

145 7/1/1998 to 6/30/2002

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING made and entered into this 1st day of July, 1998 through June 30, 2002, is hereby effective July 1, 2000 through June 30, 2002.

By and for The City of San Diego
And Local 145 International
Association of Fire Fighters
AFL-CIO

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Parties to the Agreement

This Memorandum of Understanding, hereinafter referred to as the Memorandum, is entered into by and between the City of San Diego, hereinafter referred to as the City, and Local 145, INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS, hereinafter referred to as the UNION.

ARTICLE 1

Payroll Deductions

- A. It is agreed that IAFF, Local 145 dues, assessments, and other authorized deductions shall be deducted in accordance with the provisions of applicable state law, and the Employer-Employee Relations Policy, by management from the salary of each member and past member with a valid withdrawal card, who files with the City and the Union a written authorization requesting that such deductions be made. Remittance of the aggregate amount of all deductions shall be made to the Union by management biweekly. Said deductions shall be wire transferred to the predesignated 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 only upon the voluntary written authorization of the member or past member with a withdrawal card. Deduction authorization or cancellation shall be made upon clearly marked cards provided by the City and the Union in accordance with past procedures.
- C. The Union shall disburse such funds received from the City in accordance with the deduction authorizations received.
- D. The Union shall indemnify, defend, and hold the City of San Diego harmless against any claims or suits instituted against the City of San Diego contesting the collection and/or dispersal of any authorized deductions. In addition, the Union shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.
- E. SPECIAL DEDUCTION - FIRE FIGHTERS' AID FUND - MASS CHANGES.
 - 1. The Auditor's Office upon receipt of notification from Local 145, shall cause the specified amount to be deducted from paychecks of members of the fund.
 - 2. Mass changes of this nature shall not require individual authorization.
- F. If an employee submits a payroll deduction authorization change to the City which has not been processed by Local 145, the City will forward a copy of the change notice to Local 145.
- G. All employees will be required to provide authorization to the City Auditor to electronically deposit their paychecks to a financial institution of their choice (subject to electronic compatibility). Employees shall not have to change financial institutions if their financial institution is not compatible with the wire transfer. The effective date of this requirement will be determined by the City during the term of this agreement.

ARTICLE 2

Trades

- A. The City agrees to continue the practice of allowing employees to trade work schedules, subject to the provisions of the Fair Labor Standards Act.
- B. Approval of trades will be subject to the staffing requirements of the department as determined by the Chief or his designee. Once a trade has been approved, the employee who accepts the trade assumes the responsibility for completing the assigned shift.
- C. Fire Engineers wishing certification on equipment for which they have not previously been certified, shall make a request to the Fire Chief or his designee. To the extent feasible, the Fire Chief shall arrange for such a Fire Engineer to be assigned to a work station where he/she can achieve such certification during his/her normal work 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 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.
- D. No employee working twenty-four (24) hour shifts shall work more than three (3) consecutive shifts, or seventy-two (72) hours, including trades.

ARTICLE 3

Will Work List

The Union agrees to support a Will Work List consisting of sufficient numbers of volunteers to fill normal staffing vacancies. A volunteer refusing to work when called shall have his/her name removed from the Will Work List for the remainder of the shift or shifts for which he/she originally volunteered. An employee who has volunteered for the Will Work List may remove his/her name from that List any time prior to being called for work.

Changes to the existing transfer policies shall be by mutual consent.

The parties agree to study the development of a consistent policy regarding transfers between Operations and the Fire Prevention Bureau (and other staff positions) as they relate to Disability Retirements, Light Duty Assignments, and Vocational Rehabilitation.

The City and Local 145 agree to develop a section in the Transfer Policy Manual that will outline a bidding procedure to transfer among the various sections in the Bureau of Fire and Hazard Prevention. Said policy will further clarify the procedures for transferring from 40-hour assignments to 56-hour assignments.

ARTICLE 4

Seniority

- A. Parties hereby agree that layoff 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.

- B. For purposes of this article:

City-wide seniority shall mean service in a classification regardless of the department or division.

Right of competition shall mean the right of an employee who has been laid off to compete for positions in lower classes in which he or she has 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 I and II classifications will be established by class standing in their Academy.
- 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 Fire 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

Savings Clause

This Memorandum is subject to all current and future applicable federal, state and local laws, regulations and the Charter of the City of San Diego.

If any part or provision of this Memorandum is in conflict or inconsistent with such 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, such part or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of the Memorandum shall not be affected thereby.

ARTICLE 6

Discrimination

1. 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 because of race, color, sex, age, disability, religion, national origin, political, employee organization affiliation, or pregnancy.
2. The parties mutually recognize and agree fully to protect the rights of all employees falling into the classifications listed in Article 10 herein to join and participate in the activities of Local 145, or not to join and participate in such activities, and all other rights guaranteed by law.
3. No employees shall be interfered with, intimidated, restrained, coerced or discriminated against because of the exercise of these rights.
4. The provisions of this Memorandum shall be applied equally to all employees covered hereby without favor or discrimination because of race, color, sex, age, disability, national origin, political or religious opinions or affiliations, or pregnancy.
5. Local 145 agrees to recognize and support Equal Opportunity plans and policies promulgated in accordance with procedures established by the City Council and the Fire Department as consistent with state and federal law. Any such policies shall be submitted to Local 145 and shall be met and conferred upon if required by Meyers-Milias-Brown.
6. The parties agree to support and comply with the City's Human Dignity Ordinance.

ARTICLE 7

Station and/or Work Site Living Conditions

1. The City agrees to continue to furnish and maintain in proper working condition, those items or facilities now provided for all represented personnel, which are considered to be essential living conveniences. Items that will be replaced include but are not limited to mattresses, microwaves, refrigerators, tables and chairs, carpet, washers and dryers, heating and air conditioning systems, exhaust extraction systems, David Clark Communication Systems, and station fencing. The City agrees to repair or replace the above referenced equipment as soon as practical. The Fire Department must meet and confer with Local 145 on modifications of station sites and/or space utilization of station sites should such modifications impact working conditions.
2. The City will provide the Union with a copy of the Capital Improvement Program as it relates to Fire Department facilities, when the City Council has approved the CIP budget.
3. The City will ensure that employees are held reasonably accountable for their uniforms and related equipment, during their assigned shifts.

4. Nothing in this Article shall be interpreted to prevent the City from complying with applicable State health and safety laws. The City shall comply on a timely basis with applicable federal, state, and local health and safety laws. The City and Local shall jointly study National Fire Protection Association standards for training and equipment for future adoption.
5. In the event that a repair should necessitate closure of a facility for more than 48 hours, on-site alternative accommodations will be made available.

ARTICLE 8

Mileage Allowance

- A. The City agrees to reimburse members of the unit for use of their private vehicles to travel from one work station to another work station when such travel results from a reassignment of work station during the employee's normal work hours. The 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.

Reimbursement will be as stated in Administrative Regulation 45.10, Section 5.3, Type C, Section 9, Insurance and Section 10, Monthly Mileage Report.

- B. In the event that an employee is transferred after reaching his/her normally assigned work site and does not have transportation available which is practical for a mid-shift transfer, 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 the Department to arrange transportation to the original work site. In the event the employee requests return transportation, 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 his/her replacement.
- C. During FY 1992, the City agrees to study the subject of restrictions applicable to employees on page and compensation for same, and the feasibility of providing City vehicles to such employees while on page status. If the study proves this approach to be feasible, the City agrees to make a diligent effort to implement it in a timely fashion.

ARTICLE 9

Appendices and Amendments

All Appendices and Amendments to this Memorandum shall be numbered (or lettered), dated and signed by the authorized agent of the parties and shall be subject to all provisions of this Memorandum.

All current amendments and appendices resulting from Meeting and Conferring over this agreement shall be listed and published as a part of this memorandum.

ARTICLE 10

Formal Recognition

1. The City recognizes the Union as the exclusive representative for employees in the Fire Fighter Unit.
2. The Fire Fighter Unit consists of all employees in the following classes:
 - Fire Recruit
 - Fire Fighter I
 - Fire Fighter II
 - Fire Engineer
 - Fire Captain
 - Fire Battalion Chief
 - Fire Prevention Inspector I
 - Fire Prevention Inspector II
 - Fire Prevention Supervisor
 - Assistant Fire Marshal
 - Emergency Medical Technician
 - Paramedic I
 - Paramedic II
 - Medical Operations Coordinator
3. The City will agree 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.
4. In the event that the San Diego Fire Department assumes the contract for paramedic services, all paramedic classifications shall be placed in the Local 145 bargaining unit.
5. Fire Fighters who were hired as "limited" employees and are performing at a satisfactory level shall be moved into "permanent" positions as they become available.

ARTICLE 11

Employee Representation

- A. An employee may be allowed representation:
 1. During any interview or discussion which the employee reasonably believes will result in disciplinary action (suspension, discharge, demotion or reduction in compensation). Management shall notify an employee of their right to representation prior to any interview or discussion initiated by management with the intent of investigating misconduct that may result in discipline. Such right arises only upon the employee's request. During any such interview or discussion, Fire Department supervisor(s) shall have the right to have the affected employee answer any or all questions as opposed to his/her representative.

2. During the required discussion of any document, including an "Unsatisfactory" or "Improvement Needed" Performance Evaluation, written warnings, or reprimands which are to be made part of the employee's permanent record and/or which may be used as a basis for subsequent discipline.
- B. In all other instances, Management has the right to counsel employees as it deems appropriate without employee representation being present.
- C. The employee who is notified of a pending disciplinary action shall be given a reasonable time to consult with his/her representatives so that he/she may prepare a defense against said action.
- D. An employee is also entitled to representation as outlined above in appeals of disciplinary actions.
- E. Battalion Chiefs and Fire Captains shall not represent Fire Fighters or Fire Engineers on matters of discipline or grievances. Battalion Chiefs shall also not represent Fire Captains in such matters. Members of the Board of Directors may represent employees in all Fire classifications in matters of discipline and grievances.

ARTICLE 12

Indemnification

The City agrees that the provisions of Government Code Section 825 are applicable to members of the unit.

ARTICLE 13

Fire/Police Coordination

It is the policy of the City for the Fire Department to coordinate their activities with the Police Department.

Fire Department employees will not be required to involve themselves in a Police Department situation in which the ranking Fire Officer on scene, reasonably believes that Fire Department employees are endangered absent Police support.

The Fire Chief shall coordinate with the Police Chief to provide appropriate support in the event Fire Fighters become involved in threatening situations.

Fire Department employees shall not be required to identify suspects while on duty. Fire stations shall not be utilized as suspect I.D. meeting points.

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

ARTICLE 14

Bulletin Boards

1. The City agrees to furnish and maintain suitable bulletin boards in mutually convenient places in each station to be used by the Union for the posting of responsible, non-controversial material related to Union business. The Union shall limit its posting of notices and bulletins to such bulletin boards, and the Union shall furnish the Fire Chief with a copy of each item to be posted concurrent with the timing of each such posting.
2. Present locations and space allocations are considered adequate.
3. As a courtesy, the Fire Chief shall furnish the Union via US Mail with a copy of all correspondence which is directed to be posted in fire stations. Such correspondence shall be faxed 24 hours prior to being mailed.
4. Local 145 shall be allowed reasonable use of station fax machines for business related fax messages only.

ARTICLE 15

Reasonable Notice

- 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 by the City Council or by the Civil Service Commission or by the Fire Chief, and shall be given the opportunity to meet and confer prior to adoption, as required by law.
- B. In cases of emergency pursuant to the City Charter when the City determines that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with the Union, the City Council or the board or commission of the City shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.

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 direct a copy of proposed written departmental procedures to the Union 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.

- C. All communications or notice required to be served upon the Union by the City shall be delivered to the President of the Union, or to the Vice-President in the noticed absence of the President, at his current address on file in the City Manager's Office by the United States Mail or hand delivered whichever is most convenient. Reasonable notice shall be considered as 72 hours.

- D. 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. Such communications shall be sent by FAX to Local 145 simultaneously.

ARTICLE 16

Management Rights

The rights of the City include but are not limited to the exclusive right to determine the mission of its constituent departments, commissions, and boards; set standards of service; determine the procedures and standards of selection for employment and promotion; direct its employees, take disciplinary action for just cause; relieve its employees from duty because of lack of work or for other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; determine the content of job classifications; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

The exercise of such right 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 agreement.

ARTICLE 17

Special Assignment Pay

- I. Uniformed members will receive an additional 5% of their base salary, with the exception of Explosive Ordnance Disposal Squad and all HAZMAT personnel who will receive 10%, as Special Assignment pay only when assigned to the following duties in a station designated as a specialty station:
 - A. Explosive Ordnance Disposal Squad
 - B. Hazardous Materials Squad
 - C. "D" Division (Training, Maintenance and/or Repair) for special assignments.
 - D. Station 4, Rescue
 - E. Station 20, Hose Repair
 - F. Station 23, Small Equipment Repair
 - G. Stations 26 & 44, Emergency Medical Services
 - H. Station 28, Annual Pump Testing
 - I. Station 36, Breathing Apparatus Repair
 - J. Station 40, Ladder Repair
 - K. Airport Station, Transfer Desk (1 Capt; 3 Eng. per division)
 - L. MAST Personnel
 - M. Administrative Assignment Pay

Stations 26 & 44 EMS Specialty Pay

Effective July 1, 2000, a five percent (5%) specialty pay will be paid to those certified paramedics, six (6) per shift, only when assigned to Stations 26 and 44, OR other Fire & Life Safety Services identified EMS Specialty Station, and performing EMS administrative functions.

Transfer Desk Specialty Pay

Effective July 1, 2000, a five percent (5%) specialty pay will be paid to one (1) captain and three (3) engineers per shift.

Administrative Assignment Pay

All sworn straight-day personnel permanently assigned to administrative duties, with the exception of employees working in the Bureau of Hazard and Fire Prevention and the Environmental Response Team, shall receive 5% Administrative Assignment Pay while assigned to straight-day assignment. This shall not apply to personnel in temporary light-duty assignments.

Special assignment pay will only be paid for hours worked in the specialty station designated for the employee's specialty duties. Will-work or light duty work performed in non-specialty stations will not be eligible for specialty pay.

Effective July 1, 2000, Firefighter Paramedics 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 to meet quarterly training rotational obligation.

II. Bilingual - English Pay

The City agrees to continue a program which will provide extra compensation for employees whose job assignment requires ability to communicate orally in Spanish, Tagalog, or Indochinese as well as English. Effective July 1, 2000, participants in this program, who are certified by their appointing authority, and who are otherwise eligible, shall receive seventy cents per hour (approximately equivalent to \$121 per month) while in the job assignment requiring this additional skill. The City reserves the right to establish criteria which will enable candidates in this program to qualify for the extra compensation.

The City agrees to increase the number of participants eligible to receive Bilingual-English Pay to a maximum of sixty-five (65) positions per shift (45 Spanish, 15 Indochinese, and 5 for Korean, Chinese and American Sign Language).

ARTICLE 18

Business Representatives

1. Authorized Union full-time paid business representatives, or the President or elected officers of the Union, shall be granted access to work locations in which employees covered hereby are employed, for the purpose of conducting grievance investigations and observing working conditions. Authorized Union representatives desiring such access to such work locations shall first request entrance from the Fire Chief or his designee, at which time the authorized representative shall inform the Fire Chief or his designee of the purpose of the visit. The Fire Chief or his designee may deny access to work location if in his or her judgement it is deemed that a visit will unduly interfere with the operations of the department or facility thereof, in which event the Fire Chief or his designee will recommend an alternative time for the visit. The Union representative shall not unduly interfere with the operations of the department during a visit. During lunch or after 5:00 p.m. Union representatives shall be allowed access to work locations.
2. Solicitation of membership and activities concerned with the internal management of the Union 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.
3. Elected or appointed officials of Local 145 may, at the discretion of the Fire Chief or his designee, be allowed to use holiday or annual leave credits for time off as is necessary to conduct Union business.
4. Local 145 shall furnish the Fire Chief on July 1 of each year a written list identifying by name all elected officers of the Union and any full-time paid Union business representatives, and such list shall be kept current by the Union.
5. Handling Grievances
 - a. When requested by an employee, a Board member, with permission of his or her supervisor, may investigate any grievance in his or her 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 so assigned is not available at the time the grievant makes his or her request, another Board member may investigate the grievance.
 - b. 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 his or her work, unless compelling circumstances require refusal of such permission, in which case the immediate supervisor shall inform the Board member of the reasons for the denial and establish an alternate time when the Board member can reasonably be expected to be released from his or her work assignment.

6. Board of Directors Meetings

Three members of the Board shall be permitted to attend, while on-duty, meetings of the Board of Directors (every two weeks; 8:00 am - 1:00 pm) and General Membership meetings (normally scheduled on the third Tuesday and Wednesday of every other month; 7:00 - 10:00 pm). Additional members of the Board may be permitted to attend under these arrangements on condition that Local 145 provides relief for them.

7. Local 145 officers and board members may be granted use of City facilities for meetings, provided space can be made available without interfering with the City's needs.

ARTICLE 19

Out of Class Assignment

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

A. OCA's to 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 the City to reasonably consider to accept the assignment when notified. Names of employees who are excused from an OCA by the Chief or designated authority for good reason shall remain in their respective positions on the list for rotational assignment.
2. Taking all things equal, first consideration will be given for appointment to an OCA assignment of 30 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 or a requirement for an employee with specialized skills necessitates appointment of an employee not on the eligible list.
3. In the event of unavailability of eligible, on-duty personnel, employees not on a promotional list shall be eligible based on Personnel Manual regulations and the section on seniority agreed to in this Memorandum.
4. Out-of-Class Assignment 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. For this purpose, an assignment shall be considered a minimum of eight hours.
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 the Union 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 his or her supervisor enter time served in an OCA capacity on each occurrence.
2. Upon obtaining promotion, such employee shall present the form to the Chief 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, such 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 form and fails to report such loss to the Chief, 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 9_ 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 out of class assignments at the rate of the higher paid class only after 30 cumulative days of being assigned to the same higher level class. Compensation would begin on the 31st day and would be prospective.

G. Personnel Manual Index Code H-3 and attendant OCA procedures shall be revised effective July 1, 1995 to require written authorization from the Personnel Director for OCA's extending beyond 60 days, rather than 30.

ARTICLE 20

Hours

Members of the unit assigned to fire suppression companies shall normally work an average 56-hour week consisting of 24-hour work shifts. All other members of the unit shall work an average 40-hour work week. The City agrees that a permanent alteration to existing work schedules during the term of this agreement shall be subject to meet and confer.

Employees assigned to the 56-hour work shift will be credited with eight hours of compensatory time to implement Fair Labor Standards Act scheduling. This time will be credited to each employee's comp time balance at the end of the first 28-day work period of the fiscal year.

Employees assigned to the 56-hour work schedule will work nine 24-hour shifts each 28-day work period. Each employee will also be assigned to work an additional 8 hours in 12 of the 13 28-day work periods. This additional eight hours will be scheduled as compensated leave. In the other one work period in which they will take their 24-hour holiday they will be scheduled to work 216 hours and compensated for 224.

Straight day schedules will normally fall between the hours of 7:00 a.m. - 6:00 p.m.

In service training will normally not be scheduled for fire suppression companies on City holidays.

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 early reliefs will not result in additional compensated hours of work.
3. The City will not be required to keep records of any individual's time worked in early shifts.
4. In event of legislative action requiring compensation for time worked in early relief, this policy shall become null and void.

The City and Local 145 agree to study the concept of having Fire Prevention Inspectors work a flexible work week in which they may be permitted to go home after a mutually agreed upon inspection workload has been completed. Study shall also include the option of working a 4/10 work schedule and be completed by January 1, 1999.

ARTICLE 21

Uniforms and Safety Equipment

I. Department Issued Equipment

A. The City shall issue and maintain to each fire fighter:

- | | |
|-----------------------|------------------------------------|
| 1. Turnout pants | 7. Gloves |
| 2. Turnout coat | 8. Hose Strap |
| 3. Turnout boots | 9. Hood |
| 4. Turnout suspenders | 10. Brush Jacket and Pants |
| 5. Spanner | 11. Helmet |
| 6. Utility Strap | 12. Breathing Apparatus Face Piece |

II. Fire Fighter's Uniform

A. Initial requirement. Each employee in this bargaining unit shall be required to obtain and maintain in a manner acceptable to the 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, the City shall pay each fire fighter who attains permanent status the current cost of obtaining the Class B and Class C uniform. Current cost is to be determined by the City. The City agrees to immediately provide wildland brush-boots for all recruits upon successful completion of the academy. The City agrees to provide reimbursement for safety boots and pants to fire fighters as soon as they complete the initial Fire Academy.

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

- | | |
|----------------------------|----------------|
| 1. Dress Jacket | 5. Tie |
| 2. Dress trousers or skirt | 6. Belt |
| 3. Shirt | 7. Dress Shoes |
| 4. Dress Hat | |

C. Maintenance and Upkeep. On the first pay day in September 2001, the City shall pay those fire fighters who have completed 12 months of service as a Fire Recruit/Fire Fighter I the sum of \$700 for maintenance and replacement of the items described in Paragraphs II. A. and B.

The City will provide an ongoing reimbursement in September of each year of up to \$556 for the purchase of tools by employees designated to perform maintenance and repair work in the "D" division. Effective FY 2001, this allowance will increase to \$584. The list of "essential" tools that will be eligible for this reimbursement will be mutually developed by the Fire Department and Local 145.

D. This allowance will be used by members of the unit to purchase and maintain their own linen to include pillow cases and sheets.

- E. The City will continue to maintain brush gear specifications which are equal to or better than equipment currently in use by the department. The City will provide replacement brush gear to all members of the unit. Replacement gear will be provided based on need in accordance with CAL-OSHA standards.
- F. For FY 2001 only, the City shall provide a one-time \$964 reimbursement/voucher for the purchase of:

Mandatory Compliment of Uniforms which shall include:

-Class "A" Uniform:

Coat, Pants, and Hat

-Class "B" Uniform:

Two (2) Pants and Three (3) Shirts: (At least 1 shirt must be snap-front type to allow metal badge and nameplate to be displayed)

OR

Three (3) Pants and Two (2) Shirts: (At least 1 shirt must be snap-front type to allow metal badge and nameplate to be displayed)

-Class "B" Jacket (Optional embroidered Badge and Name)

-SDFD Belt and Buckle

Administrative Assignment Option:

May include 2 white or Division shirts substituted for 1 Class "B" shirt.

The remainder of the Uniform Allotment will be paid on a reimbursement basis for the purchase of any additional items from the mandatory list or items from the optional purchase list only.

Optional Uniform List:

-White Shirt (Uniform or Dress Shirt)

-Cargo Pockets sewn on Class "B" Pants

-Class "C" T-shirts (Long sleeve, short sleeve and/or Tank Top)

-Class "C" Sweatshirts, Sweatpants, Running Shorts

-Ball Cap

-Approved Knife/Multi-purpose Tool

-Flashlight

-Stethoscope

-Paramedic Scissor Pack

-Collar Insignia/ Name Tags

-Boots (brush, leather or alternative type)

This reimbursement shall be in lieu of the \$700 allowance addressed in Section C above. On the first pay day in September, 2001, the City shall pay those Firefighters who have completed 12 months of service as a Fire Recruit/Firefighter I with the City of San Diego, the sum of \$700 for maintenance and replacement of work uniforms.

III. Administration

- A. Fire Fighters reporting for duty are expected to have the uniforms as described in Section II. A. and II. B. Failure to have any of these items may result in discipline of the employee.
- B. For the term of this Agreement, Local 145 agrees that the City of San Diego has discharged the City's obligation pursuant to State law requirements to provide safety equipment as set forth in Labor Code Section 6401. Both parties agree that this uniform allowance meets the intent of the Court order in Case No. 428571. If a modification of the Court order is necessary, Local 145 will stipulate to such necessary modification.

IV. Civilian Fire Inspectors

Civilian Fire Inspectors and the Fire Inspector Supervisor in Fire & Prevention Services will receive \$300, on the first payday in September, for the purchase and maintenance of required uniforms.

ARTICLE 22

Flexible Benefits Plan

A cafeteria-style benefits program is offered to all eligible employees. This plan provides a variety of tax-free benefit options. Eligible employees means any employee in a one-half, three quarter, or full-time status. Eligible employees excludes all employees in an hourly status. The City agrees that it will not arbitrarily or unreasonably deny Local 145 the opportunity to offer a health insurance plan to active and/or retired employees.

The City's contribution to the Flexible Benefits Plan will be increased, effective July 1, 2000, to \$4,175. The Flexible Benefits Plan value for FY 02 will increase by \$200 or by the amount which equals the average of the increases in premium costs for the employee-only rate for the City-sponsored Kaiser and Pacificare HMO Plans, whichever is the greater amount.

I. Employee must select one Health Insurance Policy:

1. Kaiser
2. Pacificare
 - a. HMO
 - b. \$250 deductible
 - c. Waiver (Proof of coverage required)

3. Local 145 Health Plan (available to 145 represented employees only who are members of Local 145 and Fireman's Relief Association).

- a. \$100 deductible
- b. \$1,000 deductible

II. Employees must select one Life Insurance Policy:

1. \$10,000
2. \$25,000
3. \$50,000

III. With remaining money, the employee may select among the following additional benefits.

1. Delta DMO Dental Plan
2. Delta Vision Plan
3. Delta Preferred Option
4. Local 145 Dental (must be a member of Local 145)
5. Dependent Care Reimbursement
6. Dental/Medical/Vision Reimbursement
7. Cash Payment (taxable)
8. 401(k)

IV. Flexible Spending Account - In addition to designating flexible benefit monies to pay for Dental/Medical/Vision or Dependent Care reimbursements, employees may designate a specific amount of pre-tax money (some restrictions may apply) to be withheld from their paychecks to reimburse eligible out-of-pocket medical, dental, vision or dependent care expenses. These payroll deductions must be designated during the open enrollment period, are irrevocable, are subject to IRS regulations, and monies are forfeited if not used within the fiscal year.

V. Notes:

1. It is the intent of the City that this Plan comply with the IRS Regulations, as interpreted by the City Attorney. Disputes will be submitted to the IRS for interpretations.
2. Local 145 agrees to ensure that the Relief Association Medical Plan is administered in accordance with all applicable State and federal laws, as interpreted by the City Attorney. Disputes will be submitted to the appropriate agencies for interpretations.
3. Local 145 agrees to provide a benefit level in the Relief Association Medical Plan which is at least comparable to the City's health plans.

4. Local 145 agrees to indemnify the City against any and all claims arising out of Local 145's administration of this Plan.

5. Failure to enroll during the open enrollment period will result in the employee receiving his/her current health, including dependent health offset, insurance coverage. The remainder of the Flexible Benefits allocation will be paid out as taxable cash.

6. The level of benefits coverage will not be diminished during the term of the contract.

7. After selecting required health and life insurance coverages, employees who are unable to enroll in their desired dental plan may purchase such benefit by making an "out-of-pocket" payment for the cost difference. Only dental coverage may be obtained in this manner. Such "out-of-pocket" contribution must be made at the time of Open Enrollment and is non-refundable.

VI. Audit and Inspection of Records

The parties agree that the City Auditor is authorized to audit the Local 145 health plan during the period from August through January 31.

a. Audit and Inspection of Records

Local 145 shall make available to the City for examination, at reasonable locations within the City/County of San Diego, the following information:

- * Monthly enrollment figures
- * Monthly check registers
- * A copy of the Plan Document/Summary Plan Description, and corresponding amendments
- * A copy of the excess risk contract
- * A copy of the TPA contract
- * A copy of the PPO contract
- * A claim lag report
- * A copy of the reserve calculation

Disclosure of the information is limited to the plan year ending on June 30th of the plan year immediately preceding the onset of the audit.

- b. The Local agrees to provide to the City annually the health plan's full disclosure financial statements prepared in accordance with generally accepted auditing standards within 120 days of the end of the health plans' fiscal year. In addition, Local 145 will submit actuarial reports annually and the levels of reserves for Health Plan purposes will be disclosed.

Disclosure of this information will include, but may not be limited to:

Financial Records:

- * Financial statements, audited if available, for the prior fiscal year.
- * Financial data and actuarial reports used in setting the rates for fiscal year 1995.
- * Dollar value of pending claims outstanding as of the end of fiscal year 1995.
- * Current liability to Local 145's General Fund.

Information/Documents:

- * Fiscal year beginning and ending dates.
- * Health Plan Document and amendments.
- * Sources of contributions for the prior fiscal year identified by major contributions such as employee contributions, dependent coverage, retiree contributions, transfers from other funds, receipts from insurance and other contributions.
- * Copies of excess risk insurance policies.
- * Number of eligible enrollees and number of actual enrollees by employee and retiree groups.

The parties agree that Local 145 is authorized to audit the City's health plans, during the same August through January period detailed in the opening paragraph, to the extent that documents are requested and provided pursuant to state and federal public information laws.

VII. Significant Changes to Benefits for FY 2001

Health Insurance

PacifiCare replaces Blue Cross HMO and PPO plans with the following plan design changes:

PPO deductible is reduced from \$1,000 to \$250 and out-of-pocket maximums are reduced from \$3,000 to \$2,000 for in-network and from \$6,000 to \$4,000 for out-of-network.

A prescription drug formulary is implemented requiring dispensing of generic drugs when available. Drugs not on the formulary are not covered unless an exception for a currently used medication is authorized by PacifiCare. Prescription copayments increase from \$2 for generic and \$5 for brand to \$5 and \$10 respectively.

50% coverage of hearing aids every two years under HMO.

Enhanced infertility benefits covering 50% of all treatment up to three cycles per lifetime. Infertility copayments are applied to out-of-pocket maximum limit.

Behavioral health carveout for the PacifiCare HMO and PPO plans will be provided by PacifiCare Behavioral Health.

Age of non-student dependents is increased from 19 to 23 for City benefit plans.

Domestic partners may be added to City's benefit plans mid-year upon a qualified event and in compliance with IRS regulations.

Dental Insurance

City's provider changes from Denticare/Foundation to Delta Dental

Vision Insurance

8. City's provider changes from AVP to Delta Vision

Cancer Protection/Intensive Care Coverage

9. Level of coverage increases and changes from two tier to three tier family structure
10. Current participants desiring to continue current coverage can do so through direct billing with AFLAC

ARTICLE 23

Retirement

1. The City agrees that it will apply an amount that is approximately equal to 7.3% of the base salary of employees covered by this agreement into the City Retirement System, thereby reducing the amount deducted from employee's paychecks as the employee's retirement contribution by that amount. The employee, upon termination, will have no vested right in the amount so contributed by the 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 system.

The City agrees not to propose reductions in the retirement offset through 2002.

2. 1981 PENSION PLAN

Effective July 1, 1991, for the purpose of benefit calculation only, 1981 Plan service will be made equivalent to CERS Service.

3. C.O.L.A.

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

4. 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.

5. 414[H][2]: Beginning January 3, 1993, the City agrees to implement IRS Section 414[H][2] for Local 145 employees, allowing employee contributions to the retirement system to be made pre-tax.

6. 1997 Benefit Changes

The City and Local 145, having met and conferred, have agreed to benefit improvements to the City Employees Retirement System. The City Council has approved these changes by adoption of Ordinance No. O-18383 Adopted February 25, 1997 and Ordinance No. O-18392 Adopted March 31, 1997; subsequently the improvements were approved by a majority vote of System Members in April 1997. Those changes include the following.

- A. Effective August 1, 1997, a Post Retirement Health Benefit is established for Health Eligible Retirees and Non Health Eligible Retirees. A Health Eligible Retiree is any retired Member who: (1) was on the active payroll of the City of San Diego on or after October 5, 1980; and (2) retired on or after October 6, 1980, and (3) is eligible for and is receiving a retirement allowance from the Retirement System.

Health Eligible Retirees may choose to participate in a City sponsored health insurance plan or any other health insurance plan of their choice. The Retirement System will pay or reimburse the applicable Medicare-eligible or non-Medicare eligible retiree-only premium up to but not to exceed the cost of the retiree-only premium for the highest cost HMO plan which is also a City sponsored health insurance plan made available to Health Eligible Retirees.

Additionally, the Retirement System will reimburse the Part B Supplemental Medical Expense Premium for those Health Eligible Retirees enrolled in Medicare.

Effective August 1, 1997, the "sliding scale" health benefit with a \$2,000 cap is eliminated and replaced with the Post Retirement Health Benefit for Health Eligible Retirees.

The City agrees that it will not diminish the benefits contained in its current retiree HMO plans without mutual agreement with the exclusive bargaining representatives; nor convert to a blended premium for active employees and retirees without mutual agreement with the exclusive bargaining representatives.

- B. The Disability Income Offset provision is eliminated. There will be no reduction of retirement benefits if the retiree has other income.

- C. A five year purchase of service credit provision is established effective January 1, 1997. Under this provision, the Member may purchase up to five years of service credit by paying both employee and employer contributions in an amount and manner determined by the San Diego City Employees Retirement System Board to make the System whole for such time. In addition, members retiring on or after January 1, 1997, may purchase probationary periods, military and veterans code leaves, waiting periods for the 1981 Pension Plan, actual time worked hourly or part time, special leaves without pay occurring prior to January 1, 1997, the difference in time between part time and full time prior to January 1, 1997, long term disability, vocational rehabilitation maintenance (VRMA) and temporary total disability (TTD), FMLA periods, special leaves of absence with job to be saved periods and any period preceding reinstatement by the Civil Service Commission following a termination appeal.

- D. A Deferred Retirement Option Plan (DROP) is established effective April 1, 1997. DROP provides an alternative form of benefit accrual while allowing a Member to continue working for the City. During the DROP period, a DROP Member retains all rights, privileges and benefits of being an active City employee, except as specifically modified in the DROP Plan Document, and is subject to the same terms and conditions of employment including disciplinary actions up to and including termination. The Member continues to be eligible for the active employee Flex Benefits Program for the classification and is not eligible for "retiree" health benefits until such time as the Member completes or terminates the DROP period. Under DROP, a monthly service retirement allowance along with any COLA increases, Supplemental Benefit checks and any adjustments to such payments applicable to retirements effective on the date the Member entered the DROP are deposited into a trust account. These SDCERS benefits are calculated as if the Member were retiring on the date the Member enters the DROP. The Member's contributions to the Retirement System cease. The Member and the City each contribute 3.05% of the Member's salary each pay period that the Member participates in the DROP. The Member's contribution is made on a pre-tax basis pursuant to Internal Revenue Code Section 414(h)(2). These monies are placed in a trust account and are distributed to the DROP participant upon termination of employment or completion of the DROP period whichever occurs first. No withdrawals may be made from the DROP account until the Member completes or terminates his or her DROP period. Interest will be credited to the Member's DROP account in the same manner and at the same rate that interest is credited to employee CERS accounts. The Member is 100% vested in the DROP from its inception.

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

At the completion of the DROP period, the DROP account will be distributed as a lump sum, or in any other manner permitted by the IRS as soon as those options are developed by the Retirement Administration.

- E. 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 his or her spouse at least one year prior to retirement for the spouse to receive the 50% continuance is eliminated.
- F. 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.
- G. 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.
- H. A retirement allowance cap of 90% of Final Compensation (high one year salary) is established for Fire Safety Members.
- I. The City and Local 145 agree to jointly support a request to the SDCERS Board of Administration to pay 0.49% of the employee's contribution from CERS' undistributed earnings effective 7/1/98. This 0.49% represents a portion of the increase in employee's contribution scheduled to go into effect 7/1/98, as a result of benefit improvements which were implemented 1/1/97.

7. 2000 Retirement Benefit Changes

The 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 high one year salary 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 1/01/97-6/30/00 [Current]	Retirement Calculation Factor effective 7/01/00 [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%

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 ten percent (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.

This election must be made with SDCERS at the time of application for retirement.

B. Fire Safety Member's SDCERS Contribution Rate Change

- (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 SDMC Section 24.1507 until the Reserve is exhausted.

C. 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 his or her normal and customary duties as a result of a violent attack on the member with deadly force, such as a shooting or stabbing that causes great bodily injury, and that resulted in a nervous or mental disorder. The violent attack

must occur on or after July 1, 2000, and such application for industrial disability retirement must be submitted before July 1, 2002. This provision shall sunset on June 30, 2002, and no such applications may be made after that date.

8. ANNUAL LEAVE CONVERSION - City agrees to have CERS outside fiduciary counsel study the impacts of allowing personnel to sell annual leave to purchase retirement service credit. A written opinion from CERS outside fiduciary counsel, with respect to the legality of the proposal, shall be completed by October 1, 2000.
9. DISABILITY STANDARD - City agrees to work in good faith towards implementation of using the workers compensation disability standard for CERS disability retirements.

ARTICLE 24

Salaries

The salaries of the employees in this unit will be increased as follows:

Effective July 1, 2000, 2% increase.

Effective July 1, 2000, 2% increase (from re-opener).

Effective July 1, 2001, 5% increase (from extension).

In the new employee salary schedule, "B" step will be eliminated for new hires beginning 7/1/94. Employees hired on or after 7/1/94 who are appointed at "A" step, will move from "A" step to "C" step after one [1] year. Current employees will continue with the present five step salary schedule.

ARTICLE 25

Grievance Procedure

I. Policy

- A. Employees have the right to file grievances without jeopardizing their positions.
- B. Employees may represent themselves or select whomever they wish to represent them at any or all steps in the grievance procedure.
 1. The employee has the right to the assistance of a Local 145 representative in the investigation, preparation, and presentation of a written grievance.
 2. Employees may have no more than one City employee and one non-City employee as representatives for grievance hearings.

3. 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.

- C. If an employee chooses to have representation on any formal grievance concerning a matter that directly involves the interpretation or application of the specific terms and provisions of this Memorandum of Understanding, such representation must come from Local 145.
- D. The employee's or employee organization's first contact regarding job and working conditions is with the immediate supervisor who shall attempt to settle grievances informally at this level.
- E. A grievance will normally be presented and processed on City time, and a grievant attending a grievance meeting in his/her own behalf on City time will not lose pay. In scheduling the time, place and duration of any grievance meeting, the employee, a steward 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.
- F. Waivers and Time Limits
 1. Failure by Management to reply to the employee's grievance within the time limits specified automatically processes the grievance to the next level. Such 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 such grievance.
 2. 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.
 3. 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.
 4. By mutual agreement, the grievance may revert to a prior level for reconsideration.
 5. If a grievant fails to appear for a scheduled grievance meeting, such failure without an excuse approved 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 that grievance and it is deemed denied. The grievance shall then not be subject to further appeal or reconsideration.

6. When a grievant is on approved leave the time limits established in this procedure shall be suspended for the period of the leave.
7. No grievance shall be finally dismissed for an unexcused failure to appear at a scheduled hearing unless the grievant had been given 24 hours notice of the hearing.
- G. The Union agrees to pursue all claims of violation of this MOU through the grievance procedure. Resort to other remedies shall not be pursued until all steps of the grievance procedure have been exhausted.
- H. The Management Team shall provide the Union with copies of all grievances regarding this Memorandum filed by employees, within the Union bargaining unit, who choose to represent themselves.

II. Definitions

- A. A grievance is a claim or charge of misunderstanding, or difference in interpretation, or violation of provisions of the Civil Service Rules, the Personnel Manual, this Memorandum of Understanding, or management policy or regulations including but not limited to Administrative and Departmental Regulations, which affect wages, hours or other terms and conditions of employment.
- B. Actions which are covered in the Management Rights Article of this Memorandum are not grievable, but this shall not preclude employees or their representatives from consulting with Management about the practical consequences such actions may have on wages, hours, and other terms and conditions of employment. In addition, actions covered by another appeals process as described in the Civil Service Rules, Personnel Manual, or this Memorandum are not grievable and shall not be processed through this Grievance Procedure.
- C. Wherever applicable, in this Memorandum of Understanding the term "working days" means the actual work days of the employee who filed the grievance. In grievances filed by the Union 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 shall constitute two (2) "working days" for the purpose of determining time limits for this Grievance Procedure.
- D. If the grievance system is abused by an unreasonable number of submittals by one individual or group obviously designed to thwart orderly processing or if the grievances are patently irrelevant, or incomprehensible, they shall be rejected as "non-grievable" and returned to the grievant.

III. Procedures

A. General

1. Management of the Department (i.e. Captains and higher 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:
 - a. 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 such grievance immediately to the Personnel Director for resolution or referral to the Civil Service Commission.
 - b. Supply the employee with the necessary information to process the grievance to the proper agency or authority.
 - c. Advise an employee when any matter under submission is determined by Management as not grievable according to the definitions in Section II above. The "grievance" paperwork submitted by the employee shall be returned to the employee along with a memorandum explaining why the matter is not grievable and what alternative procedures, if any, the employee may follow to process his/her complaint. If a grievance is determined to be non-grievable, that decision may be grieved. A decision favorable to the employee or the Union in this latter grievance shall serve to reinstate the original grievance in whole.
2. When a group of identical grievances develop, only one grievance form shall be submitted. The grievants may select not more than two (2) spokespersons who thereafter will be their representative "grievants." The acceptance of the decision by the spokespersons at any step (or final decision if the grievance moves to the fifth step) will be binding on all parties.
3. A grievance shall be recognized if it is brought to the attention of the immediate supervisor either informally or formally within ten (10) working days, excluding Saturdays, Sundays and recognized City holidays, of the incident's occurrence.
4. If the grievance is between the employee and the immediate supervisor, the initial step may be to the next higher level supervisor.
5. If the Union wishes to process a grievance on behalf of a class of represented employees which will require resolution by the Chief, it may submit the grievance directly to the Chief or his designee, pursuant to Step 4 of this grievance procedure. Thereafter, should this grievance not be resolved, then the remaining steps of this grievance procedure may be implemented by the Union. However, the Union shall meet with the Chief to discuss the matter prior to submitting the matter as a formal grievance.

6. To be recognized, a grievance must state which policy, rule, regulation, etc., is involved in the matter and the nature of the remedy sought by the employee or the Union.

B. Steps.

- Step 1: At the employee's or employee organization's sole option, grievances may be presented to the supervisor either orally or in writing. If the complaint is presented orally, the procedure is informal and may be settled by an oral answer given within five (5) working days. If the grievance is presented in writing, the procedure is formal and the answer must be given in writing within five (5) working days after submission.
- Step 2: If the problem cannot be solved at Step 1, the employee or employee organization may present the complaint in writing to the second level supervisor (if not done at Step 1) within five (5) working days. Within ten (10) working days of the receipt of the grievance, a hearing shall be held and the Management representative shall give a written decision to the employee or the Local 145 representative.
- Step 3: If the problem is not resolved at Step 2, the employee or employee organization may submit the grievance to the division head within five (5) working days. Within ten (10) working days of the receipt of the grievance, a hearing shall be held and the division head shall give written decision to the employee or Local 145 representative.
- Step 4: If the dispute is not solved in Step 3, the employee or employee organization may present the grievance to the Department Head within five (5) working days. Within ten (10) working days of the receipt of the grievance, a hearing shall be held and the Department Head or his/her designee shall give a written decision to the employee or Local 145 representative. In nonmanagerial departments this shall constitute the final resolution of a grievance involving management policy or regulations.
- Step 5: Final Resolution of Grievance: If the grievance is still in dispute after Step 4, the employee or employee organization may request a further hearing, which at the discretion of the Management Team will take place before the Civil Service Commission, on matters over which the Commission has authority, or before the City Manager or his designee, by submitting the grievance within five (5) working days. (If it is determined that the hearing should be held before the Civil Service Commission, a fact-finding hearing to define the issues in the grievance will be held by the Personnel Director with the employee and/or employee organization, prior to the date set for the Commission hearing. The grievance may be settled during such fact-finding hearing, if a mutually acceptable solution is developed.) Within thirty (30) working days a hearing shall be held and the written decision issued. The employee or

employee organization may only request a hearing before the Civil Service Commission in matters solely involving Civil Service Rules or the Personnel Manual.

- Step 6: Grievances arising out of the disagreement on interpretation or application of this Memorandum shall follow the City-wide grievance procedure. Local 145 may formally request to continue the grievance, not later than ten (10) days following receipt of the answer at the final step of the grievance procedure (provided it was heard by the City Manager), by serving written notice upon the Management Team. The Management Team will refer the grievance to the City Council for hearing and decision.

ARTICLE 26

Implementation

This Memorandum constitutes a mutual recommendation to be jointly submitted to the City Council and/or Civil Service Commission. It is agreed that this Memorandum shall be binding upon the parties upon:

- A. The City Council and Civil Service Commission act, by majority vote, formally approve and adopt those articles within their respective jurisdictions.
- B. The City shall act as soon as possible to make the necessary changes in ordinances, resolutions, rules, policies and grievance procedures to conform to this agreement. All such changes shall be submitted to Local 145 prior to their submittal for implementation to insure that the proposed changes are consistent with the agreement. All disputes over language shall be governed by the grievance procedure.
- C. The members of the Union act, by majority vote, formally to approve and adopt the successor Memorandum of Understanding, no later than June 24, 2000. The Union shall notify Management of the result of the Union vote no later than June 30, 2000.
- D. The tentative agreement shall be submitted to the City Council and the membership of the Union for their action as soon as possible after agreement has been reached by the Management Team and the Union negotiating team.

ARTICLE 27

Term

The term of this Memorandum shall commence on the date when the terms and conditions for its effectiveness, as set forth in Article 26, Implementation, are fully met; but in no event shall said Memorandum become effective prior to 12:01 a.m. on July 1, 2000. This Memorandum shall expire and otherwise be fully terminated at 12:00 midnight on June 30, 2002.

ARTICLE 28

Leave Programs

1. An eligible employee, upon retirement (except under a deferred retirement), may request that payment for sick leave and annual leave reimbursement be paid either (A) one full payment upon retirement; or (B) one full payment at a specified date within 365 days after retirement; or (C) three annual payments over a three year period; or (D) five annual payments over a five year period.
2. The maximum accumulation of annual leave for employees hired before 7/1/94 with 15 or more years of service shall be 700 hours for 40-hour workers and 980 hours for 56-hour workers. The maximum accumulation of annual leave for employees hired prior to 7/1/94 with less than 15 years of service shall be 600 hours for 40 hour workers, adjusted appropriately for 56 hour workers. Annual leave will be capped at 350 hours for 40-hour employees hired on or after 7/1/94, adjusted appropriately for 56-hour workers.
3. During the term of this agreement, the ability to receive Pay-in-Lieu of Annual Leave will be limited to employees with 160 hours or more of accrued annual leave who may receive a maximum payment-in-lieu of 125 hours per fiscal year adjusted as appropriate for 56 hour workers.
4. Effective July 1, 1998, employees who reach their maximum permitted accumulation of annual leave on their anniversary date shall cease to accrue additional annual leave. Employees who expect to be in this situation may submit a written plan by which to reduce excess leave which will include time off and pay-in-lieu up to 125 hours per fiscal year as necessary. If the Appointing Authority denies the specific time off requested and provides no alternative time off which is acceptable to the employee, this cease-to-accrue provision shall not apply until such time as the employee is granted and takes the time off. It is the City's intent to accommodate employees' requests to use annual leave and avoid any loss of this benefit.
5. Benefits while on Special Leave Without Pay [SLWOP]
 - a. 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.
 - b. After one year on SLWOP, the City may charge the employee 2% administrative fee and/or offer continuation of benefits under COBRA.
 - c. Employees will not be eligible for City sponsored Supplemental Life Insurance while on SLWOP.
6. Military Leave for members of Local 145 will be administered in a manner consistent with past practice during the term of this agreement.
7. During the term of this agreement, the City and Local 145 agree to study the feasibility of utilizing future annual leave accruals as contributions to the City's 401(k) plan and/or purchasing CERS service credit.

ARTICLE 29

Personnel Regulations

Reference to the City Personnel Manual or City Administrative Regulations is made in this article with the understanding that the 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 Memorandum during the TERM of the agreement.

For these purposes, the following Personnel Manual Sections, Administrative Regulations, and Policies are hereby made part of the M.O.U.:

H-1, Bilingual Pay
H-2, Holidays
H-4, Overtime Compensation
I-2, Annual Leave
70.30, Tuition Refund Plan
95.01, Overtime Compensation
63.00, Industrial Leave
95.60, Code of Ethics and Conduct
95.90, Sick Leave and Annual Leave Reimbursement
97.00, Substance Abuse Policy
Fire Department Drug and Alcohol Screen Policy
Fire Department Infection Control Plan
Fire Department Last Chance Agreement Policy
Long Term Disability Program (on file with City Clerk)
Council Policy 300-6
Will Work Policy, Fire Department Transfer Policy Manual

No changes will be made to any of the above provisions which would affect hours, wages, or working conditions of employees represented by Local 145 except by mutual consent.

ARTICLE 30

Formal Representation

- A. The Union may select three representatives to attend scheduled meetings with the Management Team or other management officials on subjects within the scope of representation during regular work hours without loss of compensation. In addition, the Union may also select a representative to attend City Council and Council Committee hearings and Retirement Committee meetings where subjects within the scope of representation are being discussed, all Civil Service Commission meetings and Retirement Board meetings, during regular work hours, without loss of compensation. The Union shall, whenever practicable, submit the names of all such representatives to the Management Team at least two working days in advance of such meetings; provided, further:
 1. That no representative shall leave the duty or work station or assignment without specific approval of the department head or the City Management Team.

2. That any such meeting is subject to scheduling by City management in a manner consistent with operating needs and work schedules.
- B. Nothing provided herein shall limit or restrict City management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances.

ARTICLE 31

Renegotiation

1. In the event Local 145 desires to meet and confer in good faith on the provisions of the successor agreement, it shall serve upon the City not later than February 4, 2002, its written request to commence meeting and conferring in good faith, as well as its full and entire written proposals for such successor agreements with the exception of initial salary or other economic proposals which shall be presented no later than February 25, 2002. Upon receipt of such written notice and proposals, meet and confer shall begin no later than April 1, 2002.
2. The City will serve Local 145 by March 11, 2002, its full and entire written proposal except in the matter of salaries or other economic provisions. Upon receipt of such notice of proposals, meet and confer shall begin no later than April 1, 2002, at which time the City will present its initial economic proposal. Notwithstanding the above, if federal or state governments take action that has direct effect upon the areas which fall within meet and confer, the City may submit proposals concerning these areas at later dates.
3. Resolution of Impasses
 - A. The impasse procedure may be invoked only after the possibility of settlement by direct discussion has been exhausted.
 - B. Any party may initiate the impasse procedure by filing a written request with the City Council for an impasse meeting together with a statement of its position on all disputed issues.
 1. Upon direction of the City Council, an impasse meeting shall be scheduled within five days with the Management Team after the filing of the written request for such meeting, with written notice to all parties affected.
 2. The purpose of such impasse meeting is to permit a review of the position of all parties in a final effort to reach agreement on the disputed issues.
 - C. If no impasse meeting is held pursuant to B1 above or no agreement is reached at an impasse meeting, impasses shall then be resolved by a determination by the Civil Service Commission or the City Council after a hearing on the merits of the dispute. Determination of which of the above bodies shall resolve a particular impasse shall be dependent upon:

1. The subject matter of the impasse, and
2. The applicable provisions of the Charter and Municipal Code of the City of San Diego as interpreted by the City Attorney.

ARTICLE 32

Transfer of Union Officers

1. The City agrees to notify the Union as promptly as possible of the intended transfer of an employee who is a union officer. The City agrees to meet with the Union, as mutually convenient, within 10 days after notice is delivered, if the Union so requests, for the purpose of explaining the reasons for the transfer.
2. Transfer, for purposes of this Article, means any permanent change of work schedule, station assignment, or division assignment of a Union officer having a permanent schedule or assignment. Union officer means an employee who has been elected or appointed an officer of Local 145 and whose name has been given in writing to the City as currently holding such office. Assignments expected to exceed eight shifts shall be considered permanent assignments.

ARTICLE 33

Vacation Selection Procedure for Fire Suppression Personnel

1. Appointing authority is responsible for arranging vacations so that adequate personnel are available to carry on necessary City work.
2. In lieu of attending vacation draw individuals may indicate their list of preferences for vacation and submit them on an FDR7. This information will be used to select a vacation for the individual when his/her turn appears in the draw.
3. Annual leave shall be granted when requested, subject to the needs of the Department.

ARTICLE 34

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 35

Overtime

It is agreed that premium compensation at the rate of one and one-half times the base rate shall be paid to employees in the classifications of Fire Fighter, Fire Engineer, Fire Captain and Battalion Chiefs under the following conditions:

- I. 1. When an employee is called back to work from a non-duty status, he/she shall receive premium pay for all such call-back time worked with a four [4] hour minimum of compensation in each instance.
2. When an employee is required under subpoena to appear in court or a Civil Service Commission hearing during non-duty hours, he/she shall receive premium pay for all such court time with a four (4) hour minimum of compensation in each instance.
3. When an employee's shift is extended beyond its normal ending time, he/she 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.
4. 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 his/her 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,
 - 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 actually worked, or spent in court or meetings before or after his/her shift.

5. For all overtime earned, members shall receive either compensatory time off or pay, at the discretion of the Fire Chief. Members of the unit will not be permitted to accrue more than 96 hours of compensatory time for overtime worked.
6. Fire Fighters, Fire Engineers, Fire Captains and Battalion Chiefs mandated to attend training sessions on non-regularly assigned shifts will be compensated at the rate of one and one-half (1-1/2) times their base rate.

7. 40-hour employee working over 8 hours per day if on the 5/8 schedule, or a 40 hour employee working over 9 hours per day on a 44/36 schedule.
8. 40-hour employee working over 40 hours per week.
9. If an employee is scheduled or directed by the department to work on a designated City holiday, he/she shall receive pay at premium rate (no comp time) for the time worked, during the first twelve hours of the shift beginning the morning of the holiday only.

- II. 1. The City and Local 145 agree to declare a 28-day work cycle for Fire Fighters, Fire Engineers, Fire Captains, and Battalion Chiefs in accordance with Section 7k of the Fair Labor Standards Act.

The parties agree to study the fiscal impacts of realigning the pay period cycle and the 28 day cycle to coincide. The study will result in a recommendation to the City Manager for possible implementation on 12/30/95.

2. Fire Fighters, Fire Engineers, Fire Captains and 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. Compensatory time off, vacation, holidays, annual leave, sick leave, or other compensated leave or unpaid leave will not be counted as hours actually worked during the 28-day work cycle in determining eligibility for premium overtime.

ARTICLE 36

Station Transfer Procedures

- A. The Fire Chief may transfer fire fighting personnel to any position within the Fire Department if he determines that a position requires specific skills, ability, or knowledge or if he finds 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 above, shall be filled on the basis of seniority as vacancies occur.
 1. The Chief shall have the right to limit his consideration to employees within a specific division.
 2. The Fire Department shall make all vacancies known to suppression personnel four shifts prior to filling that vacancy.
- C. All station transfers shall be in accordance with the Fire Department Transfer Policy Manual.
- D. The City agrees to operate the foregoing program strictly in conformance with the seniority provisions in Article 4 of this agreement. The 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 request from the employee, management will provide feedback to those Battalion Chiefs not selected, based on knowledge, skills and abilities and/or management needs to an assignment where the employee has expressed a preference.
- F. Upon mutual agreement with the Fire Department of a suitable program, probationary 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. This provision will be applied to all station transfers after July 1, 1985.
- 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. The City will comply with OSHA policy for two in/two out, for two firefighters inside a structure and two outside, as required by law.

ARTICLE 37

Non-Duty Weekend/Holiday Training

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

ARTICLE 38

In House Committees

The Fire Chief may at his discretion create advisory committees to provide information which is necessary to administer the Fire Department. Such committees shall be precluded from the consideration of subjects which relate to the scope of representation of the recognized bargaining unit.

In the event that the Fire Chief requires input on matters falling within the scope of representation, he shall consult Local 145. Local 145 will provide data on the subject requested.

The Fire Department agrees to meet with Local 145 to receive their input on developing and implementing any training programs for Fire Fighters.

ARTICLE 39

Implementation of New Programs

- A. The City agrees that the City and/or the Department will meet and consult and/or meet and confer as required by law with the Union on the implementation of any new programs during Fiscal Year 1995 and the impact of any such programs on working conditions.
- B. The provisions of this agreement, together with those provisions of wages, hours and working conditions subject to meet and confer currently in existence and not changed by this agreement shall not be revised to adversely affect the employees in the unit during the term of this agreement.
- C. Any claim of a violation of this provision shall be pursued solely 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 the City introduce a proposal to amend the City Charter in a manner that would change the reporting relationship of the Personnel Director from the Civil Service Commission to the City Manager, that Local 145 will promptly meet and confer, at any time during the term of this agreement, regarding any aspects of that proposal that would effect wages, hour and terms and conditions of employment.

Local 145 further agrees that should the City introduce a proposal to amend the City Charter in a manner that would permit the City to privatize functions which are currently performed by City employees, that Local 145 will promptly meet and confer, at any time during the term of this agreement, regarding any aspects of that proposal that would effect wages, hours and terms and conditions of employment.

ARTICLE 40

Grocery Shopping

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

ARTICLE 41

Holidays

I. 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 "Washington's Birthday";
- D. Last Monday in May, known as "Memorial Day";
- E. July 4;
- F. First Monday in September, known as "Labor Day";
- G. November 11, known as "Veteran's Day";
- H. Fourth Thursday in November, known as "Thanksgiving Day";
- I. December 25; and
- J. Every day appointed by the City Council for a public fast, Thanksgiving or holiday.

If January 1st, July 4th, November 11th, or December 25th fall upon a Sunday, the Monday following is a holiday, and if they fall on a Saturday, the preceding Friday is a holiday.

II. Floating Holiday

Each eligible employee assigned to a 40-hour work shift who is available for a duty assignment on July 1, of each fiscal year (as defined in Personnel Regulation H-2), shall accrue credit for eight (8) hours of holiday time. Each employee accruing such time shall schedule it so as to comply with the following conditions:

- A. Schedule the day off prior to June 1 of each fiscal year.
- B. Take the day off prior to the last day of the last full pay period in June of each fiscal year.
- C. In a one time absence;
- D. At a time convenient to the employee's appointing authority

III. Members of the Unit assigned to the 56-hour work shift may schedule 24 hours of holiday time with their vacation. All other holiday time will be scheduled at the discretion of Management.

Holiday time for 56-hour personnel will accrue as follows:

16 hours on July first and eight hours each in work periods one through 13.

IV. If an employee is scheduled or directed by the department to work on a designated City holiday, he/she shall receive pay at premium rate (no comp time) for the time worked, during the first twelve hours of the shift beginning the morning of the holiday only.

Employees who are scheduled to or work a nine (9) hour shift on a fixed holiday shall be credited with one (1) additional hour of floating holiday time.
Employees who are scheduled to or work a ten (10) hour shift on a fixed

holiday shall be credited with two (2) additional hours of floating holiday time. The additional floating holiday time will be subject to all of the provisions of floating holidays, on a use it or lose it basis.

ARTICLE 42

Disciplinary Actions and Appeals

1. The employee may appeal the placement of any disciplinary document in his/her permanent record by submitting an appeal letter within 10 working days (same definition as in Grievance Procedure) of the employee being notified that any such document is to be placed in his or her file. This appeal letter should contain pertinent details of the basis for the appeal and should be submitted to the Chief. Disciplinary documents which may be appealed include written warnings, reprimands, and less than satisfactory performance reports. As soon as possible after receiving the appeal letter, the Chief or his designee will schedule a hearing. After the hearing the Chief or his designee will make a final decision as to whether the written document will be retained in or removed from the employee's record.
2. Disciplinary actions shall remain a permanent part of the employee's file, with the exception of the following:
 - a. When the employee, in accordance with the Personnel Manual, Index Code L-2, Paragraph II, Section C.2, has appealed the placement of a document in his or her file and the appeal has been upheld by the Chief or his designee.
 - b. When a disciplinary action has been appealed to the Civil Service Commission and the Commission has directed that such record be removed from the employee's file.
3. As set forth in the Department's promotion policy only those disciplinary actions which have occurred within the preceding three years will be considered on promotions, except that warnings for tardiness shall be considered only one year. Upon request of the affected fire fighter, disciplinary actions more than three years old, and warnings more than one year old will be removed from the employee's file and placed in a sealed envelope.

These sealed records will be removed to a location accessible only to the Fire Chief.

Once removed from the employee's file, these records will not be considered for purposes of promotion, transfer, special assignments and disciplinary actions except as to disciplinary actions, when they show patterns of specific similar misconduct. All employees shall have the right to review their Human Resources Division Files and identify all such documents. Upon concurrence of the Human Resources Officer that such documents have been appropriately identified, they will be placed in an envelope, sealed and initialed by the employee. The envelope will be opened only in the event the employee is in the future subject to discipline. The employee shall be notified and present during the opening of any sealed file. Employees shall have the right to review their file that is held by the City Personnel Department.

Employees may petition to the Fire Chief for removal of a warning or reprimand from their Human Resources Division file after three years if there is no additional discipline given to the employee. The Fire Chief or his designee shall consider the petition and make a final decision regarding the removal of the warning or reprimand.

4. It is mutually agreed that employee performance evaluations with satisfactory or above ratings are not eligible for appeal.
5. When an employee is placed on a Performance Development Plan 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 Performance Development Plan.
6. Nothing shall be included in an employee's personnel file which is uncomplimentary, disparaging or negative without prior notification.
7. Employees shall have the right to not have prior grievances, filed by them, in their personnel files.

ARTICLE 43

Emergency Medical Services

I. PARAMEDIC ASSESSMENT ENGINE PROGRAM

1. Effective October 1, 1991, a paramedic premium will be paid to Firefighters, Engineers, and Captains, certified as paramedics. Battalion Chiefs are not eligible for the premium.
2. The paramedic premium shall be the difference between E step Firefighter and E step Engineer per month.
3. Effective October 1, 1991, a paramedic certification bonus of \$500 shall be paid to all certified personnel in the bargaining unit, with the exception of Battalion Chiefs, upon certification or re-certification as a paramedic.
4. During the term of this agreement, additional Firefighters to be trained as paramedics will be determined by mutual agreement.
5. Effective July 1, 1997, and on the condition that the City enters into an Agreement with the Fire & Life Safety Department/Rural Metro to provide Emergency Medical Services, only employees qualified under "1." above, who are assigned to budgeted paramedic positions will receive the paramedic premium.

II. EMT

Effective July 1, 2000, all Battalion Chiefs, Captains, Fire Engineers, Firefighters, Fire Prevention Inspectors and Single-role Paramedics that are EMT certified will receive an EMT premium of 4.5% of employee's base pay. Effective June 30, 2001, the EMT premium will be increased to 5%.

III. PARAMEDIC PROGRAM

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

IV. EMERGENCY MEDICAL SERVICES (EMS)

1. The provisions of this article related to 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 Emergency Medical Services program.

Paramedic I
Paramedic II
Emergency Medical Technician
Medical Operations Coordinator

2. Annual Leave Accrual

Employees working a 24 hour shift schedule will receive their maximum regular bi-weekly 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 in a work week. For purposes of the above provision, compensated leave will count as hours worked in the overtime calculation. If employees in the future become eligible for the 7(k) exemption in the Fair Labor Standards Act (FLSA), 7(k) exemption provisions will apply and compensated leave (excluding industrial leave) will not count as hours worked in the overtime calculation. If there are any other changes in the FLSA overtime provisions, or the interpretation of those provisions by the Department of Labor (DOL) or the courts, this provision may be reopened by either party.

4. Holidays

City holidays for single role EMS employees working 24-hour shifts will be accrued and used in the same manner as Firefighters who work 24-hour shifts (112 standard). For employees working 12-hours shifts, City Holidays will be accrued on the official City designated Holiday.

5. Special Assignment Station Pay

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

6. Uniforms and Safety Equipment for EMS Employees

Single role Paramedics, Emergency Medical Technicians, and Medical Operations Coordinators are not eligible for the Firefighters uniform provisions of Article 21.

- a. The following items of a Class B uniform will be furnished by Fire & Life Safety Services as needed for EMT's and Paramedics.

Belt (1)
Class B Shirt (3)
Class B Pants (2)
Station Shoes (1 pair)

- b. The safety items listed below will also be furnished by Fire & Life Safety Services.

Brush Jacket (1)
Personal Protective Equipment Pack (1):
Eye Protection
Respiratory Hepa Mask
One-way mouth-to-mouth valve/mask

- c. Maintenance and Upkeep

On September 1 of each year, the City shall pay those single role EMT's, Paramedics and Medical Operations Coordinators who have completed 12 months of service, the sum of \$700 for maintenance and replacement of the items described in "a" above.

For FY 2001 only, the City shall provide to each Single-role Paramedic and EMT, a one-time \$964 reimbursement/voucher for the purchase of the mandatory and optional uniform items listed below. This reimbursement shall be in lieu of the \$700 allowance addressed in Section c above.

-Class "B" Uniform:

3 Pants and 6 Shirts:

Two (2) shirts must be snap-front type to allow metal badge and nameplate to be displayed, and Two (2) shirts embroidered Polo

-Class "B" Jacket (Optional embroidered Badge and Name)

-SDFD Belt and Buckle

The remainder of the Uniform Allotment will be paid on a reimbursement basis for the purchase of any additional items from the mandatory list or items from the optional purchase list only.

Optional Uniform List:

- White Shirt (Uniform or Dress Shirt)
- Cargo Pockets sewn on Class "B" Pants
- Class "C" T-shirts (Long and/or Short Sleeve)
- Class "C" Sweatshirts/ Sweatpants/ Running Shorts
- Boots (Leather or Alternative Type)
- Ball Cap
- Approved Knife/Multi-purpose Tool
- Flashlight
- Stethoscope
- Paramedic Scissor Pack
- Collar Insignia/ Name Tags

On the first pay day in September, 2001, the City shall pay those single-role Paramedics and Emergency Medical Technicians who have completed 12 months of service as a Paramedic or EMT with the City of San Diego, the sum of \$700 for maintenance and replacement of work uniforms.

- d. Employees reporting for duty are expected to have the uniforms as described above. Failure to have any of these items may result in discipline of the employee.

8. Dual Track Classification

Those uniformed Fire employees currently hired into the classification of Medical Operations Coordinator, that employee shall be paid at the rate of Fire Captain, retain Fire Safety Membership in the Retirement System, and be paid the paramedic premium pay. Existing MOC positions will be replaced by three Battalion Chief positions.

9. 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.

10. Drug/Alcohol Screening

The existing random drug/alcohol testing program shall be expanded to include those Emergency Medical Service employees identified above.

Employees will be deemed in violation of this policy if alcohol percentage of 0.04 or greater is detected in their system during working hours.

11. STUDY LANGUAGE

City agrees to evaluate transferring the Single Role Paramedics into the Safety Retirement System. City shall determine the cost of the transfer by January 1, 2001.

ARTICLE 44

Transportation Incentives

- A. Employees who utilize the Concourse Parkade and pay on a monthly basis will be charged 50% of the prevailing general public monthly rate. Participation in this program is limited, and available on a first-come first serve basis.

Employees participating in the Employee Transportation Incentive Program (ETIP) shall pay 50% of the public daily rate, for up to 52 instances per year.

- B. The City will provide 75% reimbursement up to \$65.00 per month to those employees who wish to purchase monthly passes for transportation on the public bus and/or trolley, and commuter rail service. Such pass will be for the exclusive use of the employee/purchaser. The City will provide an equal amount to employees who utilize the 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 days a week to be eligible for reimbursement.
- C. The City will provide reimbursement to employees who utilize the Concourse Parkade and carry riders. The rate of reimbursement will be calculated so that an employee who carries three riders will receive free parking.
- D. Violation of Transportation Alternative Program rules may disqualify the employee from further participation in the program.

ARTICLE 45

Driver's License and Certification

All Fire Engineers shall maintain a valid Class A driver's license and training card for triple combination diesel, tractor/trailer, aerial ladder, and aerial platform.

Management will provide 16 hours of on-duty, in-service classroom training for all Fire Fighters to include information necessary for the engineer's preparatory course, triple combination diesel certification and Class A Driver's License.

In addition, management will make available for off-duty members not presently certified, a minimum of four (4) hours practice on a triple combination diesel and four (4) hours practice on a Class A vehicle with an instructor under the direction of the Drivers Training Officer. Firefighters must be certified on the following fire apparatus to be eligible to take Fire Engineer's promotional exam:

Triple Combination
Tractor/Trailer
Aerial Ladder
Ladder Tower
Brush Apparatus

Fire Fighters completing the 16 hours of classroom training may schedule on-duty a Class A physical through the Fire Department Personnel Officer. Fire Department will pay for the cost of the physical. DMV fees for Class A license will be paid by the employee.

The Fire 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.

The City reserves the right to implement a drug and alcohol testing program (urinalysis) for all employees undergoing the biennial medical examination required by State Law for Department of Motor Vehicles Class A and B driver's licenses. All employees required to have a Class A and/or B license for the performance of their regular duties must have the medical examination and drug/alcohol test conducted by the medical examiner and testing laboratory designated by the City. The scheduling of such medical examinations, to include drug testing will be determined by management.

The City shall evaluate, during the term of this contract, the feasibility of combining the DMV physical, the annual respiratory fitness test, and random drug screening into a single examination.

ARTICLE 46

Copies of the Agreement

The Union may obtain copies of this agreement from the City by reimbursing the City for their cost. The City will provide 50 copies to the Local at no expense and will supply each fire station with one copy. The City shall print and publish this Memorandum of Understanding within 30 days of final approval of draft document. In addition, the City shall provide to Local 145 a copy of this Memorandum of Understanding on disk.

ARTICLE 47

Presidential Leave

The parties agree to a work-release program for the president of Local 145 with the following elements:

1. Union President works 20% of his/her scheduled work week performing usual range of duties for his/her job classification.
2. The City will compensate the union president for hours worked during scheduled working hours for formal meet and confer meetings, on-site grievance hearings, and attendance at necessary City Council or Retirement Board meetings on the condition that such hours worked are pre-approved by the City Manager or his representative and are documented by accurate time cards. Such hours will not normally exceed 40% of the scheduled work week.
3. Until the City receives approval from the IRS permitting the City to be reimbursed by Local 145 for the remaining 40% or more of presidential leave time at 130% of the normal rate for compensation, Local 145 shall have the responsibility for compensating the president directly. The City will make a good faith effort to obtain a ruling on this issue as soon as possible.
4. The City through its Management Team will support any necessary changes to the Civil Service Rules and the Rules of the Retirement System to authorize the above-described arrangement, including a provision permitting union presidents to remain full-time contributing active members of the City Employees Retirement System even when working less than half-time for the City — on the condition that the union bears the cost of the benefit covering presidential leave time either through reimbursement to the City or by direct payment.
5. During periods of presidential leave, the union president agrees to waive any rights against the City pursuant to Workers' Compensation Law, Industrial Leave, and the Fair Labor Standards Act.

ARTICLE 48

Rehabilitation Program

The City agrees to ensure that employees in the Fire Unit who suffer serious industrial injuries and are off the job for a significant period of time, undergo an appropriate physical rehabilitation program prior to return to full duty.

When an employee is injured and is in light duty or off the job for a period in excess of 60 days, the City will ensure that the employee has completed an appropriate rehabilitation program prior to returning to full duty.

The parties agree to study the establishment of an Employee Assistance Program to be administered by Local 145.

City agrees to provide critical incident stress debriefings at no cost to employees requesting such counseling, as management deems appropriate.

ARTICLE 49

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 his/her property, income, assets, source of income, debts or personal or domestic expenditures (including those of any member of his/her 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 his/her 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 50

Access to Department Provided Equipment

Employees of the Fire Department may be assigned departmentally owned vehicles, lockers, desks, cabinets, and cases for the mutual convenience of the department and its personnel. All personnel are reminded that the 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. Such equipment is subject to entry and inspection without notice except that inspection of lockers assigned to individual employees will be made only after notice, or attempted notice to the individual employee, or where a valid search warrant has been obtained. Where the employee has been notified of the inspection, and the employee indicates a desire to be present at the opening, the employee shall be given a reasonable period of time to come to the locker. If department needs require access and the department has attempted to notify an off-duty employee by calling the telephone number currently on file with the department the employee's locker may be opened without notice, with a Union representative present. Upon the employee's return to work the employee shall receive notice that their locker was opened and what items, if any, were removed.

ARTICLE 51

Polygraph Examinations

No employee shall be compelled to submit to a polygraph examination against his/her will. No disciplinary action or other recrimination shall be taken against an employee refusing to submit to a polygraph examination, nor shall any comment be entered anywhere in the investigator's notes or anywhere else that the employee refused to take a polygraph examination, nor shall any testimony or evidence be admissible at a subsequent hearing, trial, or proceeding, judicial or administrative, to the effect that the employee refused to take a polygraph examination.

ARTICLE 52

Health Management Program

- A. The City and Local 145 agree to support a Health Management Program. Effective July 1, 1991, Local 145 will be allowed to provide input into the design of the Program prior to its implementation. 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 300-7.
- B. During the term of this agreement, the City shall continue to fund the Overall Wellness Program up to \$35,000 per year. This fund will be utilized for the purchase of Polaris weight machines and/or similar equipment.
- C. During the term of this agreement, the City shall provide Hepatitis B vaccinations to all members of the unit.

ARTICLE 53

Fire Fighter Career Ladder

Local 145 and the City agree to support the establishment of a career ladder as follows:

Fire Recruit
Fire Fighter I
Fire Fighter II

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 agreement.

ARTICLE 54

Special Salary Adjustments

Both parties agree not to submit any special salary adjustment proposals to the Civil Service Commission or the City Council under the terms of Charter Section 130 which would change salaries during the term of this agreement.

ARTICLE 55

Side Letters

Effective July 1, 1994, all side letters not represented by the current Memorandum of Understanding expire. The current M.O.U. as printed will represent all M.O.U. agreements between the Local 145 and the City.

ARTICLE 56

Drug and Alcohol Screening

Effective July 1, 1991, it is mutually agreed that a random drug/alcohol testing program shall be implemented to include all firefighter unit personnel. The term firefighter hereinafter refers to members of the firefighter unit which consists of the following classifications:

Fire Recruit
Firefighter I
Firefighter II
Fire Engineer
Fire Captain
Fire Battalion Chief
Fire Prevention Inspector I
Fire Prevention Inspector II
Fire Prevention Supervisor
Assistant Fire Marshall
Emergency Medical Technician
Paramedic I
Paramedic II
Medical Operations Coordinator

I. PROCEDURES

- A. The Fire & Life Safety Services Human Resources Director, City Labor Relations Manager and Personnel Department Medical Liaison will administer the Drug Screening Program.
- B. The firefighters will be tested twice every 18 months through the provision of a urine sample which will be screened for the presence of specific drugs.
- C. The drug screening shall be conducted to detect the following drug groups:
 - 1. Amphetamines/Methamphetamine (e.g., Speed, Crystal)
 - 2. Benzodiazepines (e.g., Valium, Librium, Oxazepam, Serax, Dalmane, Ativan);
 - 3. Barbituates (e.g., Amobarbital, Butabarbital, Pentobarbital, Phenobarbital, Secobarbital);
 - 4. Cocaine;
 - 5. Methadone;
 - 6. Ethanol;
 - 7. Opiates (e.g., Codeine, Heroin, Morphine);
 - 8. Phencyclidine (PCP);
 - 9. THC (marijuana)

- D. Firefighters may provide appropriate documentation of legally prescribed drugs. Such documentation shall be included in the review of the test results.

II. SAMPLE COLLECTION

- A. Designated medical personnel will be responsible for obtaining the urine sample from the firefighter being tested.
- B. Designated medical personnel will be available for taking urine samples between 0800 and 2400 hours, seven (7) days a week, to allow firefighter to be tested during normal work hours.
- C. Medical personnel will not observe as the sample is being given.
- D. Firefighters 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 (4) hours after the firefighter's shift begins.
- E. At the testing site, the firefighter being tested will:
1. Identify himself/herself by presenting his/her S.D.F.D. identification.
 2. Complete requested paperwork.
 3. Remove turnouts, jackets, boots, or other bulky items of clothing prior to entering the lavatory to give a urine sample.
 4. Provide a urine sample
 - a. Firefighters will be required to stay within the urine collection area until the required sample is given.
 - b. Sample must be at least 120 mL., the minimum amount required for testing purposes.
 - c. Refusals to complete the test will be referred to the Fire & Life Safety Services Human Resources Director for investigation.
- F. At the urine collection site, the medical personnel will:
1. Direct the firefighter being tested to a private lavatory.
 2. Place a colored dye in the toilet
 3. Wait outside of the lavatory for the sample.

4. Upon receipt of the urine sample, and in the presence of the firefighter, the medical personnel will:
 - a. Split the sample into two separate containers.
 - b. Seal the containers.
 - c. Direct the firefighter to sign and initial the chain of custody forms and documents.
5. Complete the appropriate chain of custody forms and procedures for the samples.
6. Arrange transportation of both samples to the laboratory by approved courier.

III. SCREENING PROCEDURE

- A. The screening of all collected samples will be conducted within 48 hours by a City designated laboratory certified by the National Institute on Drug Abuse (NIDA).
- B. Initial screening of urine samples will be conducted using a testing methodology such as the "Enzyme Immunoassay" or other technique.
- C. 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.
- D. Upon receipt of the samples for testing, the designated Laboratory Technician will:
1. Check the containers to ensure they are not damaged, and that the seals are intact.
 2. Complete the appropriate chain of custody forms for the samples.
 3. Conduct the initial testing of one of the samples using the "Enzyme Immunoassay" or other technique.
 4. If the sample tests "negative", all urine samples will be discarded.
 5. If the urine sample tests "positive", a confirmation test will be conducted.
 - a. The confirmation test will be determined by the specific drug found in the sample during the initial test.
 - b. The confirmation test will be conducted using the GC/MS or other alternative technique.
 6. If the confirmation test confirms the presence of drugs, both samples will be retained in a locked freezer for a minimum of one year.

7. If the confirmation test is "negative", the whole test will be considered negative.

E. Alcohol Test

1. The standard for alcohol testing will be the converted urinalysis equivalent of a blood alcohol level of 0.04.
2. An alcohol testing level of 0.04 or greater will be treated as a "positive" result and may be cause for disciplinary action.

IV. REPORTING TEST RESULTS

- A. Test results will be provided to the City Personnel Department Medical Liaison Officer via the City's contract medical provider.
- B. If the test results are "negative", the firefighter will be notified in writing without delay.
- C. If the test results are positive for legally prescribed drugs, the City Personnel Department will request the firefighter to provide written substantiation from his/her private doctor prescribing the drugs.
- D. If test results are "positive" for alcohol (0.04 or above), illegal drugs, or inadequately explained legal drugs, the Fire & Life Safety Services Human Resources Director will be notified, and will be responsible for initiating an investigation resulting in the issuance a disciplinary action to be held in abeyance, and a Last Chance Agreement to the firefighter. Violation of the Last Chance Agreement may result in termination of employment. The discipline will be removed upon successful completion.
- E. Alcohol tests results below the 0.04 level shall be cause for mandatory referral of the firefighter to the City's Employee Assistance Program. However, no disciplinary investigation shall be initiated solely on the basis of the result, including those instances where the firefighter is on a last chance agreement. The Personnel Department shall be responsible for making the referral of the firefighter to the City's Employee Assistance Program. It is agreed that the test results are confidential and the Personnel Department will not notify anyone including the Department, of the test result or the referral of the firefighter to the City's Employee Assistance Program. If an employee fails or refuses to follow through with the initial mandatory EAP referral, the Personnel Department will notify Fire & Life Safety Services for appropriate action. Fire & Life Safety Services will not inquire of the Personnel Department 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 thereof.

V. INDEPENDENT TESTING

- A. If the drug screening test results are positive, the affected firefighter may request that the second sample obtained at the time he or she provided the urine sample be sent for independent testing.
- B. The testing will be conducted at a NIDA certified laboratory designated by the affected firefighter.
- C. The second sample will be transported by approved courier to the testing laboratory.

VI. PROGRAM RECORDS

- A. All drug testing information relating to individual firefighters is strictly confidential.
- B. All records related to the program shall be maintained as directed by the Assistant Fire Chief.

VII. 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, Fire & Life Safety Services shall not be precluded from taking further action.

VIII. LAST CHANCE AGREEMENT

The Last Chance Agreement will be held in a sealed envelope for 4 years after the conclusion of testing for the Last Chance to be considered for additional action up to termination.

ARTICLE 57

401K Administration

Local 145 agrees to meet and confer with the City during the term of this contract regarding the City's proposed changes to SPSP/401(k) plan.

ARTICLE 58

Catastrophic Leave Plan

The City proposes to issue the Catastrophic Leave Plan as follows:

Purpose

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 under the Family Medical leave Act as determined by the City Manager. Catastrophic Leave determinations are non-grievable.

Procedures

- A. 1. The employee must have exhausted or expect to exhaust his/her accrued leave (to be verified by the department payroll specialist), as a result of a qualifying event in order to establish a leave bank.
- If an employee is diagnosed as terminally ill, a leave bank may be established without meeting this requirement. In such cases, the donated leave will be paid out at termination. A recipient's total annual leave balance including donated leave cannot exceed 2080 hours.
2. The employee has received approval for an unpaid leave of absence from his/her Department Head.
- B. Requests to establish a Catastrophic Leave Bank for receipt of donations will be processed by the City Manager's office.
1. An eligible employee will submit a completed "Request to Establish Catastrophic Leave Bank" form to the Labor Relations Manager, accompanied by:
- a. A medical statement from the attending physician, including a brief statement of the nature of the illness or injury and an estimated time the employee will be unable to work, or other appropriate documentation supporting the request.
- b. Evidence of the Department Head's approval of leave of absence.
- C. Donations of annual leave may be made to an employee eligible for catastrophic leave. The Donor Department will be billed for the dollar amount of the Donor's Annual Leave donation.
1. Donation leave will be strictly voluntary; the identity of leave donors will be held in absolute confidence.
2. Employees may only donate accrued annual leave.

3. Donations may be made in whole hour increments. There is no tax benefit to the donor.
4. Donors must have an overall annual leave balance of 160 hours remaining after donated time has been deducted.
5. Once donated to an individual, donated leave cannot be reclaimed by the donor.
6. Employees wishing to donate time shall complete a "Confidential Authorization for Catastrophic Leave Donation" form and submit to their Department Payroll Specialist who will:
- a. verify that donating employee has the minimum required leave balance (160 hours),
- b. convert the donated time to dollars at the hourly rate of the donor and subtract from designated leave category, and
- c. forward to the Labor Relations Manager for tracking and submission to the Auditor-Controller.
- Donation authorization forms which do not contain all requested information shall not be processed.
- D. Upon receipt of donation authorizations, the Auditor-Controller shall take the following action:
1. Convert donated dollars as computed above to hours at the hourly rate of the recipient, and add to recipient's annual leave balance. Recipient will be taxed for the leave when taken.
2. Retain a confidential file of donation authorizations.
3. All deductions (e.g. health premiums, parking, credit union, union dues, etc.) which have previously been authorized by the recipient will be made unless notified in writing by the recipient to cancel deductions.
- E. Donated time is treated as annual leave accrued by the recipient of the donation. Payments up to 80 hours per pay period will be made to the recipient until the donated leave has been exhausted.
1. Donated time does not alter the employment rights of the City or the recipient, nor extend or alter limitations otherwise applicable to Leaves of Absence or Annual Leave, except as noted in this Article.
2. Employees who are utilizing donated annual leave hours will continue to accrue annual leave in accordance with Personnel Manual Section I-2, Annual Leave.

ARTICLE 59

Long Term Disability and Industrial Leave

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, relevant portions attached] should be consulted for detailed language.

- 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, with the exception of firefighters if such failure is consistent with prudent firefighter practices, training, and department policies.
- Industrial Leave benefits will be terminated when an employee misses a medical appointment designed to determine the employee's work status, upon the determination that the failure to attend the appointment was not excusable.

A.R. 63.00

4.2 Eligibility for Industrial Leave:

Employees shall be eligible for industrial leave benefits subject to the following provisions:

- a. The employee is unable to perform his or her assigned duties and is entitled to Worker's Compensation Temporary Disability under the provisions of Division 4 of the California Labor Code.
- b. The employee reported the injury or illness to his or her supervisor within 24 hours of the incident, except under extenuating circumstances. Extenuating circumstances under which an employee may report an injury beyond the 24 hour limit shall include but not be limited to a report at the time the employee realizes the injury is disabling and the medical evidence is consistent with the claim.
- c. Medical treatment is provided and maintained by a licensed physician acceptable to the City's Worker's Compensation Administration.
- d. The employee is medically incapacitated from the performance of light duty, or light duty is not available.
- e. Except in circumstances of obvious emergency, the disability did not result from the failure to:
 1. Wear prescribed safety or personal protective clothing or equipment.
 2. Use provided safeguards or safety equipment.
 3. Follow safety rules and regulations, or other departmental work rules.

4. Wear available safety restraints, i.e., lap and shoulder restraints, when involved in a vehicular accident, with the exception of Police Officers and Firefighters if such failure to use restraints is consistent with prudent practices, training, and department policy.
- f. The disability did not result from an aggravation or recurrence of:
 1. A pre-employment, nonservice-connected medical condition or disability (either physical and/or mental), even if such condition is aggravated by on-the-job experience. It is the intent that industrial leave will not be approved when competent medical authority determines the disability to be a result of aggravation of, or caused by, a pre-employment or nonindustrial medical condition.
 2. A medical condition for which the employee has received a Compromise and Release settlement pursuant to Division 4 of the Labor Code.
 3. An injury or illness previously denied industrial leave.
- g. The employee's gross negligence or willful misconduct was not the proximate cause of the disability.
- h. The request for industrial leave is submitted in form and detail as prescribed by Risk Management, is recommended for approval by the appointing authority, and is approved by the City's Worker's Compensation Administration.
- i. The employee fulfills his or her responsibility as outlined in this Administrative Regulation.

4.3, f. Duration of Industrial Leave:

1. An employee's maximum industrial leave benefit shall be the number of hours equivalent to the employee's scheduled work year.
2. Industrial leave shall commence on the first workday following the injury or illness for which the employee is medically disabled from working. EXCEPTION: As applied to employees in the Fire Fighter Unit, industrial leave shall commence on the first work period after that on which the employee is medically disabled from working.
3. An injury shall be deemed to continue through any recurrence or aggravation to the original injury. Claimed recurrences, aggravations, or sequelae of any injury approved for industrial leave shall be charged to the balance, if any, of the maximum allowance of such leave for the original injury.
4. Industrial leave will terminate when one of the following occurs:
 - a. The employee fails to follow the advice of the treating physician and pursue a course of treatment which will lead to recovery in as short a period of time as possible.

- b. The employee's condition becomes medically permanent and stationary.
- c. It is medically determined that the employee will never be capable of performing the duties of his or her classification.
- d. The employee no longer qualifies for industrial leave.
- e. The employee is engaged in outside employment which would medically impede recovery and prolong his/her return to work.
- f. The employee uses the maximum benefits available.
- g. The employee, without an acceptable excuse, fails to appear at a medical examination scheduled by the Workers' Compensation Division of Risk Management to determine the employee's ability to return to work.

Long Term Disability

For claims filed based on a disability which arises on or after July 1, 1994, the City will implement the following changes in the LTD Plan. (The actual provisions of the Plan Document should be consulted for detailed language, and additional changes.)

- Exclusions related to mental or nervous disorders, stress, and/or substance/ alcohol abuse.
- The Plan will not pay benefits to any employee whose disability was caused by his or her employment with the City of San Diego unless:
 - A. A period of twelve months of Industrial Leave coverage has been exhausted for such disability. LTD coverage may then be approved for a maximum period of twelve (12) months while the Participant is medically certified as totally disabled as defined in Section 4.03.
- Participation in the Plan shall cease upon the effective date of retirement.

Flexible Benefits

- The City will pay the Participant's flexible benefits for a maximum of one year while on Long Term Disability and thereafter will refer the employee to COBRA for extension of appropriate coverages.
- The City shall pay the participant's flexible benefits while the Participant is receiving Long Term Disability benefits even if the LTD benefit is 100% offset by other income benefits.
- Participants who are in a Long Term Disability status during the City's annual open enrollment for its Flexible Benefits Plan shall be enrolled in Flexible Benefits as required during the open enrollment. Participants shall keep their current health and life insurance coverage, while receiving Long Term Disability. Participants will be allowed to change health care plans provided the health care plans so stipulate.

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.

IN WITNESS WHEREOF, the undersigned agree to submit this amendment to the Memorandum of Understanding effective July 1, 2000 - June 30, 2002, to the appropriate bodies.

Date: May 12, 2000

INTERNATIONAL ASSOCIATION OF
FIRE FIGHTERS, LOCAL 145,
AFL-CIO

[Signature]

CITY OF SAN DIEGO

[Signature]
[Signature]
[Signature]

