/mL
e. Methadone;	300 ng/mL	200 ng/mL
f. Ethanol;	* See Section F, 4 & 5	
g. Opiates (e.g., Codeine, Heroin, Morphine);	2000 ng/mL	2000 ng/mL
h. Phencyclidine (PCP);	25 ng/mL	25 ng/mL
i. THC (marijuana)	50 ng/mL	15 ng/mL

4. Fire Fighters may provide appropriate documentation of legally-prescribed medications. The documentation shall be included in the review of the test results by the testing facility.

D. Sample Collection.

1. Designated medical personnel will be responsible for obtaining the urine sample from the Fire Fighter being tested.
2. Designated medical personnel will be available for taking urine samples between 8:00 a.m. and 12:00 a.m., seven days per week, to allow Fire Fighter to be tested during normal work hours.
3. Medical personnel will not observe the Fire Fighter as the sample is being given.
4. Fire Fighters to be tested will be notified at the start of their shift. They will present themselves for testing at the earliest possible time during the shift and no later than four hours after the Fire Fighter's shift begins.
5. At the testing site, the Fire Fighter being tested will:
 - a. Identify **themselves** by presenting **their** Department identification.
 - b. Complete requested paperwork.
 - c. Remove turnouts, jackets, boots, or other bulky items of clothing prior to entering the lavatory to give a urine sample.
 - d. Provide a urine sample
 1. Fire Fighters will be required to stay within the urine collection area until the required sample is given.
 2. Sample must be at least 120 ml, the minimum amount required for testing purposes.
 3. Refusals to complete the test will be referred to the Department's Human Resources Manager for investigation.
6. At the urine collection site, the medical personnel will:
 - a. Direct the Fire Fighter 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 Fire Fighter, the medical personnel will:
 1. Split the sample into two separate containers.
 2. Seal the containers.

3. Direct the Fire Fighter 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.

E. Screening Procedure.

1. The screening of all collected samples will be conducted within 48 hours by a City-designated laboratory certified by the Substance Abuse and Mental Health Services Administration (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 required, it will be conducted by Gas Chromatography/Mass Spectrometry (GC/MS) or other testing methodology of equivalent quality and acceptability.

4. Upon receipt of the samples for testing, the designated laboratory will:

a. Check the containers to ensure they are not damaged, and that the seals are intact.

b. Complete the appropriate chain of custody forms for the samples.

c. Conduct the initial testing of one of the samples using the "Enzyme Immunoassay" or other technique.

d. If the sample tests "negative," all urine samples will be discarded.

e. If the urine 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.

5. Alcohol Test.

a. The standard for alcohol testing will be the converted urinalysis equivalent of a blood alcohol level of 0.04 percent.

- b. An alcohol testing level of 0.04 percent or greater will be treated as a “positive” result and may be cause for disciplinary action.

F. Reporting Test Results.

1. Test results will be provided to Personnel’s Medical Program Administrator via City’s contract medical provider.
2. If the test results are “negative,” the Fire Fighter will be notified in writing without delay.
3. If the test results are positive for legally-prescribed medications, Personnel will request that the Fire Fighter provide written substantiation from **their** private doctor prescribing the medications.
4. If test results are “positive” for alcohol (0.04 percent or above), illegal drugs, or inadequately explained legal medication, the Department’s Human Resources Manager 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 Last Chance Agreement may be offered by City to an employee at City’s discretion. Any Last Chance Agreement will be held in a sealed envelope in the Department Personnel file for the duration of the employee’s employment. Violation of the Last Chance Agreement may result in termination of employment. The discipline will be removed upon successful completion of the Last Chance Agreement.
5. Alcohol tests results below the 0.04 percent level shall be cause for a mandatory referral of the Fire Fighter to the Employee Assistance Program (EAP). However, no disciplinary investigation shall be initiated solely on the basis of the result, including those instances where the Fire Fighter is on a Last Chance Agreement. Personnel shall be responsible for making the referral of the Fire Fighter to City’s EAP. Test results are confidential and Personnel will not notify anyone, including the Department, of the alcohol test result that is below 0.04 percent or the referral of the Fire Fighter to City’s EAP. If an employee fails or refuses to follow through with the initial mandatory EAP referral, Personnel will notify the Department for appropriate action. The Department will not inquire of Personnel or the employee as to the basis for the EAP referral, including, but not limited to, whether there was an alcohol test and the results of the test.

G. Independent Testing.

1. If the drug screening test results are positive, the affected Fire Fighter has the right to request that the second sample obtained at the time **they** provided the urine sample be sent for independent testing.
2. The testing will be conducted at a SAMHSA certified laboratory designated by the affected Fire Fighter.
3. The second sample will be transported by approved courier to the testing laboratory.

H. Program Records.

1. All drug testing information relating to individual Fire Fighters is strictly confidential.
2. All records related to the Drug and Alcohol Screening Program shall be maintained as directed by the Assistant Fire Chief.

I. Use of Test Results.

The Random Drug Screening 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, San Diego Fire-Rescue Department shall not be precluded from taking further action.

J. Last Chance Agreement.

The Last Chance Agreement will be held in a sealed envelope for four years after the conclusion of testing so that the Last Chance Agreement may be considered for additional action up to termination. Any employee violating a Last Chance Agreement will be terminated, and a Last Chance Agreement will be offered only once during an employee's employment with City.

ARTICLE 58

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 **who 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 **for employees assigned to a 40-hour work week or 2,912 hours for employees assigned to a 56-hour work week.**
 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 **within seven days.**
 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 authorizations 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 recipient's annual leave balance.**
- e. 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. Payments up to 80 hours (**40-hour employees**) **or up to 112 hours (56-hour employees)** per pay period will be made to the recipient 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.
 4. An employee who receives Donated **Catastrophic** Leave under this Catastrophic Leave Plan may either take the Donated **Catastrophic** Leave as compensated time off, or may receive pay-in-lieu of the Donated **Catastrophic** Leave, consistent with Personnel Manual Index Code I-2, subparagraph E, but may not re-donate that time to a Catastrophic Leave Bank or Medical Leave Bank for use by another employee.
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 e-mail for a one-time notification to other City employees regarding the creation of their Catastrophic 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 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 **Catastrophic** 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 **who are 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 **for employees assigned to a 40-hour work week or 2,912 hours for employees assigned to a 56-hour work week.**
 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 **within seven days.**
 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 forms 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. Retain a confidential file of donation authorizations.4) 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.**
- e. Donated Medical Leave is treated as annual leave accrued by the recipient of the donation. Payments up to 80 hours (**40-hour employees**) or up to 112 hours (**56-hour employees**) 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 child care purposes.
2. Each transfer must be for a minimum of eight 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 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.

ARTICLE 59

Long Term Disability Plan and Industrial Leave

A. Long Term Disability Plan

City will issue a RFP to fully insure and administer the LTD Program by an outside vendor. The parties will meet and confer over any impacts as a result of the implementation a new LTD program.

B. Industrial Leave

For a claim filed based on a work-related illness or injury occurring on or after July 1, 1994, the 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 the injured employee did not have available safety restraints in use, unless such failure is consistent with prudent police practices, training, and department policies.
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.

ARTICLE 60

Labor-Management Relations

- A. Labor-Management Committee (LMC) – In accordance with long-standing practice, a Labor-Management Committee exists and shall continue to consist of the Assistant Chief of Operations, the Assistant Chief of Business Operations, the President of Local 145 and their designee, two board members of Local 145, and the Human Resources Director or their designee. The Committee will meet monthly during regular working hours for the purpose of informally resolving open issues and improving communication between the parties. Any agreements reached at the Committee meetings will be memorialized in writing and signed by the parties. It is acknowledged that both Fire Department Management and Local 145 may, from time-to-time, invite other personnel to LMC meetings for subject matter expertise or training in which case either party shall provide adequate notice to the other party of the intended guest.**
- B. Payroll-Labor Committee (PLC) – In accordance with past practice, a Payroll-Labor Committee exists and shall continue to consist of the Fire Department Fiscal Services Director, the Secretary-Treasurer of Local 145, and a Fire Department Payroll Specialist. The PLC may also include an Assistant Fire Chief and/or an additional board member of Local 145. The Committee will meet monthly during regular working hours for the purpose of informally resolving open payroll issues and for the exchange of ideas to improve processes which affect Local 145 member pay. Fire Department Management and Local 145 may cancel a PLC meeting by mutual agreement, and schedule for discussion the topics of the cancelled PLC meeting, if any, at the next LMC meeting. It is acknowledged that both Fire Department Management and Local 145 may, from time-to-time invite other personnel to PLC meetings for subject matter expertise or training in which case the party shall provide adequate notice to the other party of the intended guest.**
- C. One-on-One Meetings (1:1) – In accordance with current practice, the Fire Chief and Local 145 President will make a good faith effort to meet at least monthly for the purpose of informally discussing matters of concern and/or the exchange of ideas. To encourage open dialogue between Management and Labor, neither the Fire Chief nor President of Local 145 shall be held to an official position on a topic based solely on informal discussion at a One-on-One Meeting.**

ARTICLE 61

Terminal Leave

Terminal Leave is eliminated effective June 30, 2011.

ARTICLE 62

Overpayments to City Employees and Repayment of Funds

- A. Payroll – For each biweekly payday, the City will make electronically available for each employee:**

1. **Pay Statements** – an accurate itemized statement showing, at a minimum:
 - a. Gross wages
 - b. Total hours worked by the employee
 - c. All deductions as authorized by employee
 - d. Net wages earned
 - e. Name of employee AND; only last (4) digits of SSN OR Employee ID number
 - f. Name and address of the employer

2. **Description of Earnings**

- a. All applicable hourly rates in effect during the pay period and the corresponding number of hours worked at each hourly rate by the employee.
 - b. Inclusive dates of the period for which the employee is paid

The parties agree that any changes to pay statements and description of earnings will be done by mutual agreement.

3. **Payroll Response**

- a. **Urgent Issues** – For the purpose of this Article, an urgent issue is any matter which causes or is likely to cause immediate financial injury or hardship to an employee such as the loss of a significant portion of regular wage, the loss of health benefits or similar. Fire Department Payroll Specialists shall acknowledge receipt of all urgent issues within 24 hours (excluding weekends) of being contacted via email by an employee and promptly resolve the issue.
 - b. **Non-urgent Issues** – Fire Department Payroll Specialists shall respond to non-urgent issues within ten business days of being contacted via email by an employee. It is acknowledged by the City and Local 145 that some non-urgent issues may take longer than ten business days to correct in which case the employee will be provided, within ten business days, an acknowledgement of receipt as well as a tentative plan and estimated timeline for resolution. For those employee payroll issues unresolved after thirty business days, monthly updates will be provided by Payroll to the impacted employee(s) and Local 145.
4. The City agrees to promptly investigate and respond to employee claims of under/overpayment when an employee submits credible evidence of such claim to their Payroll Specialist via email.
5. Action shall not be taken by the City or employees to recover an under or overpayment unless that action is initiated within three years from the date of discovery by the aggrieved party of the under or overpayment

B. Overpayment

If it has been discovered that an overpayment or unauthorized payment has been made to a City employee, it is the responsibility of the department to notify the employee in writing and supply the employee with **sufficient** documentation that was used to determine the overpayment, **including all information in section A(2).**

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 department will notify the employee that **they** may have a representative attend such meeting(s) with **them**.

If the dispute regarding overpayment arises from the interpretation of a Personnel or Administrative regulation, the employee may grieve this matter directly to the Department Head level.

C. Repayment of Funds

An employee will pay no penalties, fees or interest as a result of the overpayment.

The employee shall have the right to select one of three options for repayment:

1. Lump sum payment with the date mutually established by the employee and the department.
2. Biweekly installment payments through payroll deduction (installment payments must be a minimum of \$10 and repayment must be completed within 26 pay periods).
3. Any other repayment arrangement mutually agreed upon between the City and the employee **but not to exceed a repayment plan of five calendar years**.
4. The final agreement on the repayment will be committed to writing, with the lump sum payment date, or the biweekly amount and the beginning and ending date of the installment plan identified.
5. **If an employee leaves City employment with an outstanding repayment plan, the employee will be invoiced for the remaining balance owed.**
6. Disputes over repayment of funds which were overpaid to an employee through no fault of the employee, shall not be a factor in employee performance reports or discipline.

D. Referral to Collections

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

ARTICLE 63

Weapon-Free Workplace

Local 145 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. The City shall have the right to adopt an

Administrative Regulation regarding transporting or carrying of weapons by City employees on City property or job sites. For purposes of the Article, tools required or used on the job are not considered weapons. At the request of the Local 145, the City will meet and confer over the identified impacts on the adoption of the Administrative Regulation.

ARTICLE 64

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 pay by the City.
- C. In accordance with City Council Policy No. 300-01, City will continue to optimize the use of volunteers where it is economically feasible, by developing volunteer opportunities throughout City. Unless the Parties meet and confer during the term of the MOU, volunteers are to be utilized only to supplement and compliment the work performed by City personnel and without decreasing bargaining unit work or displacing existing City personnel.
- D. Parties understand that departments participating in City's Volunteer Program shall utilize volunteers to perform a number of tasks necessary to support volunteer programs. Projects performed by volunteers include, but are not limited to, the following:
 - 1. Community Emergency Response Team (CERT), which is a community-based program led and developed by Fire-Rescue personnel. CERT helps citizens become a part of the solution in their own communities. The program took advantage of the outpouring of volunteers that offered to help in disasters such as the Cedar fire, earthquakes and 9/11.

San Diego Fire-Rescue personnel train and empower citizens in safe, effective neighborhood CERT teams. CERT San Diego instructors teach citizens to take life-saving action to help families, neighbors, businesses and communities get through the first few hours or days when emergency services are overwhelmed. Some Fire-Rescue Fire Fighters volunteer their own personal time in providing training. Training provided by the American Red Cross, FEMA, and countywide CERT drills supplement the training provided by the Department to keep expenses at a minimum to City.

ARTICLE 65

Take Home Vehicles

City will implement the Assigned Vehicle Policy. City shall have the right to adopt an Administrative Regulation regarding Take Home Vehicles and will meet and confer over the identified impacts on the adoption of the Administrative Regulation.

ARTICLE 66

Discretionary Leave

- A. During the term of this MOU, all full-time bargaining unit members will receive **16** hours of Discretionary Leave for use during each fiscal year 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 will receive 12 hours of Discretionary Leave for use during each fiscal year of this MOU. Half time employees will receive eight hours of Discretionary Leave for use during each fiscal year of this MOU.
- B. Each employee will schedule **their** discretionary leave hours in the same manner as annual leave is presently scheduled pursuant to Fire-Rescue Department annual leave guidelines. This leave can also be combined with other types of paid leave.
- C. All leave granted under this Article must be used by June 30 of each fiscal year, or it will be forfeited.
- D. Section A above does not amend, modify, or alter any Discretionary Leave that may be granted under Administrative Regulation 95.91 (Employee Recognition and Rewards Program).

ARTICLE 67

Death Benefit-Line of Duty Death

The City will pay for the reasonable burial and interment expenses for the family of any firefighter killed in the line of duty, not to exceed \$5,000.00. The City will also provide an additional \$5,000.00 to the family of a firefighter killed in the line of duty, to use at their discretion. The City will pay for the highest cost HMO health plan for the surviving spouse and eligible dependents of any firefighter killed in the performance of duty, or one who dies as a result of an accident or injury caused by external violence or physical force incurred in the performance of duty.

ARTICLE 68

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ARTICLE 69

New Employee Orientation

- A. The City agrees to acknowledge Local 145 as the exclusive bargaining representative during New Employee Orientation. The City will also provide Local 145 with an opportunity to make presentations to City employees during the benefits portion of the City's New Employee Orientation Program or a separate meeting with new employees who do not attend the City's New Employee Orientation Program.
- B. City agrees to provide Local 145 with an opportunity to make a one-hour presentation to new employees during the last week(s) of the Fire Academy for all recruits who have successfully completed final testing. In addition to the one-hour presentation by Local

145, the City agrees to provide two additional continuous hours for presentations by the San Diego Fireman's Relief Association and other fraternal/sororal affiliate Organizations, as scheduled by Local 145, who provide benefits to firefighters.

- C. Local 145 will be provided a room for these presentations at the Fire Academy or recruits will be permitted to travel to Local 145 facility at the discretion of Management. Academy Staff will refrain from scheduling concurrent events so that all recruits are afforded an opportunity to attend presentations.

ARTICLE 70

Significant Injury, Illness, or Death Notification

As soon as practical, within a reasonable period of time not to exceed 60 minutes, and with the consent of the affected employee or their designee, the Department will notify the President of Local 145 or designee in the event that the employee, while on-duty, experienced on duty a "significant injury or illness". A "significant injury", for the purposes of this Article, means an injury that requires transportation to a hospital or medical facility and/or an injury that is suspected to prevent the employee from returning to work for the employee's next regularly scheduled shift.

ARTICLE 71

Community Paramedicine

- A. In the event that new legislation related to community paramedicine is enacted or should the City elect to implement any component falling under the scope of community paramedicine that would impact Local 145 members, the City and Local 145 agree to meet and confer as required by MMBA on integration of the new work into the firefighters' bargaining unit. Any future mutually agreed to provision regarding L145 members related to Community Paramedicine will be captured in this article. This article does not reserve or guarantee community paramedicine as protected work of Local 145 members.
- B. Community paramedicine (CP) is an innovative and evolving model of community healthcare designed to provide more effective and efficient services at a lower cost. Community paramedicine allows first responders (Emergency Medical Technicians and paramedics) to function outside their traditional emergency response and transport roles to help facilitate more appropriate use of emergency care resources while enhancing access to primary care for medically underserved populations.
- C. A community paramedic (CP) is an advanced paramedic that works to increase access to primary and preventive care and decrease use of emergency departments, which in turn decreases health care costs. CPs are not meant to supersede or replace any healthcare programs that are already available in the community, rather they supplement and enhance these programs.
- D. Community paramedic programs may include but not be limited to: providing post discharge follow up to high-risk patients, transportation to alternate destinations, community health education, addressing frequent 911 users, collaboration with hospice providers and collaboration with public health agencies to prevent the spread of disease.

APPENDIX A

Smoking Policy Addendum for Employees Represented by Local 145, International Association of Fire Fighters.

There will be no smoking allowed in City facilities or vehicles.

APPENDIX B

Interim Defined Contribution Plan

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.

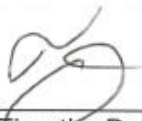

RESERVATION OF RIGHTS

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	_____ Date

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 Buel 9.5.12
Date

FOR LOCAL 911

Christy Godan 9-5-2012
Date

FOR DCAA

Michael Anderson 9.5.12
Date

APPENDIX C

City's Interim Death and Disability Agreement

**AGREEMENT BETWEEN
THE CITY OF SAN DIEGO AND THE SAN DIEGO CITY FIREFIGHTERS, INTERNATIONAL ASSOCIATION OF
FIREFIGHTERS LOCAL 145
RELATED TO ESTABLISHMENT OF AN INTERIM DISABILITY AND DEATH BENEFITS PLAN FOR EMPLOYEES
INITIALLY HIRED ON OR AFTER JULY 20, 2012**

The City of San Diego (City) and the San Diego City Firefighters, International Association of Firefighters Local 145 (Local 145) enter into this Agreement in accordance with the Meyers-Millas-Brown Act (MMBA), San Diego Charter section 151, San Diego City Council Policy 300-06, and the Memorandum of Understanding (MOU) between the City and Local 145 approved by the San Diego City Council by San Diego Resolution R-310508 (Jun. 13, 2016). The City and Local 145 are referred to collectively in this Agreement as the "Parties."

Section 151 was added to the City Charter by the adoption of the Proposition B initiative in June 2012. The lawfulness of these Proposition B-related Charter amendments remains in question based on legal proceedings to date before the Public Employment Relations Board (PERB), the Fourth District Court of Appeal, and the California Supreme Court. Until the validity of the Proposition B Charter amendments is finally determined, the City and Local 145 have agreed on an Interim Defined Contribution (DC) Plan for all affected Local 145-represented employees initially hired on or after July 20, 2012. This DC Plan is incorporated in Local 145's current MOU as Appendix B. However, Charter section 151 also states that, "For Uniformed Public Safety Officers, the City shall provide for death and disability benefits" to support an employee enrolled in this DC Plan who "has become physically or mentally disabled by reason of bodily injury or illness."

Local 145's MOU, Article 31, section F and Appendix B, provide that the City and Local 145 will meet and confer during the term of the MOU, at the request of either the City or Local 145, over implementation of death and disability benefits for employees who are initially hired on or after July 20, 2012. The Parties have engaged in good faith bargaining over implementation of an Interim Death and Disability Benefit Plan intended to cover affected employees until the validity of the Proposition B Charter amendments is finally determined by a court and a permanent death and disability benefit plan is established. As a result of this good faith meet and confer, the parties agree as follows:

1. The Parties have satisfied their duties under the MMBA.
2. The Parties acknowledge that this Agreement is not binding on the City or Local 145, unless and until it is approved by a majority of the City Council and ratified by Local 145.
3. The Parties acknowledge that implementation of this Interim Death and Disability Benefits Plan will require a resolution of the City Council approving an amendment to add a new Article VI the City's Self-Funded Employees' Long-Term Disability (LTD) Income Plan document (Plan) (Attachment A). The Parties also acknowledge that the payment of industrial death and/or disability benefits as nontaxable income under this Interim Death and Disability Benefits Plan will require City Council Approval of an ordinance providing for such benefits.
4. The Parties acknowledge that the City and four of its recognized employee organizations are currently involved in litigation resulting from a consolidated unfair labor practice charge filed with the California Public Employment Relations Board (PERB) related to Proposition B (PERB Litigation). 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 agree to reopen negotiations, upon request of either party, to establish a plan which will provide permanent monthly death and disability benefits under the San Diego City Employees' Retirement System or otherwise. Likewise, 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 agree to reopen negotiations, upon request by either party, to establish a permanent plan which will provide death and disability benefits.

5. It is the intent of the Parties to implement this Interim Death and Disability Benefits Plan for all Local 145-represented employees ("Employees" or "Participants") initially hired on or after July 20, 2012, retroactively to July 20, 2012, the effective date of Charter section 151. These interim benefits are in addition to any statutory Workers' Compensation benefits. These interim benefits will be provided through a new Article VI to be added to City's LTD Income Plan. The terms as stated in Article VI are controlling; however, certain terms are summarized here as follows:
 - (a) The purpose of the new Article VI is to provide interim death and disability benefits for Participants, regardless of age or years of service, who are permanently incapacitated from the performance of their usual and customary duty as a result of an industrial or non-industrial disability.
 - (b) The interim industrial disability benefit payable under the new Article VI will be 50% of the Participant's Final Compensation, as defined in Article VI, paid bi-weekly. The interim non-industrial disability benefit payable under the new Article VI will be 33 1/3% of the Participant's Final Compensation, as defined in Article VI, paid bi-weekly.
 - (c) The interim death benefit payable under the new Article VI for industrial deaths will be 50% of the Participant's Final Compensation, as defined in Article VI, paid bi-weekly. Under certain circumstances, a 100% continuance survivor benefit will be paid. For non-industrial deaths, the interim death benefit is a lump sum equal to one month of pay for each year of service credit, not to exceed 50% of the Participant's Final Compensation, as defined in Article VI.
 - (d) All interim industrial death or disability benefits under the new Article VI of the City's LTD Income Plan will be paid as nontaxable income to the recipient. Interim non-industrial death or disability benefits, will be paid as taxable income to the recipient.
 - (e) The interim death and disability benefits under the new Article VI of the Plan are being provided on an interim basis only. The City will terminate eligibility for and payments of benefits under Article VI of the Plan upon the effective date of the permanent City of San Diego Death and Disability Plan. Except as provided in Section 6.24 of Article VI of the Plan, Article VI will terminate on December 31, 2022, unless mutually agreed in writing to extend the termination provision to a later date by the City and applicable recognized employee organizations.
6. Local 145 expressly acknowledges that, when adopted and added to City's LTD Income Plan, this Article VI Interim Death and Disability Benefits Plan, will create no vested right for any Local 145-represented employee to receive or continue to receive benefits under the Plan except as expressly stated therein and subject to the limitations provided.
7. If a Participant is eligible to receive a benefit under both Article VI and under another provision of the City's LTD Income Plan, the benefit available under the other Plan provision will be paid to the Participant first until exhausted. If eligibility for payment of the benefit under the other Plan provision ceases for any reason, the benefit under Article VI will then be payable to the Participant provided the Participant meets the eligibility requirements of Article VI at the time benefit payments cease under the other Plan provision. Under no circumstances will simultaneous benefit payments be made to a Participant under both Article VI and another provision of City's LTD Income Plan.

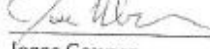
8. This Agreement does not supersede any provisions in the MOU between the City and Local 145. All MOU provisions remain in effect.
9. The City, in its discretion, may proceed with any legally required process to establish a contractual relationship with the third-party administrator for claims processing pursuant to Article VI of the City's LTD Income Plan.

ATTACHMENTS:

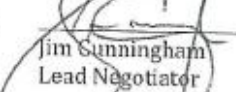
A - Long-Term Disability Plan Revision - Article VI, Interim Death and Disability Benefits, dated July 9, 2019

This Agreement is executed, by the following authorized representatives of each party:

Local 145

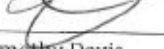
By: 
Jesse Conner
President

Date: 7/23/19

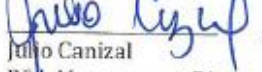
By: 
Jim Cunningham
Lead Negotiator

Date: 7/23/19

City of San Diego

By: 
Timothy Davis
City's Lead Negotiator

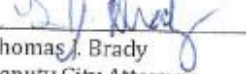
Date: 8/10/19

By: 
Julio Canizal
Risk Management Director

Date: 8/16/19
By: 
Abby Jarl-Veltz
Human Resources Assistant Director

Approved as to form this 8th day of August, 2019. Date: 8/16/19

MARA W. ELLIOTT, City Attorney

By: 
Thomas J. Brady
Deputy City Attorney

ARTICLE VI
INTERIM DEATH AND DISABILITY BENEFITS

6.1 PURPOSE

The purpose of this article is, in accordance with section 151 of the City of San Diego City Charter (hereinafter Charter), to implement an interim death and disability benefit for certain Eligible Employees who are killed in the line of duty or who become permanently incapacitated from the performance of duty as a result of injury or disease arising out of or in the course of their City employment or as a result of a non-work related injury or disease, and who are not otherwise eligible to participate in SDCERS.

6.2 EFFECTIVE DATE

This article will become effective on the date the San Diego City Council approves an amendment adding it to the Plan. The benefits under this article are also retroactively applicable to certain Eligible Employees, as defined under Section 6.3, who became disabled or died on or after July 20, 2012.

6.3 ELIGIBLE EMPLOYEE

For purposes of this article, Eligible Employee means:

- (a) A benefitted standard hour Employee who is (i) initially hired after July 19, 2012, (ii) ineligible to participate in SDCERS, and (iii) in a bargaining unit represented by the San Diego City Firefighters, International Association of Fire Fighters Local 145; the San Diego Municipal Employees' Association; the American Federation of State, County and Municipal Employees, AFL-CIO, Local 127; the International Brotherhood of Teamsters, Local 911; or the Deputy City Attorneys Association.
- (b) An Unrepresented Employee, defined as an Employee who is either an elected officer or is not represented by any of the City's recognized employee organizations, who (i) is not a sworn police officer, (ii) is initially hired after July 19, 2012, and (iii) is ineligible to participate in SDCERS.
- (c) A police recruit who is initially hired by the City after June 30, 2013, but only while the police recruit is participating in the City's Police Academy and is ineligible to participate in the San Diego City Employees' Retirement System.
- (d) An Elected Officer who is initially hired or initially assumes office after July 19, 2012 and is therefore ineligible to participate in SDCERS.

6.4 COMMENCEMENT OF PARTICIPATION

Each individual who is an Eligible Employee on the Effective Date or who became disabled or died on or after July 20, 2012, will become a Participant on the Effective Date. Each individual who becomes an Eligible Employee after the Effective Date will become a Participant when he or she becomes an Eligible Employee.

6.5 TRANSITION TO PERMANENT DEATH AND DISABILITY BENEFIT PLAN

The City and its affected Recognized Employee Organizations (REOs) agree to meet and confer over the transition from this interim death and disability plan to a permanent City of San Diego Death and Disability Benefit Plan upon the earlier of the occurrence of the following events:

- (a) the date 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; or
- (b) the date a court of competent jurisdiction, following the exhaustion of all appeals, issues a final order or decision declaring Proposition B to be lawfully adopted.

The interim death and disability benefits provided under this article are purely voluntary on behalf of the City. Neither the establishment of this article nor any future amendment, nor the payment of any benefits, gives any person a legal or equitable right against the City, unless that right is specified in this article or conferred by affirmative action of the Plan Administrator or the City in accordance with the terms and provisions of this article. No action by the City with respect to this article gives any Eligible Employee or Participant the right to continued City employment. All Participants remain subject to discharge to the same extent as though this article had not been established.

6.6 INDUSTRIAL DISABILITY BENEFIT

A Participant will receive an interim annual industrial disability benefit paid bi-weekly regardless of his or her age or years of service in the tax-free amount of 50% of the Participant's Final Compensation (as defined under Municipal Code section 24.0103), if the Participant is permanently incapacitated for the performance of his or her usual and customary duty and that incapacity:

- (a) is a result of an injury or disease arising out of or in the course and scope of his or her employment as determined by the California Workers Compensation Appeals Board (WCAB) whose decision on causation shall be final and binding and in accordance with WCAB rules (if the WCAB does not make such a determination, for whatever reason, the Claims Administrator will decide the issue subject to the Appeals Process (6.23(f));

- (b) renders his or her separation from City employment necessary;
- (c) did not arise from:
 - (1) a Preexisting Medical Condition, which means a medical condition that occurred or existed before the Participant became a Participant, or
 - (2) a nervous or mental disorder; and
- (d) was not caused by willful misconduct, malicious violation of the law, or intemperate use of alcohol or drugs as determined by the WCAB (if the WCAB does not make such a determination, for whatever reason, the Claims Administrator will decide the issue subject to the Appeals Process (6.23(f)).

For the sake of clarity, Final Compensation means the average of a Participant's three highest years of Base Compensation (as defined under Municipal Code section 24.0103) while a City employee. Payment of the benefit under this article will cease upon the effective date of the permanent City of San Diego Death and Disability Benefit Plan, the death of the Participant, or the date the City determines the Participant is no longer disabled under the terms of the Plan, whichever is earlier.

6.7 NON-INDUSTRIAL DISABILITY BENEFIT

A Participant will receive an interim annual non-industrial disability benefit paid bi-weekly regardless of his or her age or years of service in the amount of 33 1/3% of the Participant's Final Compensation (as defined under Municipal Code section 24.0103), if the Participant is permanently incapacitated from the performance of his or her usual and customary duty and that incapacity:

- (a) is not a result of an injury or disease arising out of and in the course of his or her employment;
- (b) renders his or her separation from City employment necessary; and
- (c) was not caused by willful misconduct, malicious violation of the law, or the intemperate use of alcohol or drugs.

For the sake of clarity, Final Compensation means the average of a Participant's three highest years of Base Compensation (as defined under Municipal Code section 24.0103) while a City employee. Payment of the benefit under this article will cease upon the effective date of the permanent City of San Diego Death and Disability Benefit Plan, the death of the Participant, or the date the City determines the Participant is no longer disabled under the terms of the Plan, whichever is earlier.

6.8 COST OF LIVING ADJUSTMENT

Effective every July 1, the Plan Administrator will adjust each Participant's interim disability benefit by the lesser of:

- (a) the percentage annual change in the Bureau of Labor Statistics Consumer Price Index, United States – All items for the preceding calendar year, rounded to the nearest tenth of a percent, or
- (b) 2%;

provided, however, that no decrease will reduce any Participant's disability benefit below the benefit in effect on the Effective Date of his or her interim disability benefit.

6.9 REIMBURSEMENT OBLIGATION AND SUBROGATION RIGHTS

The City has the right to recover and subrogate from and against Third Parties or persons, as well as their agents or insurers, any payments made under this article of the Plan.

6.10 DISABILITY EFFECTIVE DATE

Any interim disability award under this article will be effective on the Disability Effective Date, which is the day after the Participant's City employment terminates due to the Participant's incapacity. Payment of any disability award under this article will commence within 30 days after the Claims Administrator or Plan Administrator, as the case may be, approves the award.

6.11 DISABILITY AFFIDAVIT

- (a) Any Participant who is receiving an interim industrial or non-industrial disability benefit under this article of the Plan must annually file an affidavit of condition of disability with the Plan Administrator in the form prescribed by the Plan Administrator.
- (b) The Plan Administrator will provide an affidavit to each Participant receiving a disability benefit under this article of the Plan each year during the month of his or her birthday or as needed at the Plan Administrator's discretion. The Participant must return the affidavit within thirty 30 days of when the affidavit is mailed. If the completed affidavit is not received from the Participant within 30 days, the Plan Administrator will follow-up with the Participant to determine why he or she has failed to comply.
- (c) If, after reasonable follow-up by the Plan Administrator, the Participant fails to return the affidavit, the Plan Administrator may temporarily

suspend the Participant's interim disability benefit until such time as he or she complies.

- (d) The Plan Administrator may prescribe additional rules and regulations for an annual filing of an affidavit of condition of disability subject to meet and confer.

6.12 PERIODIC PHYSICAL EXAMS FOR DISABLED PARTICIPANTS

- (a) The Plan Administrator may order any Participant who is receiving an interim industrial or non-industrial disability benefit under this article of the Plan to be examined annually by one or more licensed physicians for the purpose of confirming the individual's continuing eligibility for disability benefits, and may at any time order the Participant to active duty, in which case payment of the disability allowance will cease.
- (b) The Plan Administrator may prescribe rules and regulations for periodic physical examinations subject to meet and confer.

6.13 ACTIVE EMPLOYEE DEATH BENEFIT

- (a) Under this article, the Plan will pay the interim active (non-industrial) death benefit to a Participant's Beneficiary, who is defined as any person or entity entitled to receive a benefit under this article at the time of the Participant's death, if:
 - (1) the Participant dies:
 - (A) while in active City service (on the City payroll and not on a leave of absence);
 - (B) while absent on military service;
 - (C) within four months of terminating City employment because the Participant's position was abolished; or
 - (D) while incapacitated from the performance of his or her duties, if the incapacity was continuous from when the Participant terminated City employment until his or her death; and
 - (2) an industrial death benefit is not payable.
- (b) The interim active death benefit is a lump sum equal to one month of pay for each year of service credit, not to exceed 50% of the Participant's Final Compensation (as defined under Municipal Code section 24.0103). For

the sake of clarity, Final Compensation means the average of a Participant's three highest years of Base Compensation (as defined under Municipal Code section 24.0103) while a City employee.

6.14 INDUSTRIAL DEATH BENEFIT

- (a) Under this article, the Plan will pay the interim industrial death benefit, instead of the active employee death benefit, to a Participant's Surviving Spouse, who is defined as the Participant's spouse or registered domestic partner at the time of the Participant's death, or if none, the Surviving Minor Children, who are defined as a Participant's children under the age of 18 at the time of the Participant's death, if, in addition to satisfying the requirements in section 6.11(a) the Participant:
 - (1) dies from industrial causes, as determined in accordance with the procedures set forth under the California Labor Code, Workers' Compensation Division; and
 - (2) either:
 - (A) has a Surviving Spouse who is named as the Participant's Beneficiary when the Participant dies, or
 - (B) the Participant has one or more Surviving Minor Children when he or she dies.
- (b) If the Participant has a Surviving Spouse who is the Participant's Beneficiary when he or she dies, under this article the Plan will pay an interim annual death benefit paid bi-weekly to the Surviving Spouse equal to 50% of the Participant's Final Compensation (as defined under Municipal Code section 24.0103), beginning with the month that includes the Participant's death and continuing under this article until the effective date of the permanent City of San Diego Death and Disability Benefit Plan or the death of the Surviving Spouse, whichever is earlier. If the Participant does not have a Surviving Spouse, but has one or more Surviving Minor Children, when the Participant dies, under this article the Plan will pay an interim annual death benefit paid bi-weekly, in equal shares, to the Surviving Minor Children, equal to 50% of the Participant's Final Compensation (as defined under Municipal Code section 24.0103), beginning with the month that includes the Participant's death, until each Surviving Minor Child reaches age 18 or until the effective date of the permanent City of San Diego Death and Disability Benefit Plan, whichever is earlier. For the sake of clarity, Final Compensation means the average of a Participant's three years of Base Compensation (as defined under Municipal code section 24.0103) while a City employee.

- (c) If, when the Participant dies, it has not yet been determined under the California Labor Code, Workers' Compensation Division, whether the Participant died from industrial causes, under this article the Plan may pay the interim active death benefit to the Participant's Beneficiary. If it is subsequently determined under the California Labor Code, Workers' Compensation Division, that the Participant died from industrial causes, and there is a qualifying Surviving Spouse or one or more Surviving Minor Children, under this article the Plan will pay the interim industrial death benefit reduced by the amount of the active death benefit paid to the Participant's Surviving Spouse, or, if none, Surviving Minor Children. The Surviving Spouse or Surviving Minor Children will not be paid an interim industrial death benefit until the accumulation of the benefit fully offsets the lump sum amount paid for the active death benefit. The benefit will cease on the effective date of the permanent City of San Diego Death and Disability Plan or the death of the Surviving Spouse or surviving Minor children, whichever is earlier.
- (d) One Hundred Percent (100%) Continuance Survivor Benefit
 - (1) The payment of a 100% continuance survivor benefit may be authorized by the Plan under this subsection (d) when a Participant receiving an industrial disability benefit dies; and
 - (2) The Surviving Spouse or Surviving Minor Children of such a deceased Participant makes a written application to the Plan Administrator for an award of this benefit; and
 - (3) The Surviving Spouse or Surviving Minor Children demonstrate, by clear and convincing evidence, that the Participant's death was the direct result of the disability for which the Participant was receiving a benefit under this article. For the avoidance of doubt, the same monthly benefit the Participant was receiving at death will be payable to the Participant's Surviving Spouse or Surviving Minor Children provided the conditions set forth above in this subsection (d) are satisfied. The benefit will cease on the effective date of the permanent City of San Diego Death and Disability Plan or the death of the Surviving Spouse or surviving Minor children, whichever is earlier.

6.15 BENEFICIARY DESIGNATION

The Participant's designated beneficiary under the City of San Diego Supplemental Pension Savings Plan H is the Participant's Beneficiary entitled to receive any death benefits payable under this article of the Plan on account of the Participant's death.

6.16 BENEFICIARY NOT DESIGNATED

- (a) Under this article, the Plan will pay all amounts due because of the death of a Participant as provided in subdivision (b) of this section if the Participant's estate would not be probated if no amounts were due from this article of the Plan and:
 - (1) the Participant did not name a Beneficiary,
 - (2) there is no living named Beneficiary,
 - (3) after reasonable efforts, the Plan Administrator is unable to locate the named Beneficiary, or
 - (4) the Beneficiary is the Participant's estate.
- (b) Payment will be made, in the following order, to the Participant's:
 - (1) Surviving Spouse,
 - (2) children,
 - (3) parents,
 - (4) siblings, or
 - (5) next of kin.
- (c) Under this article, the Plan will not make any payment under this section to persons in any group listed in subpart (b) if there are living persons in any earlier group on the date of payment.
- (d) Under this article, the Plan will not make any payment under this section without first receiving from each payee an affidavit in compliance with the California Probate Code permitting a decedent's successor to collect non probate assets.

6.17 PAYMENT TO FUNERAL DIRECTOR

The Plan Administrator may pay any of the amount due from this article of the Plan because of the death of a Participant to the funeral director who conducted the funeral, or to the person or organization that paid the funeral expenses, if:

- (1) the Participant did not name a Beneficiary,

- (2) there is no living named Beneficiary,
- (3) the Plan Administrator is unable to locate the named Beneficiary, or
- (4) the Beneficiary is the Participant's estate; and

no person in any of the groups listed in Section 6.14(b) has survived the Participant.

- (a) Payment under this section will not exceed the actual cost of the funeral or the portion of that cost paid by the person or organization to the funeral director, as shown by the funeral director's sworn itemized statement and by any other documents required by the Plan Administrator.
- (b) Payment under this section will fully discharge the Plan for the amount paid.

6.18 UNIFORM SIMULTANEOUS DEATH ACT

California law regarding the distribution of estates under the Uniform Simultaneous Death Act governs payments made by this article of the Plan because of the death of a Participant or Beneficiary. In applying the Uniform Simultaneous Death Act to benefits paid to a Beneficiary, benefits under this article of the Plan will have the same status as benefits under insurance policies.

6.19 CONTINUED HEALTH COVERAGE

A Safety Member's Surviving Spouse or Surviving Minor Child who is eligible for the industrial death benefit is entitled to continued health coverage as provided in California Labor Code section 4856. Under that section, if a Safety Participant who is a firefighter or a peace officer and:

- (a) is killed in the performance of his or her duty, or
- (b) dies as a result of an accident or injury caused by external violence or physical force incurred in the performance of his or her duty, the City must continue providing health benefits to the deceased Participant's Surviving Spouse under the same terms and conditions provided prior to the death, or prior to the accident or injury that caused the death, until the Surviving Spouse is Medicare eligible. Upon Medicare eligibility, the City will pay the Medicare Part B premium for the Surviving Spouse's life. Surviving Minor Children will continue to receive benefits under the coverage provided the Surviving Spouse or, if there is no Surviving Spouse, until the age of 26 years. However, pursuant to section 4856 of the Labor Code, the Surviving Spouse may not add the new spouse or

stepchildren as family members under the continued health benefits coverage of the Surviving Spouse.

6.20 RETIREE DEATH BENEFIT

Under this article, the Plan will pay a \$2,000 death benefit to the designated Beneficiary of a Participant who has received a disability benefit under this article of the Plan. If there is no designated *Beneficiary*, the benefit will be paid according to Sections 6.14 or 6.15, whichever is applicable.

6.21 PLAN ADMINISTRATOR

For purposes of this article only, the Plan Administrator is the City's Risk Management Director. The Plan Administrator has the exclusive discretion and authority to (a) establish rules, forms, and procedures for the Plan's administration; (b) to construe and interpret this article of the Plan in good faith and in a manner consistent with the Plan's purpose; and (c) to decide any and all questions of fact, interpretation, definition, computation, or administration arising in connection with the operation of this article of the Plan, including, but not limited to, the eligibility to participate in the Plan and amount of benefits paid under this article of the Plan. The Plan Administrator may delegate to any other person or organizations any of his or her powers and duties. The rules, interpretations, computations, and other good faith actions of the Plan Administrator will be binding and conclusive on all persons.

6.22 CLAIMS ADMINISTRATOR

For purposes of this article only, the Claims Administrator is the Plan Administrator, or a third party designated by the Plan Administrator to determine claims for benefits under this article.

For purposes of this article only, the Appeals Committee is the Committee responsible for reviewing and deciding appeals of denied claims. The Appeals Committee is comprised of the City's Human Resources Director, the City's Risk Management Director and a representative of a *City* safety REO, a representative of a *City* non-safety REO and a designee from the Independent Budget Analyst's Office. The REO representative may not be a member of the same REO as the Claimant.

6.23 CLAIMS PROCEDURES

The following claims procedures apply only to claims for interim death and disability benefits filed under this article:

(a) Filing a Claim

A claim for benefits is not filed until all of the documents prescribed by the Claims Administrator for benefit application are completed, signed and filed with the Claims Administrator. All required documentation for

disability claims must be completed, signed and filed with the Claims Administrator within 60 days of filing the initial claim or the claim will be denied. A claim for benefits must include sufficient evidence to enable the Claims Administrator to determine whether the Participant has met the Plan's requirements for a disability benefit. For purposes of this section, "Claimant" means a Participant, Beneficiary or, where applicable, his or her authorized representative, who has filed a claim for benefits under this article of Plan.

(b) Time Limit for Filing a Claim

A Claimant must, at the time and manner prescribed by the Claims Administrator, file a claim for disability benefits with the Claims Administrator:

- (1) while the Participant is in active service (on the *City* payroll and not on a leave of absence) or on long-term disability;
- (2) within four months of discontinuance of active service; or
- (3) within three years of discontinuing active service if the Participant establishes that he or she was continuously physically or mentally incapacitated from the performance of duty from that date until he or she applied for disability benefits.

A claim for disability benefits filed more than three years after a Participant discontinues active service will be deemed denied. The Claimant will then be permitted to appeal the denial in accordance with the Appeals Procedure described in section 6.23(f).

(c) Benefit Claim Determinations

- (1) Upon the Claimant's timely filing of a claim as described in subsections (a) and (b) of this section, the Claims Administrator will review and evaluate the claim to ensure that disability benefits are paid only to those who are legally authorized to receive those benefits.
- (2) During the review and evaluation process the Claims Administrator may in the exercise of good faith:
 - (A) request additional supporting information from the Claimant;

- (B) require that the Claimant submit to one or more independent medical examination(s) on any medical condition covered or raised by the claim;
 - (C) conduct an independent review of the Claimant's files and records; or
 - (D) inquire into or investigate Claimant's relevant habits or conduct.
- (3) The Claimant must cooperate with the Claims Administrator's reasonable review and evaluation conducted in good faith by providing any relevant information requested and by submitting to one or more independent medical examinations requested by the Claims Administrator. Claimant's refusal to provide any relevant information requested or to submit to an independent medical examination is grounds for denial of the claim without further evaluation.

(d) Decision on Claims

- (1) The Claims Administrator will make its determination regarding a claim within 45 days of receipt by the Plan. The Claims Administrator may, however, extend this decision-making period for an additional 30 days for reasons beyond the control of the Claims Administrator. The Claims Administrator will notify the Claimant of the extension prior to the end of the 45-day period. If, after extending the time period for the first 30-day period, the Claims Administrator determines that it will still be unable, for reasons beyond the control of the Claims Administrator, to make decision within the extension period, the Claims Administrator may extend decision making for a second 30-day period.
- (2) Appropriate notice must be provided to the Claimant before the end of the first 45 days and again before the end of each succeeding 30-day period. This notice will explain the circumstances requiring the extension and the date the Claims Administrator expects to render a decision to the Claimant. It will explain the standards on which entitlement to the benefit is based, the unresolved issues that prevent a decision, the additional issues that prevent a decision, and the additional information needed to resolve the issues. The Claimant will have 45 days from the date of receipt of the Claims Administrator's notice to provide the information required.

- (3) If the Claims Administrator determines that a preponderance of the evidence supports the claim, it will approve the claim. In that case, benefit payments will begin within 30 days thereafter.

(e) Denial of Claims

If any claim for benefits is denied in whole or in part (an “adverse benefit determination”), the Claims Administrator must notify the Claimant, in writing, of the denial of the claim, and of the Claimant’s appeal rights. The notice will state:

- (1) The specific reason or reasons for the adverse determination.
- (2) Reference to the specific Plan provisions on which the determination was based.
- (3) A description of any additional material or information the necessary for the Claimant to perfect the claim and an explanation of why such material or information is necessary
- (4) A description of the Plan’s review procedures and the time limits applicable to such procedures. This will include a statement of the Claimant’s right to bring a civil action under California Code of Civil Procedure section 1094.5 following an adverse benefit determination on review.
- (5) A discussion of the decision, including an explanation of the basis for disagreeing with or not following:
 - (A) the views presented by the Claimant to the Plan of health care professionals treating the Claimant and vocational professionals who evaluated the Claimant;
 - (B) the views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a Claimant’s adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; or
 - (C) a disability determination made by the Social Security Administration regarding the Claimant and presented by the Claimant to the Plan.
- (6) If the adverse benefit determination is based on medical necessity or experimental and/or investigational treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the

determination, applying the terms of the Plan to the Claimant's medical circumstances will be provided. If this is not practical, a statement will be included that such explanation will be provided free of charge, upon request.

- (7) Either the specific internal rules, guidelines, protocols, or other similar criteria relied upon to make a determination, or a statement that such rules, guidelines, protocols, or criteria do not exist.
- (8) A statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim.

(f) Appeals Procedure

- (1) When a Claimant receives a notice of an adverse benefit determination, the Claimant may request a review of the decision. The request must be in writing and must be filed within 180 days following receipt of the notice. The Claimant or his authorized representative may submit written comments, documents, records, and other information relating to the claim. If the Claimant so requests, he or she will be provided, free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim.

The Claims Administrator will give the Claimant an opportunity to choose to have his/her appeal heard in front of an Adjudicator from either JAMS or Judicate West.

- (2) The review shall take into account all comments, documents, records, and other information submitted by the Claimant relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination. The review will not afford deference to the initial adverse benefit determination and will be considered by the Appeals Committee, whose members did not make the initial adverse determination. Upon request, and at no expense to the Claimant, the Appeals Committee will convene a meeting, with at least 30-days advance notice to the Claimant, so that the Claimant's appeal may be heard. Claimant will be given the opportunity and sufficient time at Claimant's own expense to present his or her appeal in person whether *in pro per* or through a representative and will be given the opportunity and sufficient time to present the testimony of lay or expert witnesses.

- (3) If the initial adverse benefit determination was based on a medical judgment, including determinations with regard to whether a particular treatment, drug, or other item is experimental, investigational, or not medically necessary or appropriate, the Appeals Committee shall consult with a health care professional who was neither involved in or subordinate to the person who made the original benefit determination. This health care professional will have appropriate training and experience in the field of medicine involved in the medical judgment. Additionally, medical or vocational experts whose advice was obtained on behalf of the Plan in connection with the initial determination will be identified.
- (4) If the Plan considers, relies upon or creates any new or additional evidence during the review of the adverse benefit determination, the Plan will provide such new or additional evidence to the Claimant, free of charge, as soon as possible and sufficiently in advance of the time within which a determination on review is required to allow the Claimant time to respond.
- (5) Before the Appeals Committee issues an adverse benefit determination on review that is based on a new or additional rationale, the Claimant must be provided a copy of the rationale at no cost to the Claimant. The rationale must be provided as soon as possible and sufficiently in advance of the time within which a final determination on appeal is required to allow the Claimant time to respond.
- (6) The Claimant will be notified of the determination on review of the claim no later than 45 days after the Plan's receipt of the request for review, or, if a hearing is requested, within 60 days after the hearing is closed, unless special circumstances require an extension of time for processing. In such a case, the Claimant will be notified, before the end of the initial review period, of the special circumstances requiring the extension and the date a decision is expected. If an extension is provided, the Plan Administrator must notify the Claimant of the determination on review no later than 90 days after receipt of the request for review.

(g) Notice of Adverse Benefit Determination on Review

The Plan Administrator shall provide written notification to the Claimant or his authorized representative. If the initial adverse benefit determination is upheld on review, the notice will include:

- (1) The specific reason or reasons for the adverse determination.

- (2) Reference to the specific Plan provisions on which the determination was based.
- (3) A statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the claim.
- (4) A statement of Claimant's right to bring a civil action under California Code of Civil Procedure section 1094.5 and, if the Plan imposes a contractual limitations period that applies to Claimant's right to bring such an action, a statement to that effect which includes the calendar date on which such limitation expires on the claim.
- (5) A discussion of the decision, including an explanation of the basis for disagreeing with or not following:
 - (A) the views presented by the Claimant to the Plan of health care professionals treating the Claimant and vocational professionals who evaluated the Claimant;
 - (B) the views of medical or vocational experts whose advice was obtained on behalf of the Plan in connection with a Claimant's adverse benefit determination, without regard to whether the advice was relied upon in making the benefit determination; or
 - (C) a disability determination made by the Social Security Administration regarding the Claimant and presented by the Claimant to the Plan.
- (6) If the adverse benefit determination is based on medical necessity or experimental and/or investigational treatment or similar exclusion or limit, an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to the Claimant's medical circumstances will be provided. If this is not practical, a statement will be included that such explanation will be provided free of charge, upon request.
- (7) Either the specific internal rules, guidelines, protocols, or other similar criteria relied upon to make the determination, or a statement that such rules, guidelines, protocols, or criteria do not exist.

(h) Relevant Documents

For purposes of these procedures, a document, record, or other information shall be considered relevant to a claim if it:

- (1) was relied upon in making the benefit determination;
- (2) was submitted, considered, or generated in the course of making the benefit determination, without regard to whether it was relied upon in making the benefit determination;
- (3) demonstrated compliance with the administrative processes and safeguards designed to ensure and to verify that benefit determinations are made in accordance with Plan documents and Plan provisions have been applied consistently with respect to all Claimants; or
- (4) constituted a statement of policy or guidance with respect to the Plan concerning the denied treatment option.

(i) Exhaustion of Remedies

No legal action for benefits under the Plan may be brought until the Claimant has exhausted all remedies available under this claims procedure.

(j) Limitations Period on Claims

Any legal action related to a claim for benefits must be filed within one year from the date on which the Appeals Committee provides notice that the Claimant's appeal has been denied or after all remedies under this claims procedure have otherwise been exhausted, regardless of any state or federal statutes establishing provisions related to limitations of actions.

6.24 NO VESTED RIGHTS

Participants and their Beneficiaries have no vested rights to the interim death and disability benefits provided under this article. The City will terminate eligibility for and payment of benefits under this article upon the effective date of the permanent City of San Diego Death and Disability Plan. At such time, the City will amend the Plan by resolution of the City Council to remove this Article VI. For the sake of clarity, any death or disability benefit payments being made to Participants or Beneficiaries under this article will immediately cease upon the effective date of the permanent City of San Diego Death and Disability Benefit Plan. No further payments will be made under this article, but will instead be made under the permanent City of San Diego Death and Disability Benefit Plan. Participants and Beneficiaries will also no longer be eligible for awards of

benefits under this article after the effective date of the permanent City of San Diego Death and Disability Benefit Plan.

6.25 BENEFIT PAYMENTS UNDER OTHER PLAN PROVISIONS

If a Participant is eligible to receive a benefit both under this article and another provision of the Plan, the benefit provided under the other Plan provision will be paid to the Participant. If eligibility for payment of the benefit under the other Plan provision ceases for any reason, the benefit under this article will then be payable to the Participant, provided the Participant meets the eligibility requirements of this article at the time benefit payments cease under the other Plan provision. Under no circumstances will simultaneous benefit payments be made to a Participant under this article and another Plan provision.

6.26 SUNSET PROVISION

Notwithstanding any other provision in the Plan except as provided in Section 6.24 above, this article of the Plan will terminate on December 31, 2022 unless it is mutually agreed in writing to extend the termination provision to a later date by the City and the applicable REOs.

APPENDIX D

REVISED APPENDIX D - Wage Types/Absence Codes Included in 28-Day Cycle

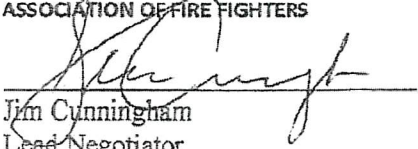
June 13, 2017

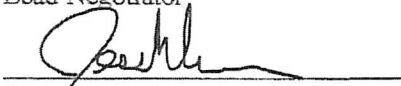
Wage Type	Name of Wage Type	Att/Abs Code	Name of Attendance/Absence Type
1REG	Hourly Pay	0010	Regular Working Time
18A1	OT Pay/Straight	0015	Overtime Straight
1REG	Hourly Pay	0050	City Medical Exams
1REG	Hourly Pay	0055	City Civil Service Exams
1REG	Hourly Pay	0060	City Job Interviews
1REG	Hourly Pay	0065	Grievance Processing
1REG	Hourly Pay	0070	EEO Investigations
1REG	Hourly Pay	0075	Industrial Leave Hearings
1REG	Hourly Pay	0080	Labor Relations Meetings
1REG	Hourly Pay	0085	Accident Prevention Meetings
1REG	Hourly Pay	0090	In-Service Training
1REG	Hourly Pay	0095	Seminars and Conferences
1REG	Hourly Pay	0100	City Health Wellness Pro
18ST, 18SH	Shift Trade Off/SA ST Off OT Non-Mand	0168	Trade Off SA OT Non-Mand.
18ST	Shift Trade Off	0169	Trade Off SA OT Mandatory
18SA	SA Trng Rtrn Station	0190	Sp.Asn/Trng Ret to Sta
18SB	SA Straight Days	0191	Spec.Assig.Straight Days
18SC	SA Non-Mandatory	0192	Spec.Assig.OT Non-Mand.
18SF	SA ST Worked Deployed	0196	Trade Worked Deployed
18SG	SA ST Worked	0197	Trade Worked Spec.Assig.
1REG	Hourly Pay	0215	LD Home Dept/Ind
1REG	Hourly Pay	0220	LD Home Dept/Non-Ind
1REG	Hourly Pay	0225	LD Other Dept/Ind
1REG	Hourly Pay	0230	LD Other Dept/Non-Ind
18LT	Fire Light Duty	0235	LD Fire Supp. 112->80
1REG	Hourly Pay	0240	1st Day of Injury
18AL	A/L Vacation	1000	A/L Vacation
18AS	Annual Sick Leave	1001	A/L Sick-Family
18AS	Annual Sick Leave	1002	A/L Sick-Personal


18AV	A/L School Volunteer	1003	A/L School Volunteer
18AB	A/L Bereavement	1010	Bereavement Leave
18CT	Comp Time Taken	1020	Comp Time
18CS	Comp Time Taken Sick	1025	Comp Time Sick
18CH	Comp Time Taken School	1030	Comp Time School Volunt.
18CD	Court Leave Jury Duty	1035	Court Leave - Jury Duty
18DL	Discretionary Leave	1060	D/L - Department Award
18DL	Discretionary Leave	1062	D/L - City Award
18F8	Fire 8hr Comp Time	1080	Fire 8hr Comp Off
18FL	Fire Holiday	1085	Fire Holiday
18FH	Floating Holiday	1090	Floating Holiday
18HL	Holiday Pay	1100	Holiday Scheduled
18ST	Shift Trade Off	1105	Shift Trade Off
18ML	Military Leave Less 31 Days	1150	Military Leave (<31 days)
18Y1	Authorized Leave w/out Pay	2000	Author Leave W/O Pay
18Y3	Auth Leave w/out Pay - Sick	2005	ALWOP - Sick
18X7	Military Lv w/out Pay Exten	2010	ALWOP - Ext Military
18SJ	Fire Hol SA OT Non-Mand	0201	Fire Hol SA OT Non-Mand
18XA	Suspension Paid	0210	Suspension Paid
18IL	Industrial Leave	1135	Industrial Leave
18IN	Industrial 4850	1136	Industrial 4850

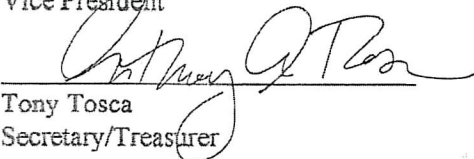
IN WITNESS WHEREOF, the undersigned agree to submit the Memorandum of Understanding effective July 1, 2020
– June 30, 2021, to the appropriate bodies.

LOCAL 145, INTERNATIONAL
ASSOCIATION OF FIRE FIGHTERS



Jim Cunningham
Lead Negotiator

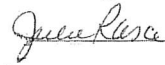

Jesse Conner
President



George Duardo
Vice President

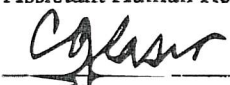

Tony Tosca
Secretary/Treasurer


CITY OF SAN DIEGO



Tim Davis
Lead Negotiator

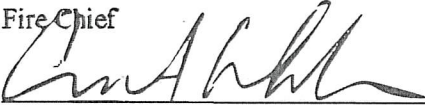

Julie Rasco
Human Resources Director

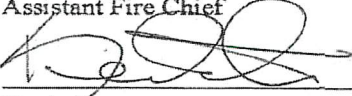

Abby Jarl-Veltz
Assistant Human Resources Director


Curt Glaser
Senior Human Resources Officer



Abegaile Serafico
Senior Human Resources Officer


Colin Stowell
Fire Chief


Christopher Webber
Assistant Fire Chief


Kevin Ester
Assistant Fire Chief

Approved as to form on July 6, 2020
MARA W. ELLIOTT, City Attorney

By: 
Miguel Merrell
Deputy City Attorney