

TABLE OF CONTENTS

Parties to the Agreement	1
Purpose.....	1
Meet and Confer	1
Article 1 - Recognition	2
Article 2 - Implementation	2
Article 3 - Term.....	3
Article 4 - Renegotiation.....	3
Article 5 - Grievance Procedure	5
Article 6 - Stewards	11
Article 7 - Union Access.....	13
Article 8 - Employee Representation	14
Article 9 - Personnel Regulations.....	15
Article 10 - Personnel Practices	16
Article 11 - Use of City Facilities	22
Article 12 - Bulletin Boards.....	23
Article 13 - Mail Station	23
Article 14 - Payroll Deductions and Union Dues.....	23
Article 15 - Use of City Email System	26
Article 16 - Rest Periods	27
Article 17 - Work Schedules	28
Article 18 - Annual Leave and Compensatory Time Off.....	30
Article 19 - Bilingual Pay	32
Article 20 - Workplace Safety.....	33
Article 21 - Salaries	34
Article 22 - Retirement	38
Article 23 - Lifeguard Services	49
Article 24 - Limited Appointments	52
Article 25 - Performance Incentives.....	52
Article 26 - Rehabilitation and Employee Assistance	53
Article 27 - Flexible Benefits Plan	53
Article 28 - Time Off for Meetings	55
Article 29 - Employee Rights.....	56
Article 30 - Management Rights	57
Article 31 - Modification and Waiver	57
Article 32 - Obligation to Support	58
Article 33 - Provisions of Law	59
Article 34 - Information Exchange.....	59
Article 35 - Union Orientation	60
Article 36 - Appeals.....	61
Article 37 - Transportation Programs.....	62
Article 38 - Death or Injury Notification	63

Article 39 - Clean Air.....	63
Article 40 - Court Leave/Jury Duty Scheduling	63
Article 41 - Uniform Reimbursement	64
Article 42 - Uniform Allowance	65
Article 43 - Reduction in Compensation	66
Article 44 - Salary Status of Part-Time Positions	67
Article 45 - Holidays	69
Article 46 - In House Committees	70
Article 47 - Exchange of Days Off Between Employees	70
Article 48 - Direct Deposit	71
Article 49 - Supplemental Pension Savings Plans/401(k).....	71
Article 50 - Employee Counseling	73
Article 51 - Transportation Incentives.....	74
Article 52 - Labor Management Committee	75
Article 53 - Polygraph Examinations.....	75
Article 54 - Overtime	75
Article 55 - Layoff	76
Article 56 - Repair or Replacement of Employees Property.....	76
Article 57 - Long Term Disability/Industrial Leave.. ..	76
Article 58 - Out-of-Class Assignments.....	78
Article 59 - Implementation of New Programs.....	79
Article 60 - Confidentiality of Medical Information	80
Article 61 - Department Work Rules	80
Article 62 - Time Off for Blood Donation	81
Article 63 - Call-Back/Court Pay.....	81
Article 64 - Objective Hearing Officers	82
Article 65 - Workloads	82
Article 66 - Overpayments to City Employees.....	83
Article 67 - Rights of Industrially Injured Employees to Schedule Medical Appointments	84
Article 68 - Catastrophic Leave.....	84
Article 69 - Union Newsletter Distribution	86
Article 70 - New Employee Orientation.....	86
Article 71 - Identity of Appeal Hearers.....	87
Article 72 - Side Letters.....	87
Article 73 - Training Reimbursement.....	87
Article 74 - Appointing Authority Interview Feedback.....	88
Article 75 - Drug Screening	89
Article 76 - Parking Subsidy	95
Article 77 - Military Leave	95
Article 78 - Reimbursement of Emergency Meals	95
Article 79 - Bereavement Leave	95
Article 80 - Alcohol Consumption Prohibited	96
Appendix A - Bargaining Units.....	97

Appendix B - Uniforms	98
Appendix C - Smoking Policy	100
Appendix D - Appearance Guidelines	101

SUBJECT INDEX

Access to Information Regarding Employment (Article 10)	10
Alcohol Consumption Prohibited (Article 80)	96
Annual Leave and Compensatory Time Off (Article 18)	30
Appeals (Article 36)	61
Appearance Guidelines (Appendix D)	101
Appointing Authority Interview Feedback (Article 74)	88
Bargaining Units (Appendix A)	97
Bereavement Leave (Article 79)	95
Bilingual Pay (Article 19)	32
Bulletin Boards (Article 12)	23
Call-Back/Court Pay (Article 63)	81
Career Development (Article 10)	22
Catastrophic Leave (Article 68)	84
Cease to Accrue (Article 18)	31
Certification Pay (Articles 21)	34
Citizen Complaints (Article 10)	20
Clean Air (Article 39)	63
Clerical Career Path and Futures Committee (Article 10)	22
Commendations (Article 10)	17
Confidentiality of Medical Information (Article 60) ..	80
Court Leave/Jury Duty Scheduling (Article 40)	63
Death or Injury Notification (Article 38)	63
Department Work Rules (Article 61)	80
Direct Deposit (Article 48)	71
Dismissal During Probation (Article 10)	17
Doctor's List (Articles 18, 60, 75)	32, 80, 93
D.R.O.P. (Article 22)	40
Drug Screening (Article 75)	89
Duplication of Discipline (Article 10)	21
Employee Assistance (Articles 26, 27, 75)	53, 55, 93
Employee Counseling (Article 50)	73
Employee Personnel Files (Articles 10, 58)	16, 78
Employee Representation (Article 8)	14
Employee Rights (Article 29)	56
Equity of Access to Opportunities (Article 10)	22
Exceptional Merit Increase (Articles 25, 52)	52, 75
Exchange of Days Off Between Employees (Article 47)	70
Fact Finding (Articles 10, 64)	20, 82
Flexible Benefits Plan (Article 27)	53
Floating Holiday (Article 45)	69
Grievance Procedure (Article 5)	5
Holidays (Article 45)	69

Identity of Appeal Hearers (Article 71)	87
Implementation (Article 2)	2
Implementation of New Programs (Article 59)	79
In House Committees (Article 46).....	70
Industrial Leave (Article 57).....	76
Information Exchange (Article 34).....	59
Jury Duty Scheduling (Article 40)	63
Labor Management Committee (Article 52).....	75
Last Chance Agreement (Article 75).....	94
Layoff (Article 55).....	76
Lifeguard Services (Article 23).....	49
Limited Appointments (Article 24)	52
Long Term Disability (Article 57)	77
Mail Station (Article 13).....	23
Management Rights (Article 30).....	57
Union Access (Article 7).....	13
Union Orientation (Article 35)	60
Meet and Confer	1
Merit Increase (Article 10)	21
Mileage (Article 37)	62
Military Leave (Article 70).....	86
New Employee Orientation (Article 76).....	88
Modification and Waiver (Article 31).....	57
Notice of Appointment with Terms (Article 10)	22
Objective Hearing Officers (Article 64).....	82
Obligation to Support (Article 32).....	58
Out-of-Class Assignments (Article 58).....	78
Overpayments to City Employees (Article 66)	83
Overtime (Article 54).....	75
Parking Subsidy (Article 76).....	95
Part-time Positions (Article 44).....	67,68
Parties to the Agreement	1
Pay-In-Lieu (Article 18).....	31
Performance Pay (Article 25)	52
Personnel Practices (Article 10)	16
Personnel Regulations (Article 9)	15
Performance Reports (Article 10).....	17
Polygraph Examinations (Article 53).....	75
Probationary Periods (Articles 9, 22).....	16, 17, 44
Promotion (Articles 10, 30).....	20, 57
Provisions of Law (Article 33)	59
Purpose.....	1
Recognition (Article 1)	2
Reduction in Compensation (Article 43).....	66

Registration Pay for Engineers (Article 21)	34
Rehabilitation and Employee Assistance (Article 26)	53
Renegotiation (Article 4)	3
Repair or Replacement of Employees Property (Article 56)	76
Representation (Article 8)	14
Rest Periods (Article 16)	27
Reimbursement of Emergency Meals (Article 78)	95
Retirement (Article 22)	38
Rights of Industrially Injured Employees to Schedule Medical Appointments (Article 67)	84
Route Slips (Article 10)	20
Salaries (Article 21)	34
Salary Status of Part-Time Positions (Article 44)	67
Seniority (Articles 17, 55, 58)	28, 76, 79
Skelly Rights (Article 10)	21
Side Letters (Article 71)	87
Smoking Policy (Appendix C)	100
Special Assignment Pay (Article 21)	36
Special Salary Adjustments (Article 21)	36
Stewards (Article 5)	5
Supplemental Pension Savings Plans (Article 49)	71
Term (Article 3)	5
Time Off for Blood Donation (Article 62)	81
Time Off for Meetings (Article 28)	55
Training Reimbursement (Article 73)	87
Transfer and Promotion (Article 10)	20
Transportation Programs (Article 37)	62
Transportation Incentives (Article 51)	74
Tuition Reimbursement (Article 73)	87
Uniform Allowance (Article 44)	66
Uniform Reimbursement (Article 41)	64
Uniforms (Appendix B)	98
Use of City Email System (Article 15)	26
Use of City Facilities (Article 11)	22
Vacancies (Article 10)	17
Workloads (Article 65)	82
Work Schedules (Article 17)	28
Workplace Safety (Article 20)	33
401(k) Plan (Article 49)	73

Parties to the Agreement

THIS MEMORANDUM OF UNDERSTANDING is made and entered into on July 1, 2010, by and between Authorized Management Representatives (hereinafter referred to as “Management”) of the City of San Diego (hereinafter referred to as “City”), and the California Teamsters Local 911 (hereinafter referred to as “Union”).

Purpose

It is the purpose of this Memorandum of Understanding (hereinafter referred to as “Memorandum”), to promote and provide for harmonious relations, cooperation and understanding between Management and the employees covered by the Memorandum; to provide procedures herein for an orderly and equitable means of resolving any misunderstandings or differences which may arise under this Memorandum; and set forth the understanding of the parties reached as a result of good faith negotiations regarding wages, hours of employment and other terms and conditions of employment of the employees covered by this Memorandum, which agreement the parties intend jointly to submit and recommend for approval and implementation.

Meet and Confer

The City and Union agree to meet and confer during the term of this Memorandum only to the extent required by applicable law, and if agreement is reached in such meeting and conferring, to reduce such agreement to writing, sign and seek any required ratification, implementation, and/or approval.

ARTICLE 1

Recognition

Management formally recognizes the Union as the exclusive representative for all employees in the Lifeguard Unit and Supervisory Lifeguard Unit. This Memorandum applies to all classifications listed in Appendix A, and to any new classifications added to Appendix A during its term.

No classification shall be removed from the bargaining units exclusively represented by Union during the term of this Memorandum, and Management shall not entertain any employee petition which seeks removal from this “represented” status.

ARTICLE 2

Implementation

Section 1.

This Memorandum constitutes the 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 formally acting by majority vote, to approve and adopt these articles within their respective jurisdictions, and;
- B. Ratification by Union shall be done in a timely manner. Union shall notify Management of the result of the ratification process no later than **April 22, 2010**.

Section 2.

The City shall, in a timely manner, complete necessary changes in ordinances, resolutions, rules, policies and procedures to conform to this agreement, using September 30, **2010**, as a target date for such completion.

Section 3.

The tentative agreement shall be submitted to the City Council and Union for their action as soon as possible after agreement has been reached by the Management Team and the Union.

ARTICLE 3

Term

The term of this Memorandum of Understanding shall begin on July 1, **2010**; provided, however, that the effective date of all changes affecting payroll shall be July 11, **2010**. This Memorandum shall expire and otherwise be fully terminated at the end of June 30, **2011**.

ARTICLE 4

Renegotiation

Section 1.

Union shall serve upon the City its full and entire written proposals for a -successor agreement by **January 4, 2011** with the exception of salary or other economic proposals which shall be presented no later than **January 18, 2011**. Upon receipt of such written proposals, meet and confer shall begin no later than **February 4, 2011**.

Section 2.

The City will serve upon Union its full and entire written proposals for a successor agreement by **January 25, 2011**, with the exception of salaries or other economic proposals. Meet and confer shall begin no later than **February 4, 2011**, at which time the City will present its full 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 or Union may submit proposals concerning these areas at later dates.

Section 3.

If neither party has proposed a change to a particular Article in this contract by **February 4, 2011**, the said Article shall remain in full force and effect from the date it would have been terminated.

Section 4.

Unless otherwise agreed to, the parties agree that final offers by both parties will be made no later than April 1, **2011**. If an impasse hearing with the City Council is necessary, it will be scheduled for April **12, 2011**. Union agrees to provide to the Management Team a written statement of its positions regarding any issues at impasse on April 4, **2011**.

Section 5.

“Me-Too Clause”

The City agrees that, if, during the term of this MOU, any other employee interest group is given a general salary increase or other economic enhancement to their overall compensation, or has any compensation reduction they have incurred or concession they have made restored to them, then the parties will reopen negotiations on the more favorable or less detrimental economic terms.

Section 6.

Reopening of Negotiations Related to DROP.

During the term of this MOU, if any aspect of the DROP is found to be a mandatory subject of meet and confer by a final determination of a court of competent jurisdiction or by a PERB decision that has become final, the parties will reopen negotiations on those aspect(s) designated as mandatory subjects.

The City has also indicated its intention to conduct a “cost neutrality” study related to DROP and has stated that it will negotiate with Union on the impacts, if any, that result from the City’s defining DROP’s “cost neutrality.” In the event the City proposes to change DROP during the term of this MOU as a result of defining DROP’s “cost neutrality,” Union reserves its right to meet and confer over any proposed change, and further, Union reserves its right to challenge any proposed change as an unlawful impairment of a vested, Constitutionally-protected benefit, or on any other ground.

Section 7

Parity Study

By no later than August 11, 2010, the Union will present all information in support of its request on the approved forms to the City’s Personnel Department in support of its position that:

1. Lifeguard II, Lifeguard III, Sergeant and Lieutenant are comparable with certain City Firefighter classifications.
2. The progression from Lifeguard II to Lifeguard III is unreasonable.
3. The need to establish a Lifeguard Engineer classification.

The City's Personnel Department will conduct the study as part of the Salary Review Process for Fiscal Year 2012 and endeavor to complete by April 2011. Any recommendations by the City's Personnel Department would require the approval of the Civil Service Commission.

Due to the current conditions facing the City and the projected deficit in the General Fund Balance in FY11, the City and the Union agree that any approved adjustments based on the study will not be implemented during the term of this MOU but rather it is the intent of the parties that they will be discussed in negotiations for a successor MOU.

Section 8

The parties understand that if SD Fire's retirement formula of 3% at 50 is not modified to 3% at 55 either during the term of a successor MOU or implementation for FY12, the Union will have the right to re-open discussions with the City on the proposed implementation date of the 3% at 55 retirement calculation.

ARTICLE 5

Grievance Procedure

A. Policy

1. Employees have the right to file grievances without jeopardizing their positions.
2. Employees may represent themselves or be represented by a steward designated pursuant to Article 6 of this agreement or be represented by Union at any or all steps in the grievance procedure.
 - a. The employee has the right to the assistance of a steward and/or a Union representative in the investigation, preparation and presentation of a grievance.
 - b. Employees may have no more than one City employee and one non-City employee as representatives for a grievance hearing. A person not acting as a representative may take notes or observe.
 - c. Notwithstanding any other provision of this agreement, an employee in a class assigned to the Lifeguard Unit, may not select as a representative, an employee assigned to the Supervisory Lifeguard Unit. An employee in the Supervisory Lifeguard Unit may not select as a representative a supervisor

in the employee's chain of command, or a higher ranking supervisor in the same division. This does not apply to stewards.

3. Grievances may be initiated by the employee, a steward, or by a formally recognized employee organization on the employee's behalf. If an employee chooses to have representation on any formal grievance concerning a matter that directly involves the interpretation or application of the specific terms and provisions of this Memorandum of Understanding, such representation must come from Union.
4. The employee's, steward's or employee organization's first contact regarding job and working conditions is with the immediate supervisor and supervisors shall attempt to settle grievances informally at this level.
5. A grievance will normally be presented and processed on City time, and a grievant attending a grievance meeting 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 or Union Representative and Management will give due consideration to all the participants' responsibilities in the essential operations of the department. Management has the unequivocal right to schedule grievance hearings as convenient. Hearings may or may not be held during an employee's normal shift. No overtime pay will be given to the grievant. Representatives, witnesses, or other participants will receive overtime pay if ordered to be present by the appointing authority.
6. Waivers and Time Limits.
 - a. Failure by Management to reply to the employee's grievance within the time limits specified automatically processes the grievance to the next level.
 - b. Any level of review, or any time limits established in this procedure, may be waived or extended by mutual agreement confirmed in writing.
 - c. If an employee fails to appeal from one level to the next level within the time limits established in this grievance procedure, the grievance shall be considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.
 - d. By mutual agreement, the grievance may revert to a prior level for reconsideration.

- e. If a grievant fails to appear for a scheduled grievance meeting, such failure without an excuse approved by the appointing authority shall entitle 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.
 - f. When a grievant is on approved leave the time limits established in this procedure shall be suspended for the period of the leave.
 - g. No grievance shall be finally dismissed for an unexcused failure to appear at a scheduled hearing unless the grievant had been given 24 hours notice of the hearing.
- 7. The Management Team shall provide Union with copies of all grievances regarding this MOU filed by employees, within the Union Bargaining Units, who choose to represent themselves.
 - 8. Union agrees to pursue all claims of violation of this MOU through the grievance procedure. Resort to other remedies shall not be pursued until all steps of the grievance procedure have been exhausted. If the employee or Union does resort to remedies outside the grievance process prior to its completion, the grievance process is automatically terminated. When Union feels that an employee may be subject to immediate and irreparable harm, Union will contact the City Manager's Office directly prior to initiating some other type of action. Union will allow the Manager's Office a reasonable period of time to address such a grievance prior to initiating action outside of the City. Utilization of this procedure shall be deemed to exhaust the grievance procedure.

B. Definitions

- 1. A grievance is a claim or charge of misunderstanding, or difference in interpretation, or violation of provisions of the Civil Service Rules, the Personnel Manual, this Memorandum of Understanding, or Management policy or regulations including but not limited to Administrative and Departmental Regulations, which affect wages, hours, or other terms and conditions of employment.

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

C. Procedures

1. General

- a. Management of the department has the responsibility to inform an employee of any limitation of a given level of Management’s authority to fully resolve the grievance. In this regard, Management shall:
 - (1). Supply the employee with the necessary information to process the grievance to the proper agency or authority.
 - (2). Advise an employee when any matter under submission is determined by 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 appealed to the next step without reverting to a lower step. A decision favorable to the employee or the Union in this latter grievance shall serve to reinstate the original grievance in whole. The grievance need not revert to a lower step.

- b. When a group of identical grievances develop, only one grievance form 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.
- c. A grievance shall be recognized if it is brought to the attention of the immediate supervisor either informally or formally within ten (10) working days of the incident’s occurrence, unless an extension was approved by the **Director of Human Resources**.
- d. If the grievance is between the employee and the immediate supervisor, the initial step may be to the next higher level supervisor.
- e. To be recognized, a grievance must state which policy, rule, regulation, etc., is involved in the matter and the nature of the remedy sought by the employee or Union. In the event that the grievance is rejected for failure to state which policy, rule, regulation, etc., is involved, it may be amended by the grievant or Union.

2. Steps:

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 to the employee and Union representative. If the grievance is presented in writing, the procedure is formal, a meeting with the grievant and Union shall be held, and the answer must be given in writing within five (5) working days after the meeting at which the supervisor has been provided the written grievance.

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 five (5) 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 and the Union representative within 10 working days after the hearing.

- 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 a written decision to the employee and Union within 10 working days after the hearing. In smaller departments, this step is deleted.
- 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 designee) shall give a written decision to the employee or Union representative within 10 working days after the hearing.
- 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.) The decision of the Commission shall be issued at its next regularly scheduled meeting following the hearing by the Personnel Director. In grievances answered by the Manager, a hearing shall be held and a written response given within ten (10) working days from the date of receipt of the appeal from the fourth step. The employee or 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. Union may formally request to continue the grievance, not later than ten (10) days following receipt of the answer at the final step of the grievance procedure (provided it was heard by the 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 6

Stewards

Section 1 - General

Union may designate stewards to represent employees in the processing of grievances subject to the following rules and procedures:

- A. Union and Management shall agree to a reasonable number of stewards within each facility.
- B. Union shall furnish Management representatives on July 1 of each year with a written list identifying by name and assigned work areas all regular and alternate stewards, and the list shall be kept current by Union.
- C. Union will designate as stewards only employees who have passed an initial probation period and have been designated as permanent and have a satisfactory as their most recent performance evaluation. Union will also designate, and the City will recognize, as stewards only employees currently assigned to classifications in the units represented by Union, as listed in this Memorandum.
- D. Stewards may only function within the boundaries of their City approved area of Union assignment. Stewards who are not on a current Union submitted and City approved list of stewards shall not be recognized as stewards by the City and shall have none of the rights or privileges agreed to as a steward.
- E. A steward shall not be transferred, or changed to a different work shift without notifying Union in advance. A prior notice to Union shall not be construed as limiting Management in its prerogatives to transfer or change the work shift of a steward.
- F. Failure of a steward to abide by any of the provisions of this section may cause for the City to revoke recognition of said steward. Prior to taking such action, Management will meet and consult with Union.

- G. It is recognized by both parties that stewards' functions are necessary in maintaining sound employer-employee relations on the job.

Section 2 - Handling Grievances

- A. When requested by an employee who has a grievance, a steward, 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.
- B. After notifying and receiving approval of the immediate supervisor, a steward shall be allowed reasonable time off during working hours, without loss of time or pay to investigate, prepare and present such grievances. The immediate supervisor will authorize the steward to leave his or her work unless compelling circumstances require refusal of such permission, in which case the immediate supervisor shall inform the steward of the reasons for the denial and establish an alternate time when the steward can reasonably be expected to be released from his or her work assignment.
- C. When a steward desires to contact an employee at his or her work location, the steward shall first contact the immediate supervisor of that employee, advise the nature of the business, and obtain the permission of the supervisor to meet with the employee. The immediate supervisor will make the employee available promptly unless compelling circumstances prohibit the employee's availability, in which case the supervisor will notify the steward when he or she can reasonably expect to contact the employee within 24 hours.
- D. A steward's interview or discussion with an employee on City time will be handled expeditiously.
- E. Union may appoint a Chief Steward or alternate who may act in instances where a job site steward is not available.

Section 3 - Discipline

- A. Stewards will also be provided with reasonable time to represent employees in actual disciplinary meetings and hearings between Management and the employee being disciplined subject to the provisions of Article 8.
- B. Stewards involved in disciplinary actions will be allowed a maximum of two (2) hours to meet with employees to discuss disciplinary actions. In accordance with the procedure described in Section 2, B. above, the steward must arrange this time with his or her supervisor.

ARTICLE 7

Union Access

- A. Authorized Union paid non-City employee representatives may 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 appropriate Management representative, at which time the authorized representative shall inform said Management representative of the purpose of the visit. The Management representative may deny access to a work location if in his or her judgment it is deemed that a visit will unduly interfere with the operations of the department or facility thereof, in which event the Management representative will recommend an alternative time for the visit within 24 hours unless the Management and Union representatives mutually agree on an alternative time for the visit. Union representatives shall not unduly interfere with operations of any Department during a visit. Representatives have the right to meet with employees during authorized coffee, rest or lunch breaks at City facilities as may be available, in compliance with access procedures in this article.
- B. Union shall, within thirty (30) days of the effective day of this Memorandum, give to Management a written list of all authorized representatives, which list shall thereafter be kept current by Union. Access to work locations hereunder will be granted only to representatives on the current list.
- C. Authorized Union representatives may be given access to non-security work locations during working hours to conduct grievance investigations and observe working conditions on the condition that Union representatives will comply with the regulations established in this Article, and that Union representatives shall not interfere with work operations of any Department of the City.

ARTICLE 8

Employee Representation

- A. An employee is entitled, upon his or her request, to representation, not to exceed one City employee and one non-City employee during each of the following proceedings. In addition, one observer may also attend if authorized by the Manager's Office. Under no circumstances shall an employee suffer any retaliation or harassment for his/her requesting such representation.
1. During any investigatory or fact-finding meeting where there is a reasonable expectation, by the supervisor or the employee that discipline might result. Such representation is not available in cases requiring immediate removal or suspension as defined in Civil Service Rule XI.
 2. During the required discussion of any document, including a **Supplemental Performance Report**, written warnings, reprimands or note of counseling which are to be made part of the employee's permanent record and/or which may be used as a basis for subsequent discipline.
 3. During any Skelly hearings prior to the imposition of a suspension, reduction in compensation, demotion or discharge as outlined in Civil Service Rule XI.
 4. During the appeal hearing(s) of any disciplinary action.
 5. During the presentation of any grievance at any and all steps of the procedure described in Article 5 of this agreement.
- B. In all other instances, Management has the right to counsel employees as it deems appropriate without employee representation being present.
- C. Management shall give an employee, who is notified of a proceeding described in A. above advanced notice, including a reasonable amount of time to consult with his/her representatives and to prepare a response. (At the time of notice, Management shall also inform such an employee of his or her right to representation.) An employee shall have the right to contact a representative for this purpose by the reasonable use of City facilities and while on City time so long as said contact does not unduly interfere with the operation of the Department or facility.
- D. The City employee representative shall not be an employee subject to the same investigation or fact-finding.

- E. Once Management is notified that Union represents an employee in any of the proceedings described in A. above, Union will receive copies of all correspondence and notices sent to the employee related to the matter.

ARTICLE 9

Personnel Regulations

The following Personnel Manual Sections, Administrative Regulations, and other official regulations shall be included in this Memorandum as if fully set out at this point. The provisions of such documents which affect wages, hours and other terms and conditions of employment which would otherwise be subject to meet and confer, shall not be changed.

E-7, Transfers, Demotions, and Status Changes
G-1, Code of Ethics and Conduct
G-2, Permanent Appointment Probationary Periods
G-2A, Permanent Appointment Probationary Periods
G-7, Employee Performance Review Program
H-1, Bilingual Pay
H-2, Holidays
H-3, Out-of-Class Assignments
H-4, Overtime Compensation
H-5, Salary Status of Part-Time Positions
H-6, Shift Differentials
H-7, Stand-by Pay
H-8, Step Increases
H-9, Starting Salary Upon Appointment
I-2, Annual Leave
I-9, Court Leave
M-1, Apprenticeship Training
45.10, Employee Transportation Authorization
45.90, Tool Allowance
63.00, Industrial Leave
70.30, Tuition Refund Plan
70.50, Vocational Rehabilitation
75.12, City Manager Vehicle Accident Review and Prevention
75.40, Light Duty
95.01, Overtime Compensation
95.60, Code of Ethics and Conduct
95.90, Unused Sick Leave and Accrued Annual Leave Reimbursement
95.91, Employee Recognition and Award Programs
Long Term Disability Plan (on file with City Clerk)
Smoking Policy (on file with City Clerk)

Employer-Employee Relations Policy (300-6)
Civil Service Rule V, Layoff and Reemployment
Civil Service Rule VII, Appointments

The City and Union agree to meet and confer regarding the City's proposed modifications to these documents which affect wages, hours and working conditions during the term of this agreement. If agreement is not reached on the City's proposed modifications, the existing provisions of these documents that affect wages, hours and working conditions shall remain in force through the term of this MOU.

It is the City's intent to modify A.R. 95.90 in order to comply with IRS rules related to the taxation of annual leave payoff at separation.

Special Leave Without Pay (SLWOP):

During the term of the agreement the City and Union agree to review the provisions of the SLWOP as they affect seniority. Any modifications will be prospectively applied.

The City agrees to modify Personnel Manual Section G-2 as follows:

II. POLICY

B. Duration of Probationary Periods:

3. That remaining portion of the original probationary period in the case of a probationary employee who transfers to another department, retaining the same classification. (In addition, such transfers will also be subject to the 60 calendar day trial period provided for in Section F below.

ARTICLE 10

Personnel Practices

A. Employee Personnel Files

1. An employee, or a Union representative with the written consent of the employee, may inspect the employee's personnel files. The request to inspect files shall be granted at a time that is convenient to both Management and the employee. The inspection shall be made in the presence of an appropriate supervisor. If requested by the employee, copies of the record, or any portion thereof, may be provided to the employee, or anyone designated by the employee. Charges for these

copies may be made in accordance with Administrative Regulation 95.20, Pricing and Furnishing City Documents.

2. An employee shall be entitled to read any statement on his or her work performance or conduct if such statement is to be filed. The employee shall acknowledge reading such material by affixing his or her signature on the actual copy to be filed, with the understanding that said signature merely signifies that the employee has read the material to be filed and does not necessarily indicate agreement with its content. If the employee refuses to sign, the supervisor will sign, noting the refusal of the employee to sign.

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

B. Commendations

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

C. Vacancies

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

D. Dismissal During Probation

Probationary employees in classifications in these Units shall normally receive at least five (5) working days notice of dismissal during probation, either through the performance report or other written notification.

E. Performance Reports

1. Performance Reports will normally be given to the employee within 14 calendar days after the close of the rating period. However, in no case shall the Department give a performance report to an employee later than 30 working days after the close of the rating period without the

prior approval of the City Manager's Office or non-managerial Department Head. Approval is required for the presentation of the performance report more than 30 working days after the due date, not for the content of the report. Failure to obtain such prior approval gives rise to a grievance which Union may present directly to the City Manager's Office or to the non-managerial Department Head.

Employees will be informed when permission has been granted to give a performance report later than 30 working days after the close of the rating period.

The approval for late Employee Performance Reviews shall be submitted to the employee in writing, and shall include reasons for the delay and -approval.

An "annual" performance report should not be prepared if the employee's performance has already been evaluated in "supplemental performance reports" for the entire period which the "annual" would otherwise cover, as such an additional "annual" report would be unnecessarily cumulative. Where there has been one or more "supplemental performance report(s)" during the year, however, an "annual" report shall not re-state the information otherwise covered by the "supplemental(s)," but may make a simple reference to the fact of the "supplemental(s)" having been issued during the year. Moreover, the rating on the "annual" report shall fairly and accurately describe the overall performance of the employee during the months actually being described and evaluated in the "annual" report and the fact of any "supplemental(s)" having occurred during the year shall not dictate or predominate in deciding the employee's rating. It is the intention of the parties to give an employee the opportunity to overcome the deficiencies noted by way of a "supplemental" and to achieve an improved rating at the time of an "annual performance report."

2. Rating Performance Reports: Raters should remember that Employee Performance Plans are developed for positions, not personalities; that they should rate job performance, compared to the expected performance standards.

Raters should assemble and review data gathered on an employee's performance throughout the rating period, such as production records, observations, draft documents, work product, commendations, citizen's complaints, and similar tangible evidence.

The basis of evaluations should concentrate on facts and concrete instances of performance. Raters should focus on performance throughout the rating period, not merely on recent experience.

An employee shall only be rated by the immediate supervisor. If the first line supervisor is unavailable, the next higher level supervisor will be the rater. The rater should consult with the OCA supervisor(s) during the rating period for input.

The City agrees to a joint committee with Union to discuss guidelines and training related to the incorporation of performance-based measurements into Employee Performance Reviews. Union shall have three representatives on this committee.

3. **Supervisor-Employee Conference:** The supervisor should point out the employee's progress in performing job functions and meeting performance standards, achievements, areas in which improvement is necessary, why they are needed, how they can be accomplished with the supervisor's assistance, as well as any other performance information considered to be important.
4. **Issuance of Supplemental Performance Reports:** Supervisors should provide regular feedback to their employees during the rating period. In instances where improvement is needed, the supervisor should provide guidance and assistance on how to improve so as to allow the employee an opportunity to raise his or her performance level **meets standards.**

If it is determined that an employee will be issued a **Supplemental Performance Report**, the employee shall be provided reasonable advance notice for the purpose of obtaining representation. However, this shall not be construed so as to require Management to delay issuance of a **Supplemental Performance Report** past an employee's probation period or transfer trial period end date.

A Supplemental Performance Report shall include written comments as to what remedial action was discussed, what corrective action (such as warnings or other discipline) may have been taken, and a follow-up review date within 90 days where appropriate.

In reviewing a **Supplemental Performance Report**, the appointing authority should determine if reasonable efforts have been made to assist the employee to become a satisfactory employee.

5. Employees who are on light duty shall still be evaluated. The light duty assignment will not interrupt or suspend the normal rating

period for Employee Performance Reports. The usual performance standards shall be utilized for the time period that the employee was performing the full range of duties. For the period of time during which the employee is on light duty, the evaluation will cover the performance of the employee while on light duty. This may be done in a simple narrative form as an addendum to the usual form.

6. The rating period for an Employee Performance Report shall not exceed twelve months. The department will not retroactively evaluate employees beyond a 12-month period.

F. Citizen Complaints and Route Slips

Employees will be notified of any citizen complaint or route slip in which they are identified by name or in which they can be identified by Management from the information received. If the complaint is resolved in the employee's favor, the complaint, together with all related documents, shall be removed immediately from the employee's personnel file(s), unless the employee requests in writing that the document be retained.

G. Transfer and Promotion

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

H. Access to Information Regarding Employment

Union may bring to the attention of the City Manager, or his or her designee, the identity of any work location where employees do not have reasonable access to documents which affect or describe their terms and conditions of employment, including but not limited to this M.O.U.; the Personnel Manual; Civil Service Rules; Departmental Instructions; Policies and Regulations; and relevant sections of the City Charter and Municipal Code. The Manager shall make a reasonable effort to remedy the situation in order that all employees have reasonable access to these documents.

I. Fact Finding

Management shall give an employee sufficient notice of its desire to conduct a fact-finding session so as to allow the employee to obtain representation if he or she chooses.

A copy of the fact finding questions will be provided to the employee and the employee's representative at the beginning of the fact finding session.

Employees will normally receive written notification of the results of any fact finding interview within 30 calendar days of the interview. Employees not receiving such notification may request through the City Manager's Office, the results of the fact finding. Such results shall be made available to the employee unless the City Manager determines that extraordinary and extenuating circumstances require additional time in which case the employee will be given the reasons additional time is required and a projected date for conclusion of the fact finding process.

No fact-finding session will be tape-recorded without the express consent of all parties present in the session. If a tape is made pursuant to such consent, the party who makes the tape will provide a copy, within one working day, to any participant in the session who requests it.

J. Skelly Rights

Management agrees to follow appropriate procedures during any Skelly hearings prior to the imposition of a suspension, reduction in compensation, demotion or discharge as outlined in Civil Service Rule XI.

K. Merit Increase

Department management will maintain records of merit increase recommendations and will notify employees in writing of decisions to recommend denial of merit increases.

L. Duplication of Discipline

The City agrees that if an employee is disciplined for a specific act, that said discipline shall be final for the particular act once the appeal process is -complete.

This does not preclude the City from considering this discipline as part of the progressive disciplinary and employee performance evaluation processes should any future discipline be necessitated.

M. Documentation

In connection with any proposed adverse action, the City shall provide the employee and/or his or her representative with all documentation related to the proposed action and/or the reasons for it, including but not limited to notes made in connection with any fact finding.

N. Notice of Appointment with Terms

After a person is appointed to a position from an official Personnel Department Certification, the City shall provide the person with a notice which indicates the person's official appointment date, his or her job status, the starting salary and salary step upon appointment and length of probation.

O. Equity in Access to Opportunities

1. Opportunities

Departments will ensure that training, out-of-class assignments, special assignments, and committee assignments will be offered fairly to division employees.

Departments will also ensure that clerical employees will have equal opportunity to participate in appropriate city-wide or departmental meetings and committees, special events, awards ceremonies and other functions.

2. Communication

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

ARTICLE 11

Use of City Facilities

A. The Union may, with the prior approval of the Management Team, be granted the use of City meeting room facilities during non-work hours for meetings of City employees provided space is available, and provided further, such meetings are not intended for organizational activities or membership drives of City employees.

B. Solicitation of membership and activities concerned with the internal Management of 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.

ARTICLE 12

Bulletin Boards

The City will furnish, for the exclusive use of Union, adequate bulletin board space at reasonable locations. Additional bulletin board space or locations may be made available by mutual agreement as additional changes occur in work site locations during the year. Union representatives shall have access at any time to the bulletin boards. The boards and only these designated boards shall be used only for the following subjects:

- A. Information on Union elections and the results, Stewards' reports and notices.
- B. Reports of official business of Union, including reports of committees or the Board of Directors.
- C. Scheduled Union meetings and news bulletins.
- D. Any other written material which first has been approved by the Department Head.

The City will look into areas where the space provided to Union is being misused or vandalized.

ARTICLE 13

Mail Station

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

ARTICLE 14

Payroll Deductions, Union Dues and Agency Shop Language

- A. **Effective July 1, 2010**, it is agreed that Union dues shall be deducted **in the amount of \$16.00 for 24 of the 26 pay periods** by Management from the salary of employees when authorized by Section VI (B) of the Employer-Employee Relations Policy who file with the City a written authorization requesting that such deductions be made. Remittance of the aggregate amount of all fees shall be made to Union by Management bi-weekly at the

conclusion of each pay period in which said fees and deductions were deducted.

- B. Dues shall be for a specified amount and shall be made only upon the voluntary written authorization of the employee. The authorization or cancellation of fees shall be made upon clearly marked cards provided by Union.
- C. When an employee is in a non-pay status for an entire pay period, no dues withholding will be made to cover that pay period from future earnings nor will the employee deposit (with the City) the amount that would have been withheld if the employee had been in a pay status during that period. In case of an employee who is in a non-pay status during only a part of the pay period and the salary is not sufficient to cover the full withholding, no deduction shall be made.
- D. In the event of any concerted action authorized by Union which encourages employees to withhold their services to the City, the City Council has the right, by resolution, to immediately cease the collection and remittance of dues and other deductions to Union. Before invoking its rights under this paragraph, the City will notify Union of its intention and meet to discuss the matter if requested by Union.
- E. Upon request, the Personnel Department shall provide a list of new employees (department and classification).
- F. **Pursuant to Government Code 3502.5 Organizational Security, employees of the Lifeguard and Lifeguard Supervisors Bargaining Units represented by California Teamsters Local 911 shall have the right to join or refrain from joining the Union.**

The aforementioned fee shall be deducted from the employee's payroll check on 24 of 26 pay periods per year. Such sum shall not exceed the membership dues paid by those who voluntarily choose to join the Union. Other than the payment of this service fee, those employees who do not choose to join the Union shall be under no further financial obligation or requirements to the Union.

1. Membership

As a condition of employment all employees in the units covered by this Agreement shall, on the 15th day following the beginning of regular or probationary employment be required to either join the union and pay union dues or will be required to pay the established monthly service fee. However, any employee who is a member of a bona fide religion, body or sect

which has historically held conscientious objections to joining or financially supporting labor organizations shall not be required to join or financially support the Union as a condition of employment. Such employee may be required, in lieu of periodic dues, to pay sums equal to such dues to a non-religious, non-labor, charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, chosen by such Employee from a list of at least three such funds designated by City and the Union. The City will deduct equivalent union dues each month from such employee's paycheck and remit to the Union. The local union will send this sum of money to the religious objector's selected qualified charitable organization. Proof of such payments shall be made on a monthly basis to the parties as a condition of continued exemption from the requirement of financial support to the Union.

2. New Employee Notice

City shall give to each employee at the time of employment, the current Union form authorizing voluntary payroll deduction of monthly dues. City will provide Union with a "reduction/deduction register" for each of the 24 pay period per year of all employed employees who are subject to the provisions of this Agreement, giving the names, effective date of dues deduction, and the amount of dues deduction.

3. Maintenance of Membership

Upon notice of Union and after counseling by Union, an employee who fails to meet required membership or pay the service fee will be given fourteen (14) calendar days notice of termination or shall be allowed to resign with proper notice to the City.

4. Payroll deduction

Upon receipt of a written authorization by an employee using a Union form, City shall deduct and remit to the Union each of the 24 pay periods per year. Upon written notification of City by the Union, employees in the bargaining unit who do not elect to pay dues as outlined above will, as a continued condition of employment, pay an agency fee. The amount of the agency fee shall not exceed the monthly dues that are payable by members of the Union. The amount of the fee shall

not exceed the monthly dues that are payable by the members of the Union. The amount of the fee shall automatically be deducted by City from the wages of the employee and remitted to the Union each of the 24 pay periods per year. Each deduction for the Union shall be made by City and shall be remitted to the Union at:

**California Teamsters Local 911
9900 Flower Street
Bellflower, CA 90706**

5. Indemnification

Union shall indemnify and hold City harmless against any cost or liability resulting from any and all claims, demands, suits or any other action rising from the operation of any provision of this Article. The indemnification includes the cost of defending against any such actions or claims. Union shall have no monetary claim against City by reason of its failure to perform under this Article.

6. Seasonal Lifeguards

- G. Each seasonal lifeguard hired for seasonal work for the peak season as a condition of work will be required to either pay agency fees or will have the opportunity to join the union and become a union member. The Union recognizes that seasonal lifeguards do not have property rights to employment, are not eligible for fringe benefits and work at the pleasure of the city. Seasonal Lifeguards who accept out of class assignments of 30 days or more outside of the traditional peak season will be required to pay either agency fees or union dues. The City will not oppose the Union's efforts to pursue the establishment of additional lawful benefits for its members including but not limited to affiliated institutions with all privileges and powers authorized by State and Federal law.

The payroll deduction provision in Council Policy 300-6, Section VI (B) will be enforced.

ARTICLE 15

Use of City Email System

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

ARTICLE 16

Rest Periods

- A. The City of San Diego and Union jointly endorse the practice of progressive management which recognizes that regular, authorized rest periods are beneficial both to employees personally and to the productivity of the organization.
- B. Subject to work assignments and departmental requirements, department heads are authorized and encouraged to allow rest periods for employees within the limits of the policy outlined below:
 - 1. Two 15-minute rest periods (including "travel time" if the employee leaves the work area) shall be allowed during each 8-hour workday ("travel time" means pedestrian travel or travel in the employee's private vehicle). Employees working less than an eight-hour work day shall also be given rest periods near the end of each consecutive two hours worked, including overtime, except in situations where public safety, public health or emergencies exist.

2. Subject to work assignments and department requirements, a rest period or a meal break should be allowed near the end of each two-hour period of work including overtime.
3. Since the purpose of granting the privilege of rest periods is to give relief from mental and/or physical fatigue, and consequently, to improve productivity, the following practices shall not be allowed:
 - a. Combining two or more rest periods into one rest period;
 - b. "Saving" rest period time to justify extended lunch hours or shortened workdays;
 - c. Accumulating rest period time from day to day;
 - d. Applying rest period time to compensatory or other time off, or in the considerations or computations concerned with overtime compensation.

ARTICLE 17

Work Schedules

- A. If Management desires to make a change in work schedules, or geographic locations, Management will notify the employee five (5) work days in advance of the proposed change. The notice will be in writing and state the reasons for the proposed change. In emergency situations, Management will not be required to give a five (5) day notice prior to changing a work schedule or location. The downtown area around the City Administration Building is considered one geographic location.
- B. Any changes in the method of assigning employees to shifts or significant changes in work schedules shall be subject to meet and confer. Union may consult with Management on other matters that affect hours of work.
- C. Shift Preference - Any employee who wishes to change to a different work schedule or shift within his/her department may submit such request in writing to the department's personnel section or the authority who has the power to render a decision in these matters. Such requests will be considered by Management prior to filling a vacancy in the employee's position on the desired shift. In the event two or more employees are equally qualified to transfer to a vacant position and desire to do so, the employee with the most seniority in the department will normally prevail. Management may select other than the most senior in the event there are valid bona fide reasons. Seniority in this instance is defined as the longest continuous service in the

class in the department. In the event two or more employees having the same length of service in the class in the department desire the vacant position, the tie shall be broken by overall City service.

- D. Nothing herein shall be construed to limit the authority of Management to make temporary assignments to different or additional locations, shifts or work duties for the purpose of meeting emergency situations over which the department has no control. However, such emergency assignments shall not extend beyond the period of such emergency.
 - E. Any violation of this policy shall be grievable.
 - F. Subject to Section 2, departments with the concurrence of the City Manager, have within their authority the right to modify their work schedules. Union may meet with appointing authorities to discuss alternate work schedules and job sharing.
 - G. **Effective July 1, 2010, the current Lifeguard Division two (2) year district rotation for Lifeguards II's and III's will be modified to a one (1) year district rotation.**
 - H. **Effective July 1, 2010, the 4/10 work schedule will be the official work schedule for the Lifeguards on for the term of the agreement.**
 - I. **The Lifeguard Chief and a Marine Safety Lieutenant(s) will meet individually with each sergeant, in order, based on seniority. The Lifeguard sergeant will provide their top three (3) schedule picks based on the available schedules. The Lifeguard Chief or designee will find the best accommodation that suits both the employee's choice and the operational needs of the Lifeguard Division. Seniority will be a strong factor in the final placement of the sergeant. The Lifeguard Chief will clearly articulate specific reason(s) for his final decision in order to promote a culture of transparency and mentorship. In addition to seniority, the Lifeguard Chief will consider such factors as individual skills, abilities, knowledge, specialty team membership, boating levels, overall experience, and the value of creating the most effective leadership teams for each district. The Lifeguard Chief's decision will be final and not subject to the grievance procedure set forth in the MOU.**
- Sergeant 24 hour shifts (not 10-10-20 shifts) will generally be limited to six months within a one year period.**

- J. **During the peak summer season, Seasonal Lifeguards will be scheduled for forty (40) hour work weeks. Based on operational**

needs, as determined by the Lifeguard Chief or his or her designee, the actual number of hours worked by the Seasonal Lifeguards during the peak season may be less than 40 hours a week.

K. Definitions:

Workday is the number of hours an employee is scheduled to work in a 24-hour period.

1. Workweek is a period of 168 consecutive hours (seven consecutive 24-hour periods) as determined by the appointing authority.
2. Scheduled workweek is the employee's predetermined number of hours per workday and workdays per workweek as established by the appointing authority.
3. Thirty days prior to a Saturday or Sunday holiday, Union and Management shall review the scheduling method for City departments. Efforts will be made to reduce scheduling disruption and employee inconvenience.

L. Schedule alternatives to the traditional eight-hour day, five day weeks, such as the 4/10 or 44/36 schedules, may be approved for implementation based on justifications identifying operational efficiencies, productivity improvements or enhanced customer service. They may also be approved in cases in which there is no harm to departmental efficiency, productivity or costs, but will result in benefits for employees. Employees who telecommute may be eligible for alternative work schedules at the discretion of the Appointing Authority. Employees who work alternate work schedules may be eligible to telecommute at the discretion of the Appointing Authority.

M. When the need to work outside normal or scheduled work hours is identified and authorized, and when Management directs the employee to adjust his or her work schedule to avoid overtime expense, Management will notify the employee, in writing, at least five (5) work days in advance of any directed schedule change.

When proper advance notice has been given, Management will then work with the employee to determine how the work schedule will be adjusted within the pay period to meet the needs of both the City and the employee.

In the event that five work days advance notice has not been given, whatever the reason, Management shall authorize overtime in accordance with Article 18, Annual Leave/Compensatory Time Off; Article 56, Overtime; and Personnel Regulation, H-4; Overtime Compensation.

ARTICLE 18

Annual Leave and Compensatory Time Off

- A. Appointing authorities are responsible for arranging scheduled annual leave for vacations so that adequate personnel are available to carry on necessary City work.
- B. Insofar as is practicable, employees should be permitted to schedule annual leave for vacations and compensatory time off at times most acceptable to the employee. Annual leave for vacations shall be selected by employees within each division, section, or unit, as is applicable, based upon their seniority by class within the Department. Employees who are transferred at their request, or promoted, may be required to modify their scheduled annual leave or comp time off for vacations.
- C. Employees should be encouraged to take regular annual leave vacations but they shall not be required to take annual leave vacations against their will. Employees may accumulate annual leave time in accordance with this agreement.

Compensatory time shall be reduced to 45 hours as of June 30 each year unless an exception is granted by the City Manager's Office. This time frame may be modified in exceptional circumstances. Compensatory time may be accumulated up to a maximum of 120 hours during the fiscal year as long as the above provisions are complied with. However, based on workload and operational considerations, Department Heads or their designees may set a lower midyear accumulation limit after meeting and discussing the proposed limit with Union.

- D. Any existing annual leave vacation scheduling method that is satisfactory with the employees shall remain in effect for the duration of the contract. This is in lieu of the above mentioned scheduling method.
- E. **Effective June 30, 2011, the benefit of "Terminal Leave" will be eliminated for all current and future Lifeguards.**
- F. Effective July 1, 1991, the maximum accumulation of annual leave for employees with 15 or more years of service is 700 hours. For employees hired after July 1, 1993, the maximum accumulation of annual leave is 350 hours.

Employees are eligible to receive "payment-in-lieu" of annual leave regardless of the total number of annual leave hours the employee has accrued at the time of the request, up to a maximum payment of 125 hours per fiscal year.

Cease to Accrue Provision: 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.

- G. Leave provisions included under items **H** and **I** below will be accounted for separately.
- H. Pre-approved annual leave, sick leave, or compensatory time off properly used for personal, family or dependent illnesses should not be subject to disciplinary action.
- I. Approved unscheduled annual or sick leave properly used for family, dependent or significant other/co-tenant illnesses shall be considered as a separate category when reviewing employee performance with regard to attendance and/or absenteeism issues and shall not be subject to disciplinary action. Should the City, for good and sufficient reasons, determine that an employee is abusing this leave provision, the appointing authority may request a bona fide doctor's statement from the employee to substantiate the leave request(s). Failure to provide documentation, by a mutually agreed upon date, to the appointing authority may be subject to disciplinary action in accordance with the City's Personnel Regulations.
- J. Criteria to be considered in determining leave abuse shall not be limited to stated department/division numerical standards, and must include, but not be limited to, length of service, prior attendance record throughout City career, reason for absence, past performance reports, harm to the work unit, leave balances, past discipline, as well as job classification and working conditions.

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

ARTICLE 19

Bilingual Pay

A. Any employee while filling a position which is designated as requiring knowledge and use of Spanish, Korean, American Sign Language, Arabic, Farsi, Chinese, Indochinese or Tagalog language in the performance of their duties, and who has passed the Personnel Department's fluency examination, if any, shall be paid seventy cents (\$.70) per hour in addition to their regular salary.

B. Incidental Bilingual Pay

City agrees to pay bilingual compensation in the amounts specified in paragraph A for the entire pay period to any eligible employee (Certified by Personnel or identified by Citizens Assistance) who is requested or directed by a supervisor or manager to provide translator services in a non-English language other than a language eligible for ongoing bilingual compensation (Spanish, Korean, American Sign Language, Arabic, Farsi, Chinese, Tagalog, Indochinese languages).

A statement attached to the **Personnel Change Request** from a supervisor will serve as certification for bilingual pay for the pay period.

ARTICLE 20

Workplace Safety

A. The City agrees to make each workplace safe. The City also agrees to process, in an expeditious manner, work requests submitted to any City Department or Division intended to correct unsafe work places. The City agrees to process those work requests involving significant safety problems within 30 days.

B. Management shall have the right to promulgate reasonable rules regarding transporting or carrying of weapons by City employees on City property or job sites.

C. The City agrees to establish a joint safety committee in which Union will be authorized to appoint three representatives to advise the City Manager in the area of safety and security at workplaces.

D. The City agrees to continue to develop and implement safety training programs for all employees whose job duties include the responsibility to enforce rules and regulations. In the development of such programs the City agrees to meet with Union to discuss ideas.

- E. In compliance with applicable federal and state laws, Management will continue to provide all employees in those classifications whose job responsibilities include the handling, storage or disposal of hazardous materials, with guidelines, training and annual certification, as required.
- F. The City agrees to continue the efforts being made to reduce/eliminate repetitive motion injuries and to provide a safer, healthier work environment regarding repetitive motion ailments/injuries. The City also agrees to continue its practice of addressing issues and concerns which Union brings to Management in furtherance of this objective.
- G. The City will make its best efforts to protect, support and counsel employees who have been threatened during the course of employment. Threats shall be reported to the City and will be investigated by Management per Section I of Article 10, Personnel Practices.
- H. In the event of power outages, water shut off, building-wide restroom closures and other such events that seriously impact the health and safety of employees, the city shall:
 - 1. Notify employees of the problem, what actions are being taken to rectify it and the projected time when it will be fixed;
 - 2. Provide reasonable alternate accommodations to meet employees' restroom needs and to eliminate other health or safety hazards created by the event;
 - 3. Allow non-emergency employees to leave work if reasonable alternate accommodations cannot be provided and the event has not been rectified after three (3) hours.

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

ARTICLE 21

Salaries

A. General Salary

Effective July 1, 2009, there will be a general salary freeze and no general salary increase through June 30, 2011. Employees will remain eligible for all other current forms of compensation, including but not limited to step advances on the salary schedule, career advancement opportunities, certification and registration pay.

SPSP 3% Mandatory Match Waiver or 3% Pay Deduction

1. **Effective with the pay period beginning July 11, 2009, each employee will elect between: (i) waiving his or her right to receive the City's mandatory 3% match of contributions into the SPSP Plan, or (ii) taking a 3% deduction from all SPSP-eligible compensation. Failure to execute an election by the designated date or within fifteen (15) work days after returning to active payroll or from approved leave will result in an automatic 3% deduction from all SPSP-eligible compensation. Employees may not change their election during the term of this MOU.**
2. **Each employee who waives the City's mandatory SPSP match will have the option to continue or stop making his or her mandatory SPSP contribution (in its entirety) while the waiver of the City's matching contribution is in effect. If the employee elects to discontinue making his or her mandatory 3% contribution, the employee must also waive the right to increase his/her voluntary SPSP contributions beyond the percentage the employee had selected during the payroll period ending April 3, 2009.**
3. **As employees hired after July 1, 2009 are ineligible to participate in the SPSP plan, these employees will automatically receive the 3% deduction from what would otherwise be all SPSP-eligible compensation.**
4. **As this provision does not apply to SPSP-H, all Hourly employees will receive the 3% deduction from all SPSP-eligible compensation.**

(This section regarding SPSP is repeated in its entirety in Article 51.)

B. Mandatory Furlough

1. **Effective with the pay period beginning on July 11, 2009, each full-time employee will be required to take fifty-two (52) hours of unpaid furlough during each fiscal year, which will be deducted on a pro-rata basis from each of 25 paychecks over the course of the fiscal year on the same terms and conditions as apply to the City's FY09 Voluntary Furlough Program, except that no discretionary days off shall be made available.**

2. **With the exception of Hourly employees, no Union-represented employee is excluded from this Mandatory Furlough regardless of job position.**
3. **A pro-rata adjustment in the number of Mandatory Furlough hours shall be made for those employees who work half and three-quarter time.**
4. **A pro-rata adjustment in the number of Mandatory Furlough hours shall be made for any employee who is hired after the beginning of a fiscal year.**
5. **The parties agree to allow pre-selected vacation in accordance to Vacation Schedule Policy Number 1.8 under Fire-Rescue Department Lifeguard Services Division Manual of Policies and Procedures (“Vacation Policy”) to be substituted with mandatory furlough hours.**
6. **Any other furlough outside of pre-selected vacation will not be permitted if it requires backfill.**
7. **Any remaining mandatory furlough not used by the end of the fiscal year shall be forfeited.**
8. **Telestaff indicated vacations as of November 10, 2009, for the period of July 11, 2009 to June 30, 2010, will be used as the basis for this agreement.**
9. **For Fiscal Year 2010-2011, the procedure in #5 above will be the mechanism for scheduling mandatory furlough.**
10. **If any change is made by the City to the vacations selected, both parties agree to meet and confer over the mandatory furlough program.**
11. **In the event of any dispute over the Lifeguard Division’s handling of employees’ requests to schedule their mandatory furlough days, the City’s Human Resources Director will have the authority to hear and direct the Lifeguard Division to resolve the dispute in keeping with the letter and spirit of the parties’ agreement.**

The City and Union agree that no special salary adjustment requests may be submitted to the Civil Service Commission by either the City, Union, or anyone else on behalf of any job classification covered by this MOU, proposing any special salary adjustments to be effective prior to FY 2012. In

anticipation of the meet and confer process for a new agreement for FY 2012 however, Union may bring special salary adjustment requests to the Civil Service Commission during the appropriate period in Fiscal Year 2011.

C. Special Assignment Pay

1. River Rescue Team Pay

Lifeguards assigned to the River Rescue Team shall receive an additional 10% of their base salary November 15 through April 15 and outside of those dates while deployed in flood alert, during call-out, during actual river rescue training, and during call-out for dive operations. Lifeguards receiving River Rescue Team pay are not eligible to simultaneously receive Dive Team pay.

2. Dive Team Pay

Effective July 1, 2002, Lifeguards assigned to the Dive Team shall receive an additional 10% of base salary when he/she performs a scuba dive and/or participates in training for scuba dive. Members of the Dive Team will receive the above premium pay for the entire pay period when assigned to the above activities. Lifeguards receiving Dive Team pay are not eligible to simultaneously receive River Rescue Team pay.

3. Cliff Rescue Instructor Pay: Lifeguards assigned as Cliff Rescue Instructors shall receive an additional 5% of base salary.

4. Special Team Eligibility: Lifeguards II and III who are promoted to limited Sergeants for the duration of the summer season only and are demoted back to Lifeguards II or III at the end of the summer season, shall retain their place and/or eligibility to participate on Lifeguard Special Teams.

5. Class A or B License

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

D. Salary Calculations

The City agrees to establish the salaries for new classes and calculate special salary adjustments so as to achieve internal salary relationships specified by the Civil Service Commission. Such salaries shall be set to the nearest percent per hour using normal rounding procedures and must be compatible with all applicable payroll and personnel data processing systems.

The City will make every effort to ensure that the new payroll system has sufficient flexibility to allow further refinements in differentials and salary calculations.

- E. In the new employee salary schedule, B step will be eliminated for new hires beginning 7/1/94. Employees hired after 7/1/94 will move from “A” step to “C” step after one (1) year. This represents an increase of approximately 10%. Current employees (hired prior to 7/1/94) will continue with the present five step salary schedule in present and future positions.
- F. EMT Pay: Effective July 2, 2005, Lifeguards I, II, III, Lifeguard Sergeant, and Marine Safety Lieutenant who are EMT certified shall receive an additional 8.5% of base pay.
- G. All Lifeguards assigned to the Fire Rescue Department Emergency Air Operations/Regional Fire Rescue Helicopter Program shall receive 7.5% additional pay when deployed to a team rescue.

H. Shift Differential

Lifeguards working the Night Shift are entitled to an increase in the amount of 5%. Due to the City’s structural deficit in the General Fund it is unable to implement this benefit during the term of this MOU. The City and the Union agree that it is the Union’s intention to address the implementation of this benefit in meet and confer for a successor MOU.

ARTICLE 22

Retirement

1. Retiree Medical Benefits

A. Definition of Health Eligible Retiree

Effective with service retirements on and after July 1, 2009, to be a “Health Eligible Retiree” under the SDMC section 24.1201,

an employee must have a minimum of 10 years of creditable service in addition to the conditions already stated therein. A service retiree with at least ten (10) years of creditable service will be entitled to 50% of the annual Retiree Medical Benefit. A service retiree with more than ten (10) years but less than twenty (20) years of creditable service will earn 5% more of the annual benefit per year of additional service beyond ten (10). For example, a service retiree with fifteen years of creditable service will be entitled to 75% of the annual Retiree Medical Benefit. A service retiree with twenty (20) years of creditable service will be eligible for the current benefit as a "Health Eligible Retiree." This change will not affect employees who qualify for disability retirements.

B. Reopening Negotiations, and Suspension of Automatic Escalator Provision and Joint Study of Retiree Medical Benefit

1. Reopening of Meet and Confer Regarding Retiree Medical Benefits

By no later than July 1, 2010, the parties will reopen negotiations on Retiree Medical Benefits. The parties will complete negotiations and be in agreement or at impasse no later than April 1, 2011 in order to fulfill obligations under the City's Impasse Procedure. The purpose of the negotiations will be to address:

- (a) The serious threat the unfunded liability poses to the on-going viability of the current Retiree Medical Benefit;
- (b) The major implications of the unfunded liability to the City's long-term fiscal health; and
- (c) The threat presented by the unfunded liability to the parties' ability to reach future agreements on satisfactory terms and conditions of employment.

2. Discussion of Retiree Medical Report

Prior to the meet and confer on retiree medical benefits, the City will discuss and explain the report from the Retiree Medical Joint Study Group.

3. Suspension of the Retiree Medical Escalator Provision

For the fiscal year covered by this MOU during which the parties will be engaged in the aforementioned effort, the Retiree Medical Benefit in effect for Health Eligible Retirees as codified in the SDMC, Article 4: "City Employees' Retirement System," Division 12: "Retiree Health Benefits," will remain in effect in the amount set for FY09. No increase based on the annual escalator feature set forth in SDMC 24.1202, subdivision (d) will be implemented, and this feature of the benefit will be suspended. This means that an employee who retires on or after July 1, 2009, and on or before June 30, 2011, will receive the FY09 maximum Retiree Medical Benefit but that no upward adjustment will be made based on the projected increase for National Health Expenditures published by the Centers for Medicare & Medicaid Services, Office of the Actuary.

4. Reservation of Rights, Failure to Reach Agreement and Return to the *Status Quo Ante*

(a) Had a successor MOU not been agreed upon, and had the City instead unilaterally implemented a change in the Retiree Medical Plan effective July 1, 2009, the parties acknowledge that litigation challenging the imposition would have been instituted and defended by the parties. The purpose of this subsection ("B. 4") is to preserve the parties' claims, challenges and defenses as they existed on June 30, 2009, and at the same time provide incentives to the parties to reach agreement after meeting and conferring as required by subsection "B. 1" of this section. Nothing in this subsection shall be construed as prohibiting the parties from reaching mutual agreement on changes to the Retiree Medical Plan, effective on or before July 1, 2011. This subsection's sole purpose is to address circumstances where the City, after completing the City's impasse procedure, might or might not unilaterally impose a change in the Plan on the issues specified in subsection "B. 1."

(b) If any litigation arises over the suspension of the escalator as described in section "B. 3," or over any

future unilateral imposition of a Retiree Medical Benefit change after meeting and conferring as required in subsection “B. 1,” neither party will be deemed to have waived any legal position related to Retiree Medical Benefits or the requirements of the City Charter or SDMC by virtue of having entered into this agreement. In addition, if the City imposes a last, best and final offer changing Retiree Medical Benefits effective upon the expiration of this MOU, each party reserves its right to take any and all steps available to it to challenge, defend, or raise any claim related to such unilateral imposition, including but not limited to the ground that a vested benefit has been unlawfully impaired, or that the statute of limitations bars any action. By this agreement, the parties expressly toll any appropriate statute of limitations that would otherwise apply because of the two-year suspension of the medical benefit escalator.

- (c) To avoid impairing any right reserved in subsection “B. 4(b)” above, the parties agree further that:
- i. For purposes of meeting and conferring in good faith as contemplated by the Meyers-Milias-Brown Act, (MMBA) Government Code section 3500 *et seq.*, the *status quo ante* will be defined as the same Retiree Medical Benefit as employees would have obtained on June 30, 2009, if the temporary suspension of the escalator had not occurred; and
 - ii. For purposes of any litigation challenging the City’s unilateral imposition after negotiations specified in “B. 1” on a change in the Retiree Medical Benefit on any basis other than a violation of the MMBA, and if the challenge is successful, active employees and those individuals who retired on or after July 1, 2009, and before the June 30, 2011, will have the same rights and Retiree Medical Benefits as existed on June 30, 2009.

- (d) In any instance, if the City imposes its last, best and final offer changing any Retiree Medical Benefit, that change will be effective on July 1, 2011, and will only cover those active employees covered by this agreement who retire or leave DROP on or after that date.

5. Eligibility Standards for Retiree Medical

Effective with service retirements on and after July 1, 2009, to be a “Health Eligible Retiree” under the SDMC section 24.1201, an employee must have a minimum of 10 years of creditable service in addition to the conditions already stated therein. A service retiree with at least ten (10) years of creditable service will be entitled to 50% of the annual Retiree Medical Benefit. A service retiree with more than ten (10) years but less than twenty (20) years of creditable service will earn 5% more of the annual benefit per year of additional service beyond ten (10). For example, a service retiree with fifteen years of creditable service will be entitled to 75% of the annual Retiree Medical Benefit. A service retiree with twenty (20) years of service will be eligible for the current benefit as a “Health Eligible Retiree.” This change will not affect employees who qualify for disability retirements.

6. 2005 Retirement Benefit Plan Changes

The parties recognize that the effective date applicable to the following benefit changes is currently in litigation and will eventually be established by order of the court.

A. Retiree Medical Benefit

1. Exclusion of Employees Hired on or after July 1, 2005

Employees hired on or after July 1, 2005, are excluded from the existing retiree medical health benefit. Article 4, Division 12 of the Municipal Code, relating to Retiree Health Benefits, will be revised to reflect this change.

2. The City agrees to indemnify and hold Union harmless from and against any claims filed by or on behalf of employees in Union-represented bargaining units

related to this clarification of the definition of a Health-Eligible Retiree.

B. Purchase of Service Credit

Employees hired on or after July 1, 2005, are not eligible for the purchase of service credit (“airtime”) in SDCERS, except for credit for up to five years of military service. Article 4, Division 13 of the Municipal Code will be revised to reflect this change.

C. “13th Check” Supplemental Benefit

Employees hired on or after July 1, 2005, are not eligible to receive the “13th Check” supplemental benefit set forth in Section 24.1502(a)(6) of the Municipal Code. Section 24.1503 of the Municipal Code will be revised to reflect this change.

D. Deferred Retirement Option Plan

Employees hired on or after July 1, 2005, are not eligible for the Deferred Retirement Option Plan (“DROP”). Article 4, Division 14 of the Municipal Code will be revised to reflect this change.

E. Calculation of Service Retirement Allowance

The only service retirement allowance calculation formula for employees hired on or after July 1, 2005, 3.0% at age 50 for Safety Members, with the existing tiers for those formula. Article 4, Division 4 of the Municipal Code will be revised to reflect this change. For employees hired before July 1, 2005, the retirement allowance calculation formulae will remain as currently provided under Article 4, Division 4 of the Municipal Code.

7. 2002 Retirement Contribution and Benefit Changes

Following meet and confer in 2002, the parties agreed to certain changes to the City’s employee retirement contribution offset and to SDCERS benefits for health-eligible retirees. Those changes are specified in this Section 3. Notwithstanding any provision below, employees hired on or after July 1, 2005 are excluded from the retiree medical benefit and are not eligible for (1) the 13th check, (2) participation in the DROP program, (3)

purchase of service credits, and (4) calculation of a service retirement allowance using a formula other than 3.0% at age 50 for Safety Members, with the existing tiers for those formulae.

A. Retirement Contribution Offsets

The City agrees that it will apply an amount that is approximately equal to 5.4% of the base salary of employees covered by this agreement and 7.3% for eligible Lifeguards in the City Retirement System, thereby reducing the amount deducted from employees' paychecks as the employees' retirement contribution by that amount. Effective July 6, 2002, the City will increase the amount it pays to offset the employees' retirement contribution, which offset reduces the amount deducted from employees' paychecks, from 7.3% to 9.0% for eligible Lifeguards. Effective July 5, 2003, the City will increase the amount it pays to offset the eligible Lifeguards retirement contribution from 9% to 10%. These retirement offset increases will remain in effect until the Employee Contribution Reserve is exhausted. The employee, upon termination, will have no vested right in the amount so contributed by the City. Substitution of this portion of the employees' 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 employees' total contribution to the system.

B. Retirement Benefit Changes

1. Effective July 1, 2002, a Health Eligible Retiree, as defined in the Municipal Code, will have the applicable Medicare eligible or non-Medicare eligible insurance premiums paid for the Health Eligible Retiree-only insurance, or the Health Eligible Retiree will be reimbursed the actual cost incurred from the Medicare eligible or non-Medicare eligible retiree-only premium up to the maximum amount allowed in Municipal Code Division 12. Municipal Code Division 12 will be amended to set the maximum amounts to be paid on behalf of or reimbursed to a Health Eligible Retiree for retiree-only Medicare eligible or non-Medicare eligible health insurance premiums based on the premium for the City-sponsored PPO plan for Fiscal Year (FY) 2003

and annually adjusted thereafter based on the Centers for Medicare & Medicaid Services, Office of the Actuary, projected increase for National Health Expenditures for the full year period ending in the January preceding the start of the new plan year; such adjustment shall not exceed 10% for any given year. The maximum amount of monies reimbursed to Health Eligible Retirees will be 100% of such Medicare-eligible or non-Medicare eligible retiree-only premium. Pursuant to this provision the based monthly maximums are established for FY 2003 as follows:

- a) For Non-Medicare eligible retirees: \$489.16
- b) For Medicare eligible retirees: \$460.67

Health Eligible Retirees may choose to participate in a City sponsored health insurance plan or any other health insurance plan of their choice

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

2. The Disability Income Offset provision is eliminated. There will be no reduction of retirement benefits if the retiree has other income.
3. A five year purchase of service credit provision is established effective January 1, 1997. Under this provision, **an eligible** Member may purchase up to five years of service credit by paying both employee and employer contributions in an amount and manner determined by the 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.

4. 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 at a rate determined by the Board. 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. 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.

5. 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.
6. The surviving spouse of a Member who is killed while in the performance of duty is entitled to continued health coverage as provided in California Labor Code Section 4856.
7. The 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.

8. Lifeguard Members

The City and **Union**, having met and conferred, and having participated in the settlement of a class action lawsuit challenging the calculation of “compensation earnable,” have agreed to benefit changes to SDCERS. The benefit changes resulting from this class action settlement were approved by the SDCERS active and retired membership in June 2000.

C. Formula Change For Calculation of SDCERS Monthly Retirement Benefit

The Retirement Calculation Factor to be applied to the Lifeguard 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 Lifeguard Member selects this option.

Retirement Calculation Retirement Calculation

	<u>Retirement Age Factor</u> <u>effective 1/01/97-6/30/00</u>	<u>Factor effective 7/01/00</u>
	<u>(Current)</u>	<u>(New)</u>
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+	2.99%	3.00%

Member Option: Pursuant to the class action settlement, a Lifeguard 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 Lifeguard Member's Final Compensation OR
2. A ten percent (10%) increase in the Lifeguard Member's Final Compensation, with the Lifeguard Member's Unmodified Service Retirement Allowance calculated using the Retirement Calculation Factor in effect on June 30, 2000.

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

D. Formula Change For Calculation of SDCERS Monthly Retirement Benefit for Lifeguards hired after June 30, 2011.

Subject to the provisions contained in Article 4, section 8, the Retirement Calculation Factor for Lifeguard Members hired after June 30, 2011, shall be based on a Lifeguard Member's three (3) highest years salary and the following formula:

Retirement Calculation

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

E. Eligibility for Industrial Disability Retirement Change

A Lifeguard Member may be eligible for an industrial disability retirement if it has been medically determined that the Lifeguard Member has become psychologically or mentally incapable of performing 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, 2005. This provision shall sunset on June 30, 2005, and no such applications may be made after that date.

F. IRC Section 415 Amnesty Provisions

In order to preserve CERS' tax qualified status, Union and the City mutually agree to adopt the "amnesty" or "grandfather" provisions of IRC Section 415 (b) (10), and agree to meet and confer regarding "make-up" provisions.

G. Buy-Backs

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

ARTICLE 23

Lifeguard Services

A. LIFEGUARD TRAINING

1. The Union may meet with the City to discuss training programs and enforcement responsibilities for Lifeguards, including the development of a more adequate training program for seasonal Lifeguard I's.
2. Lifeguard Training Committee

The Union may select no more than three Lifeguards which the City may meet with to discuss training programs and enforcement responsibilities. Union will bring all matters regarding training and enforcement to the committee prior to seeking resolution elsewhere. Such matters must be dealt with in a reasonable time. This committee will not be used as a vehicle to bypass the management chain of command in the **Fire-Rescue Department (SDFD), Lifeguard Division.**

3. The City shall continue to pay the costs associated with a lifeguard's EMT recertification, including necessary training.
4. The **SDFD** Training Division shall form a committee with the Union Lifeguard Training Committee to develop a basic lifeguard training plan and any cross training. The parties agree that it is of mutual importance that training be provided in the Lifeguard **Division** to the extent fiscally feasible in order to maintain the most effective level of safety for the benefit of the public and the employees. Discussion areas will include, but are not limited to, how to provide expanded designated training to ensure the training policy requirements are met, how to increase recertification trainings to ensure maintenance of skills for lifeguards who assist specialty teams and assist with cliff rescues, and enhanced marine fire fighting training.

B. CLASS B DRIVING LICENSE REQUIREMENTS

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

employee's cost except the City shall pay for the required medical examination required for renewal.

C. PRESERVATION OF WORK

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

CLIFF RESCUES

From the hours of 9AM-8PM:

The **Lifeguard Division** will continue to be primarily responsible for responding to coastal cliff emergencies. If the call for emergency services involves an injury, a Paramedic Unit should be dispatched. Fire Fighters will not be dispatched until requested by the **Lifeguard Division**. If the **Lifeguard Division**, when responding to a cliff incident, determine that more sophisticated equipment is required or that additional personnel are required to perform the rescue safely, they should request assistance from the **Fire-Rescue Department**. Whenever it is necessary to utilize **Fire-Rescue Department** equipment at a cliff rescue scene, the senior **Fire-Rescue Department** official will be in command.

During other hours (8PM-9AM): The **Fire-Rescue Department** will continue to be primarily responsible for responding to coastal cliff rescue emergencies. However, when such a call is received the appropriate lifeguards **section** should be called back to assist the **Fire-Rescue Department**.

Communications

Requests for cliff rescue services are received either at the **Lifeguard Headquarters** at **Quivira Basin** or at the **Police Communications Center** in the 911 system. When calls are received at **Quivira Basin**, the **Lifeguard Division** will ensure that this policy is followed. From 9AM - 8PM, the **Lifeguard Division** will respond to all calls. If the call involves an injury, they will immediately request a **Paramedic Unit** from the **Fire-Rescue Department**. During other hours, all calls will be referred to the **Fire-Rescue Department** and the appropriate lifeguards **section** will be called back.

If the call is received through the 911 system, the **Police Department** receives the call. If received between 9AM and 8PM, the call will be immediately referred to the **Lifeguard Division**. If the call involves an injury, the **Fire-Rescue Department** will also be contacted to dispatch a **Paramedic Unit**. If the call is received during other

hours, the call should be referred to the Fire-**Rescue** Department to respond and the Lifeguard **Division** should also be called at the same time so the Lifeguard **Division** can be called back.

RIVER RESCUES

For the purpose of this policy a river rescue shall be defined as any rescue of persons or property threatened, surrounded or entrapped by stationary or moving water. River rescues, particularly those rescues that necessitate going in the water to effect the rescue, are extremely hazardous operations. To safely perform these rescues requires specialized training and equipment. For this reason, it is important that where possible all river rescues be performed by the Lifeguard **Division** River Rescue Team. The Lifeguards who comprise this team are expert swimmers and have received extensive training in making river rescues. In addition, there is a reserve of Lifeguards who are qualified to assist them. As a general policy, therefore, the Lifeguard **Division** River Rescue Team will be called to make these rescues. Other safety personnel will not make in-water rescues unless a citizen's life is in immediate peril.

Whenever an inland water emergency occurs, the request for emergency service should be referred by the Police Department to the Lifeguard Communications Center. Lifeguard **Division** will dispatch the appropriate unit(s). In those cases where it is not apparent from the request that a river rescue is involved but any responding Fire units realize upon arrival at a scene that a river rescue is necessary, the Lifeguard **Division** River Rescue Team will be summoned. Once again, other safety personnel will not attempt river rescues unless a citizen's life is in imminent peril. This policy applies at any time of the day and during periods when there is no flood alert or during a Stage 1 or Stage 2 flood alert as defined in the Disaster Preparedness Plan. The Lifeguard **Division** River Rescue Team is available on a call back basis at all times through the Lifeguard Communications Center.

It is also necessary to address the issue of emergency scene management at river rescue incidents. The senior officer of the Fire-**Rescue** Department at the scene will have overall responsibility for the river rescue. When the Lifeguard **Division** River Rescue Team is called to the scene, the senior ranking member of that Team will have responsibility for overseeing the in-water rescue and how that should be accomplished. The senior officers of all safety services at the scene should ensure that there is a high degree of coordination and cooperation among all personnel present at the scene.

D. CAREER PATH OPTIONS

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

E. SWIM TEST

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

ARTICLE 24

Limited Appointments

Management agrees not to fill permanent, full-time, one-half time, or three-quarter time budgeted positions with employees serving on limited appointments except in extraordinary circumstances. Management intends to use limited appointments to fill hourly positions, positions funded by the State and Federal Government, and full-time budgeted positions in which the incumbent employee is on a **SLWOP**.

ARTICLE 25

Performance Incentives

A. Performance Pay

1. The City may grant an exceptional merit cash payment to any employee at “E” step that **meets standards** on their most recent performance report within the units represented by Union. It is understood and expressly agreed to by the parties to this agreement that any employee receiving a payment under this provision shall not acquire any future rights to receive any future payment of salary beyond that employee’s base salary.
2. The appointing authority may grant an employee **who meets standards** on their most recent performance report up to three (3) days special leave with pay in recognition of a specific instance of outstanding performance.

B. Exceptional Merit Increases

Employees with a **commendation level** performance may be granted an Exceptional Merit Increase for a maximum of a one step increase to the next consecutive step within the salary range, unless in conjunction with a normal

merit increase where a maximum two step increase would be permitted. Exceptional Merit Increases, not done in conjunction with a normal merit increase, will be effective at the beginning of a pay period and can be no earlier than the pay period in which the supervisor delegated the responsibility by the Appointing Authority.

Union may discuss problems in the Exceptional Merit Cash Payment Program with the City Manager's Office. Management shall provide Union an opportunity to review awards quarterly.

ARTICLE 26

Rehabilitation and Employee Assistance Programs

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

Union and Management support the Employee Assistance Program and both parties agree to encourage, if appropriate, employees with personal problems to participate in this program.

The purpose of this program is to assist the employees who have personal problems to obtain professional assistance and treatment where necessary. Participation in this program will be entirely voluntary. The City will not take disciplinary action against an employee for refusing to participate in the Employee Assistance Program. Management and Union agree that actual discussions between the employee and the Employee Assistance Program staff and treatment provided the employee through the program, will be kept confidential unless the employee consents to disclosure.

In accordance with Article 20, Workplace Safety, the City will make its best efforts to protect, support, and counsel employees who have been threatened during the course of employment.

ARTICLE 27

Flexible Benefits Plan

An IRS qualified cafeteria-style benefits program is offered to all eligible employees called Flexible Benefits Plan (FBP). This plan provides a variety of tax-free benefit options. Eligible employee means any employee in one-half, three quarter, or full-time status. Eligible employee excludes all employees in an hourly status.

There will be no increase in the Flexible Benefits Plan annual value during the term of this MOU and the annual value will remain at the FY08 level of \$6,075.

On or about April 1 of each year during the term of this agreement or earlier if mutually agreed, the parties exchange premium rates for the parties' respective plan offerings. **The Union shall notify the City on or before April 27, 2010 of its decision to eliminate MEA Plans as options under the City's flexible benefits plan.**

The benefits available through the Flexible Benefits Plan and the respective annual costs are reflected in the Flexible Benefits Summary Highlights booklet provided to each employee each year of this agreement.

Notes:

1. It is the intent of the parties that all Plans comply with all applicable State and federal laws, including IRS Regulations as interpreted by the City Attorney. All disputes over interpretation of the above shall be submitted to the appropriate agencies for interpretation.
2. The employee must select life insurance and health insurance (unless covered under another comprehensive health plan). An employee may opt out of City health insurance if he/she has other comprehensive health insurance by selecting the "waiver" option.
3. With the remaining FBP monies, eligible employees may select from other optional benefits including dental, vision, cancer/intensive care protection, 401(k), Dental/Medical/Vision and Dependent Care reimbursement and/or cash payment.
4. After selecting required health and life insurance coverage, 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 nonrefundable.
5. In addition to designating flexible benefits monies to pay for reimbursements employees may designate a specific amount of pre-tax money (IRS restrictions apply) to be withheld from their paycheck to reimburse eligible out-of-pocket 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.

6. Eligible employees are required to enroll for their benefits each year during the designated open enrollment period. If an employee fails to complete enrollment within the open enrollment period, the employee's current options for health (or comparable plan if unavailable), including dependent health offset, and life, will be automatically continued at the same level for the next year as if the employee had elected to keep them. All other benefit options will be cancelled. Any monies remaining from the FBP allotment will be paid out as taxable cash payment. All payroll deductions, including DMV and Dependent Care reimbursement, will continue and may not be eligible to be stopped until the following open enrollment period.
7. The City agrees that it will not arbitrarily or unreasonably deny Union the opportunity to offer a health insurance plan to active and/or retired employees. Such coverage must include mental health coverage at an equal or better level of coverage than that offered through the City's health plans. Union agrees to inform Employee Assistance Program (EAP) of any changes to the mental health coverage and/or provider in order for EAP to give input on the proposed changes to ensure that City employees are receiving adequate mental health coverage through their selected health plan.
8. Union agrees to indemnify the City against any and all claim arising out of the administration of its benefits plans.
9. Audit and Inspection of Records

The City Auditor is authorized to audit all necessary documents pertaining to the health insurance plans offered by Union.
10. The parties agree that Union is authorized to audit the City's health plans to the extent that documents are requested and provided pursuant to state and federal public information laws.
11. Union will be available to answer questions at the end of Open Enrollment and New Employee Orientation Sessions.

ARTICLE 28

Time Off for Meetings

- A. When formal meetings are scheduled for the purpose of meeting and conferring on subjects within the scope of representation, the Union may be represented by a reasonable number of employee members of the unit or units involved, and the President or his designee, as agreed upon with Management prior to the meetings. These employees may attend said meetings during regular work hours without loss of compensation or other

benefits. Employees working shift hours other than regular day work hours may attend said meetings and will have his or her schedule adjusted to the day shift for each meeting. For purposes of meeting and conferring on a successor Memorandum of Understanding, three (3) representatives of each unit plus the President and Vice President is considered a reasonable number. However, additional representatives may attend upon mutual agreement of the parties. In addition, the Union may also select a representative to attend City Council, Council Committee, Civil Service Commission meetings, Retirement Board and Special Employer-Employee Committee meetings, and meetings of other special commissions or boards established by the City Council, during regular work hours, without loss of compensation where subjects within the scope of representation are being discussed. The Union shall, whenever practicable, submit the names of all such representatives to the Management Team at least two (2) 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 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.
- C. Union will have a permanent representative on the Suggestion Awards Committee.
- D. Union Board members and Stewards shall be granted the opportunity to attend said meetings during regular work hours without loss of compensation or other benefits provided that Union provides Management and the employee's Appointing Authority with notice of said meetings at least five (5) working days in advance of said meetings and pursuant to the provisions of Section A, 1 above. In the event Union must convene an emergency board or steward meeting, Union shall give Management as much notice of this meeting as circumstances permit. For the purposes of the notice and approval provisions of this paragraph, "Management" shall mean the **Human Resources Director** or his/her designee. Notification to the employee's Appointing Authority must be provided by Union.

ARTICLE 29

Employee Rights

The parties mutually recognize and agree fully to protect the rights of all employees covered hereby to join and participate in the activities of Union and all other rights guaranteed by law.

No employees shall be interfered with, intimidated, restrained, coerced or discriminated against because of the exercise of these rights.

The parties, in the conduct of their affairs, shall apply the provisions of this Memorandum equally to all employees covered hereby without favor or discrimination because of race, color, sexual orientation, sex, age, disability, national origin, pregnancy, political or religious opinions or affiliations.

ARTICLE 30

Management Rights

Section 1.

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.

Section 2.

The exercise of such rights shall not preclude Union from consulting with Management representatives about the practical consequences that decisions on these matters may have on wages, hours, and other terms and conditions of employment. Management decisions shall not supersede the provisions of this agreement.

ARTICLE 31

Modification and Waiver

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

ARTICLE 32

Obligation to Support

The parties agree that during the period of time said Memorandum is pending before the Civil Service Commission or the City Council for action, neither Union, nor Management, nor their authorized representative, or any member of the Union Board of Directors will appear before the Civil Service Commission or the City

Council or meet with members of either body individually to advocate any amendment, addition or deletion to the terms and conditions of this Memorandum. It is further understood that this Article shall not preclude the parties from appearing before the Civil Service Commission or the City Council nor meeting with individual members of either body to advocate or urge the adoption and approval of this Memorandum in its entirety.

ARTICLE 33

Provisions of Law

Section 1.

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. Provided, however, no local law which is enacted in contravention of the provisions of the Meyers-Milias-Brown Act shall affect the provisions of this agreement.

Section 2.

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 tribunal or 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.

Section 3.

It is the intent of parties that this Memorandum be administered in its entirety in good faith during its full term.

ARTICLE 34

Information Exchange

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

- A. Bi-weekly, a magnetic tape (converted to diskette format) from the City shall be provided to Union containing the information currently furnished on each Union member, at cost or at another price if agreed upon.

- B. Quarterly, the City shall provide Union with a diskette containing the information listed in (A) above for all employees in a Bargaining Unit.
- C. The City will make available to the Union information pertaining to employment relations as set forth in this rule and Government Code Sections 6250-6260.
- D. Such information shall be made available during regular office hours. Materials presently supplied to the Union at no cost shall continue to be supplied at no cost.
- E. Information which shall be made available includes regularly published data covering subjects under discussion. Data collected on a promise to keep its source confidential may be made available in statistical summaries but shall not be made available in such form as to disclose the source.
- F. Nothing in this rule shall be construed as requiring the City to do research for an inquirer or to do programming or to assemble data in a manner other than customary.
- G. Information shall be made available on a bi-weekly basis, from the Department of Risk Management, in regards to Union members enrolled for Union-sponsored Flexible Benefits. This information will consist of current listings of Union-sponsored prepaid plans and documentation copies of the Union-sponsored prepaid benefits. Union shall provide Risk Management with a separate listing of premium payment accrual amounts for Union members being reimbursed for all or part of their plan premiums through Dental/Medical/Vision Reimbursement. Additions and deletions shall be reported to Risk Management by memorandum. Any list provided by Union shall include employee's name, social security number, and year-to-date cumulative totals by Union-sponsored option.

ARTICLE 35

Union Orientation

The City agrees to provide Union with an opportunity to make presentations to new employees during the City's New Employee Orientation Program. These presentations will not exceed 1/2 hour, and will be restricted to employees in job classifications represented by Union. Union will be provided a separate room for their presentations.

Union, upon request to Management, will be provided with an opportunity to have presentations not to exceed one-half hour at New Employee Orientations in

departments which have such programs and do not send employees to the City-wide program.

ARTICLE 36

Appeals

- A. The employee may appeal the placement of any document, including a **Supplemental** Performance Evaluation, which is to be made a part of the employee's permanent record and which may be used as a basis for subsequent discipline, in his/her permanent record by submitting an appeal letter to the Department Head within ten (10) working days of the employee receiving any such document that is to be placed in his or her file. It is mutually agreed that employee performance evaluations **where employees "meets standards"** are not eligible to be appealed. Within ten (10) working days after receiving the appeal letter, which becomes an attachment to the document in question, the Department Head or his/her designee will schedule a hearing on the matter. The employee is entitled to representation at such hearing. After the hearing the Department Head or his/her designee will make a decision provided in written form within ten (10) working days as to whether the written document will be retained in or removed from the employee's record.

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

Reviews of **"meet standards"** evaluations are discussion items which may result in changes being made to the evaluation, but are not to be considered an appeal of the evaluation.

- B. Formal reprimands without further penalty more than two (2) years old, and those with additional penalty more than three (3) years old, will be destroyed, and will not be considered for purposes of promotion, transfer, special assignments and disciplinary actions, except as to disciplinary actions when such reprimands show patterns of specific similar misconduct. Reprimands may be retained in the employee's personnel jacket. Upon request of the employee, such reprimands will be destroyed on this basis. However, in the event that an employee fails to make such a request, on discovery by Management any reprimand will be destroyed in accordance with this provision.
- C. Letters of counseling and letters of warning, more than one (1) year old will be destroyed and will not be considered for purposes of promotion, transfer, special

assignments and disciplinary actions, except as to disciplinary actions involving specific similar misconduct as that addressed in the letter of counseling or letter of warning. Letters of counseling and letters of warning may be retained in the employee's personnel jacket. Upon request of the employee, such letters of counseling and letters of warning will be destroyed on this basis. However, in the event that an employee fails to make such a request, on discovery by Management any counseling or warning will be destroyed in accordance with this provision.

ARTICLE 37

Transportation Programs

A. "C" Mileage

Effective July 1, 2004, the "C" mileage reimbursement rate was increased to forty cents (\$.40) per mile. Effective July 2, 2005, the rate shall increase to forty-seven cents (\$.47) per mile. Effective July 1, 2006, the rate shall increase to forty-eight cents (\$.48) per mile. Effective July 1, 2007, the rate shall increase to forty-nine cents (\$.49) per mile. **Effective July 1, 2010, "C" mileage will be reimbursed at the IRS rate.**

B. City-Provided Vehicles

The City retains the right to determine unilaterally to provide employees with City vehicles for the performance of City business in lieu of requiring employees to use their personal vehicles and reimbursing them at the above-stated mileage reimbursement rates. However, in making such determinations where multiple employees within the same work group are using personal vehicles, the City will focus on the entire work group rather than on individual drivers within a work group. The City shall discuss any such intention with Union in advance of making its determination. In the event the City makes such a determination, the City shall give employees affected by the determination notice to permit them to make decisions regarding the purchase or lease of personal vehicles with this change in mind.

C. Payment of Mileage Reimbursement

It is the City's intent to provide employees their mileage reimbursement checks within two weeks after submitting their timely and accurate reimbursement requests to their designated supervisors.

D. Parking

1. Employees will be reimbursed the monthly Concourse parking fee provided that for at least seven (7) days each calendar month he/she uses the City Parkade and drives his/her car on City business. The actual monthly cost of parking, not to exceed the monthly rate established for City employees at the Concourse Garage, shall be added to the monthly mileage report and included in the total amount due.

ARTICLE 38

Death or Injury Notification

Union will be notified as soon as possible when a member of Union dies or retires. Union and the City will discuss the development of Long Term Disability Procedures to avoid unintentional termination of insurance benefits.

ARTICLE 39

Clean Air

The City through the Safety Office will provide Union with the results of asbestos air sampling no less than on an annual basis. In addition, the City Buildings Division through the Safety Office agrees to inform Union when building and/or remodeling activities take place that involves the removal or containment of asbestos.

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

ARTICLE 40

Court Leave/Jury Duty Scheduling

Where feasible and appropriate, Management agrees to make reasonable adjustments in an employee's work schedule when the employee is assigned to jury duty. Such adjustments will be in compliance with the Personnel Regulation on Court Leave. In no case will Management be required to pay employees overtime when the employee's jury duty extends beyond the end of the employee's normal work schedule.

Employees are no longer required to deposit with the City **Comptroller** fees due him or her from the Court.

Upon request, departments shall make their best efforts to adjust the schedules of employees who work second or third shifts, rotating 24-hour shifts or any schedule which is not a standard five-day “8 to 5” schedule, to “days,” Monday through Friday for a portion of or duration of the assigned Jury Duty.

Personnel Manual Section I-9, II C(4) has been revised. The City Manager’s designee will review and resolve disputes regarding reporting to work and the application of leave or rescheduling for Court duty purposes.

ARTICLE 41

Uniform Reimbursement

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

Upon promotion to Lifeguard II, probationary Lifeguard II’s will be issued items listed in Appendix B for Lifeguards. Probationary Lifeguard II’s shall not receive a uniform allowance for the one year probationary period.

ARTICLE 42

Uniform Allowance

- A. The following classifications are entitled to uniform allowances:

Hourly Lifeguard I: \$277 annually.

Lifeguard II, Lifeguard III, Lifeguard Sergeant, and Marine Safety Lieutenant: \$1204 annually.

Lifeguard II, Lifeguard III, Lifeguard Sergeant and all Marine Safety Lieutenants, assigned to the Boating Safety Unit, shall receive an additional allowance of \$258 annually.

Lifeguard II, Lifeguard III and Lifeguard Sergeant assigned to the Regional Fire Rescue Helicopter Program shall receive an additional allowance of \$456 bi-annually for the cost of one Flight Suit and one pair of safety shoes.

Women in all Lifeguard classifications shall receive an additional \$120 annually for the cost of two swimsuits with dark colored underlining.

On or about August 1 of each year, the City shall target to pay the appropriate uniform allowance to permanent personnel and hourly and part-time Lifeguards II in these classes who were available for assignment in the class on July 1st of each year. Hourly Lifeguards I will be paid on or about June 15th of each year. This allowance will not be paid for items for which uniform reimbursement has been received in the same year. This allowance is to be used for the replacement and maintenance of the uniforms in Appendix B. Employees on a leave of absence are eligible for the payment upon their return to work.

- B. All employees in these classes are required to have all uniforms described in Appendix B. Failure to have these items may result in discipline of the employee.
- C. The City will provide employees with all patches required as part of the uniform.
- D. Lifeguards II and III who are assigned as boat operators in the Boating Unit will be provided with safety gear. Lifeguards II and above who were regularly scheduled for assignments in the Boating Safety Unit for six months or more during the twelve month period prior to July 1st of each year, will receive a higher allowance in recognition of their different uniform requirements and the unusual wear on their uniforms. Replacement costs for two pairs of safety shoes with non-slip soles are included in these funds.

Lifeguard Division will designate a lightweight lifeguard uniform jacket suitable for wear at both the beach and in boats. This jacket will become part of the required uniform wear for lifeguards. Thereafter, sweatshirts will no longer be included as a part of the lifeguard uniform. The cost of the jacket will be not more than \$100. Existing employees will be required to pay for this jacket using increased allowance money.

ARTICLE 43

Reduction in Compensation

A. Reduction in Compensation

The compensation of any employee or officer of the City may be reduced within the salary range of that employee's current classification. Such reduction in compensation may be put into effect upon finding that the employee's performance is unsatisfactory for the employee's classification and/or position.

B. Procedure for Reduction in Compensation

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

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

C. Appeal of Reduction of Compensation

Within five days of receipt of notice of reduction in compensation, an employee may file an appeal by filing a written demand to the Civil Service Commission for the right to be heard before the Commission. The Commission, at its discretion, may appoint one or more of its members to

hear the appeal and submit a proposed decision to the Commission for ratification.

The conduct of the hearing shall be the same as those prescribed in the Civil Service Rules relating to discharge.

D. Return to Prior Compensation

Employees having their compensation reduced in accordance with the provisions of this Article shall be placed on a supplemental evaluation program. At the time of the reduction in pay the employee will be informed of the date of the next performance evaluation. An employee's compensation will be reinstated at the step the employee was receiving prior to the reduction in compensation upon receipt of a **“meets standards”** performance review.

The reduction in compensation shall not exceed six (6) months of active duty. At the end of that time, the employee shall be reinstated to the previous salary step in the job classification or some type of disciplinary action shall be taken.

ARTICLE 44

Salary Status of Part-Time Positions

A. AUTHORITY

1. Annual Salary Ordinance
2. Civil Service Rule X: LEAVES OF ABSENCE.

B. POLICY

1. Intent: The intent of this policy is to ensure that employees who work on a regular basis for 40 or more hours each pay period and for a substantial period of time should be provided with an appropriate level of fringe benefits. This policy is not intended to apply to employees hired on a seasonal basis.
2. Part-time Positions Paid on an Hourly Basis: The following shall be paid on an hourly basis:

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

3. Part-time Positions Paid on a Biweekly Basis:

Positions, except those referenced in C-1, 2, and 3 above, which are at least one-half time but less than full-time, shall be appropriately compensated as half or three-quarter time positions paid on a biweekly basis rather than an hourly basis, if they average at least 40 hours a pay period annually (60 for three-quarter time) and require at least 40 hours of work (60 for three-quarter time) in each of 24 of the 26 annual biweekly pay periods.

4. Overtime Pay: Part-time employees are eligible for overtime pay in accordance with the following:

a. One-half and three-quarter time employees:

(1) are eligible for regular rate compensation in the form of pay or compensatory time credits for all time worked in excess of their scheduled workweek up to 40 hours per week.

(2) such employees are eligible for premium rate overtime for all time worked in excess of 40 hours in their workweek and must receive pay for such overtime.

b. Hourly Employees:

(1) are eligible for premium rate overtime pay for all time worked in excess of 40 hours in their workweek and may not receive compensatory time credits in lieu of pay.

c. Such employees may not count compensatory time or compensated leave as hours worked in the overtime calculation.

5. Fringe Benefits: Part-time employees paid on a biweekly basis are eligible for holidays, annual leave, and other leaves as provided in Civil Service Rule X. All part-time employees may be eligible for Military Leave as provided in Civil Service Rule X.

6. Present Employees: Employees who would be hired on an hourly basis according to this policy, but who are now paid on a biweekly basis, may remain in that status until the termination of their current employment.

C. PROCEDURE

1. The Personnel Department will review the payroll records of all hourly employees every six months. Appointing authorities will be informed of those employees who qualify for benefits and take appropriate action.
2. If an employee is hired as an hourly employee, and the appointing authority intends to work the employee 40 hours or more per pay period, on a regular basis for a substantial period of time, the appointing authority should insure compliance with this policy.
3. The City Manager's designee will periodically review the payroll records of all hourly employees. Union may meet periodically with the City Manager's designee to discuss and attempt to resolve problems in the application of this Regulation especially those involving the conversion of hourly employees to part-time status.

ARTICLE 45

Holidays

A. Fixed Holidays will be:

1. January 1;
2. Third Monday in January, known as "Dr. Martin Luther King, Jr.'s Birthday;"
3. Third Monday in February, known as "Presidents' Day;"
4. March 31, known as "Cesar Chavez Day;"
5. Last Monday in May, known as "Memorial Day;"
6. July 4;
7. First Monday in September, known as "Labor Day;"
8. November 11, known as "Veterans' Day;"
9. Fourth Thursday in November, known as "Thanksgiving Day;"
10. December 25; and
11. Every day appointed by the City Council for a public fast, thanksgiving or holiday.

If January 1st, March 31st, July 4th, November 11th, or December 25th falls on a Sunday, the Monday following is the City-observed holiday, and if they fall on a Saturday, the preceding Friday is the City-observed holiday.

B. Floating Holiday

In each fiscal year covered by the term of this Memorandum each eligible employee available for a duty assignment on July 1, (as defined in Personnel

Regulation H-2) shall accrue credit for hours of holiday time equal to the hours worked in the employee's shift up to ten (10) hours. Each employee accruing such time shall comply with the following conditions:

1. Employee must schedule prior to June 1;
 2. It must be a one time absence and it must be used before the last day of the last full pay period in June; and
 3. At a time convenient to the employee's appointing authority.
- C. Half-time, three-quarter time and full-time employees who are scheduled to work a shift of five, seven and nine or more hours on a fixed City holiday, shall be credited with one or more additional hours of holiday time respectively, for use on that holiday.

ARTICLE 46

In House Committees

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

ARTICLE 47

Exchange of Days Off Between Employees

Employees in classifications which call for work to be performed seven (7) days per week may exchange days off with employees of the same classification under the following conditions:

1. Both parties to the exchange must be willing to make the exchange and must have the approval of the immediate supervisors concerned.
2. Generally speaking, exchanges of days off will be kept within the division, section, shift or watch, crew and/or work site location unless, on an individual basis, the supervisors of the parties to the exchange otherwise agree.
3. When practical, requests for exchange of days off shall be made in writing at least five (5) days prior to the first day of exchange.

4. An employee must report for the exchanged days off and with the exception of illness, the employee who otherwise fails to report shall be carried absent without leave.
5. To avoid administrative problems, exchange of days off must be made within the same **workweek** by both parties.
6. Such trades must be made in accordance with the provisions of the Fair Labor Standards Act.
7. Such trades will not be approved if they result in an increased cost to the City.

ARTICLE 48

Direct Deposit

The City agrees to implement direct deposit of employee paychecks to an expanded network of financial institutions.

All employees will be required to provide authorization to the City **Comptroller** 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.

An employee who does not have a financial institution at which to provide electronic transfer accessibility may pick up his/her paycheck at a designated location within the downtown City Hall complex, after 4:00 p.m. on paydays, or have the paycheck mailed to the address of the employee's choice.

The parties will both communicate and promote the availability and advantages of automatic deposits of paychecks through their respective communication means.

ARTICLE 49

Supplemental Pension Savings Plans/401(k)

A. SPSP

SPSP 3% Mandatory Match Waiver or 3% Pay Deduction

1. **Effective with the pay period beginning July 11, 2009, each employee will elect between: (i) waiving his or her right to receive the City's mandatory 3% match of contributions into**

the SPSP Plan, or (ii) taking a 3% deduction from all SPSP-eligible compensation. Failure to execute an election by the designated date or within fifteen (15) work days after returning to active payroll or from approved leave will result in an automatic 3% deduction from all SPSP-eligible compensation. Employees may not change their election during the term of this MOU.

2. Each employee who waives the City's mandatory SPSP match will have the option to continue or stop making his or her mandatory SPSP contribution (in its entirety) while the waiver of the City's matching contribution is in effect. If the employee elects to discontinue making his or her mandatory 3% contribution, the employee must also waive the right to increase his/her voluntary SPSP contributions beyond the percentage the employee had selected during the payroll period ending April 3, 2009.
3. As this provision does not apply to SPSP-H, all Hourly employees will receive the 3% deduction from all SPSP-eligible compensation.
4. All benefits under the SPSP plan shall be eliminated for any and all fulltime benefitted Lifeguards hired by the City after June 30, 2011.

(This section regarding SPSP is repeated in its entirety in Article 21.)

The parties agree that a new Supplemental Pension Savings Plan will be implemented for all new employees hired on or after July 1, 1986. For these employees the voluntary contribution will be reduced from 4.5% to 3.05% to offset the Medicare tax. Future increases in the Medicare or Social Security tax will result in corresponding decreases in the SPSP contribution for the City and the employees.

This change will not effect or change the current SPSP Plan for employees hired prior to July 1, 1986.

The parties agree that an early retirement provision will be added to the Supplemental Savings Plans so that distributions prior to age 59-1/2, but within the City's normal retirement age provisions, will not be subject to the 10% excise tax on early distributions.

Recent legislation mandates that all employees be covered by a retirement plan effective July 1, 1991. This impacts all hourly employees in the units represented by Union since they do not participate in any retirement system. Mandatory

participation for these employees in a version of the Supplemental Pension Savings Plan is agreed to by the parties in order to comply with this mandate.

The City and Union agree to the adoption of a new SPSP(H) plan coverage for hourly employees to avoid compulsory inclusion in the Social Security System as mandated by the Omnibus Budget Reconciliation Act of 1990. These new Federal regulations mandate Social Security for employees not covered by a “retirement system.” Current hourly employees, who are not participating in the City Retirement System do not meet the requirements of the regulations and must be covered by Social Security or a “retirement” plan effective July 1, 1991.

In order to comply with this new Federal law, the City and Union agree to the implementation of a new SPSP-H (hourly) Plan for hourlies with the following key elements:

- 3.75% employee contribution matched by a 3.75% City contribution to meet 7.5% minimum requirement.
- 100% immediate vesting.
- Monies must remain in plan until termination.

The City and Union agree to study the feasibility of establishing a program which allows employees to borrow against their vested SPSP contribution.

B. 401(k)

The City agrees to change the structure of the 401(k) Plan in order that each employee participant may determine the type and mix of his or her investment in the Plan (e.g., Socially Responsive, Aggressive Growth, Long Term Growth, etc.) in the same or similar manner to the choices available to participants in the Deferred Compensation Plan. As part of this restructuring, a reasonable administrative fee will be established on each 401(k) account by the plan administrator which will not exceed approximately \$23 annually.

All part-time benefited employees shall be eligible to participate in the 401(k) plan that is offered to full-time benefited employees.

ARTICLE 50

Employee Counseling

A. Job Counseling:

Employees who are interested in promotional opportunities or a transfer to a different department or to another classification should call the Personnel Department. (Telephone: 619-236-6400). (See also Personnel Manual Index Code E-7, Transfers and Demotions.)

B. Financial Counseling:

If an employee's supervisor receives notification from a firm, collection agency, or other source that a debt is owed by the employee, the information should be immediately turned over to the employee. The supervisor should not attempt to ascertain the validity of the debt, collect the money, or determine the method of payment. This is a personal matter between the employee and the creditor. The supervisor may suggest that the employee seek financial counseling, if necessary, and refer the employee to the Rehabilitation Unit for appropriate community resources for financial counseling.

C. Retirement Counseling:

An employee who is planning retirement, or who is leaving City employment, should consult the Retirement Office (**619-525-3650**) to discuss available retirement benefits, and the SPSP Administrator in the Risk Management Department (**619-236-6600**) regarding the Supplemental Pension Savings Plan (SPSP) to discuss payout of the plan.

ARTICLE 51

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.

Employees participating in the Employee Transportation Incentive Program (ETIP) shall pay 50% of the public daily rate, for up to 52 instances per year. Participation in this program is limited, and available on a first-come first serve basis.

B. The City will provide 75% reimbursement up to \$100 to those employees who wish to purchase monthly passes for transportation on the public bus and/or

trolley, and commuter rail service, or who ride bicycles to work and utilize bicycle lockers. Such passes 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 City approved 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 reimbursements. Employees in violation of these provisions shall have their Transportation Incentives discontinued.

- 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.

ARTICLE 52

Labor Management Committee

The Management Team and Union will establish a joint committee for the purpose of discussing common problems including, but not limited to, safety issues and policies, contract interpretation and administration, application and administration of the grievance procedure, the exceptional merit cash payment program, Supplemental Pension Savings Plan, air quality in City buildings, alternate work schedules, and use of limited appointments.

The Committee shall meet quarterly, or more frequently if needed, at a time and for a duration that is mutually agreeable to both Management and Union. Union and Management will be able to appoint three members to this Committee.

ARTICLE 53

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 54

Overtime

- A. For the purposes of overtime compensation, the compensatory time limits set forth in Administrative Regulation 95.01 shall be amended to permit employees to accrue 120 hours of compensatory time off. By the end of the fiscal year, however, compensatory time balances must not be in excess of 45 hours.
- B. The City agrees to evaluate the current process of making overtime opportunities available to Lifeguards II and to make reasonable efforts to increase the equity of this process, recognizing that skill levels and availability must continue to be considerations in the process. The goal will be to provide opportunities as equally as reasonably possible considering the skill level of the vacancy and of the available lifeguard personnel who wish to work overtime.

ARTICLE 55

Layoff

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

The City will make its best efforts to counsel and place employees in alternate jobs when subject to layoff.

The City's layoff procedures currently provide for an order of layoff for permanent employees in a class determined by Citywide seniority. Seniority shall be based upon the employee's most recent hire date with the City without a break in service.

ARTICLE 56

Repair or Replacement of Employees Property

Risk Management will process employee claims submitted under Administrative Regulation 35.70, "Repair or Replacement of Employees Personal Property", within 30 calendar days of receipt. Disallowed claims may be appealed to the City Manager or his designee who shall conduct a hearing and such other investigation as is appropriate.

ARTICLE 57

Long Term Disability/Industrial Leave

A. Industrial Leave

For claims filed based on a work related illness or injury occurring on or after July 1, 1994, the City will implement the following changes to the Industrial Leave Policy. The actual policy (A.R. 63.00) should be consulted for detailed language.

1. Industrial Leave payments will not be granted for any injury which occurs as a result of a motor vehicle accident where available safety restraints are not in use, unless Departmental policy permits.
2. Industrial Leave benefits will be terminated when an employee misses a medical appointment designed to determine the employee's work status, upon determination that the failure to attend the appointment was not excusable.

B. Long Term Disability

The parties agree to reopen this MOU in order to meet and confer over a new Long Term Disability Plan.

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.

1. There are changes related to mental or nervous disorders.
2. The Plan will not pay benefits to any employee whose disability was caused by his or her employment with the City of San Diego except as follows:
 - a. Any industrial disability occurring on or after July 1, 1994, caused by employment with the City of San Diego if a period of twelve (12) months of Industrial Leave coverage has been exhausted for such disability. LTD coverage will 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(B).
 - b. For payment purposes, the definition of the term "basic bi-weekly earnings" for purposes of calculating long-term disability

benefits shall mean the earnings in effect on the date the employee is removed from work due to his/her disability or due to any recurrence of his/her disability.

C. Flexible Benefits

1. 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 coverage.
2. 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.
3. 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.
4. When an employee suffers a work-related injury or illness but is not eligible for industrial leave benefits, the City shall continue to pay the flexible benefit allocation on his/her behalf for the period of his/her temporary total disability and/or participation in internal vocational rehabilitation, not to exceed a total of twelve months.

D. Wellness Program

The City's Human Resources Department will request that the City's Risk Management Department review the cost of the Wellness Program for the bargaining unit and determine if the cost of the program would be offset by savings such as reduced workers' compensation claims, reduced overtime and any other costs incurred by the City as a result of an employee's absence, injury and illness.

ARTICLE 58

Out-of-Class Assignments

Employees represented by Union shall be compensated for out-of-class assignments on the 31st continuous day of assignment or on the 31st day of cumulative out-of-class assignments in the same classification. Out-of-class assignments shall accrue on a fiscal year basis only. Accumulated days will not be carried into the next fiscal

year. An employee in an out-of-class assignment shall receive an increase at least equal to that which would be given if the employee were promoted to the same class from an eligible list established by a promotional examination.

The City agrees that all out-of-class assignments, regardless of number hours worked in a pay period, shall be recorded in the employee's personnel file.

For employees in classifications in the Lifeguard Unit and Supervisory Lifeguard Unit, appointing authorities shall give first consideration for appointment to an out-of-class assignment to employees on the eligible list for the class in which a vacancy occurs, except in those cases in which the specialized needs of the assignment or a requirement for an employee with specialized skills necessitates appointment of an employee not on the eligible list. In OCA assignments in excess of 30 days where specialized needs are required, the Appointing Authority will advertise Division-wide.

Management has discretion to determine when out-of-class assignments will be made. Management agrees to provide equal opportunity on a rotational basis for such out-of-class assignments to persons on the eligible list and will consider the seniority, availability, training and job performance of employees when making such divisional assignments. In the event that there is no eligible list, the appointing authority will provide equal opportunity on a rotational basis to eligible employees and will consider seniority, availability, training, and job performance in making such assignments. If the out-of-class assignment lasts over five (5) days, an employee's current shift or station assignment shall not preclude their eligibility for out-of-class assignment.

Out-of-class assignments shall not exceed thirty consecutive days nor shall a series of out-of-class assignments to any one vacant position exceed thirty calendar days without approval by the Personnel Director. Out-of-class assignments shall not be made for the purpose of avoiding filling a position by a limited or permanent appointment.

An employee who is not on an existing or expired eligibility list for the particular class will not be assigned to an out-of-class assignment which would result in the employee's supervising his or her current supervisor.

ARTICLE 59

Implementation of New Programs

Prior to implementation of any new programs, the City will give the Union advance notice in writing so that the parties may address the impact of any such programs on wages, hours, and working conditions.

The City will make its best efforts to give the Union at least 30 working days advance notice.

ARTICLE 60

Confidentiality of Medical Information

- A. The City, its officers and employees, shall respect the confidentiality of employee medical records and shall abide by the guidelines set forth in Personnel Manual Section J-4.

- B. The City acknowledges that an employee's constitutional right of privacy entitles an employee to decline to disclose or to permit his or her physician to disclose the nature of an illness, diagnosis or prognosis unless otherwise required by Workers' Compensation statute, by the employee application for Industrial Leave or Long Term Disability benefits, State or Federal Law, application for employment, or required as part of a City mandated physical examination. To the extent that an employee's absence(s) due to illness have or may result in discipline or placement on a "doctor's list," the employee, at his or her own option, may disclose these details to the appropriate person in his or her chain of command or directly to the Department Head if the employee wishes. Because of this acknowledged right of privacy, the form for an employee's request for a leave of absence shall not require disclosure of the nature of an illness or require authorization for release of a medical provider's records.

ARTICLE 61

Department Work Rules

Management agrees to make available to the Union current written departmental and divisional policies, instructions and work standards. As reasonable additional departmental policies and instructions are developed and published, the City will make available copies to Union and employees. Such policies shall be uniformly applied. However, the obligation to make available copies of current and future departmental and divisional policies, instructions and work standards shall not extend to ones which describe confidential or security procedures.

All departmental and divisional policies, instructions, and work standards shall conform to the Civil Service Rules, Personnel Regulations and Memorandum of Understanding.

ARTICLE 62

Time Off for Blood Donation

An employee shall receive paid release time, not to exceed two hours, when he or she donates blood at the annual Lifeguard blood drive and/or in response to an emergency request from the Blood Bank. The City shall release the employee for the actual time the employee spends in any travel to and from the Blood donation site, as well as for the time spent at the site, in any event not to exceed a maximum of two hours of release time. The employee shall submit his or her "blood receipt" to the payroll clerk as verification of the donation.

ARTICLE 63

Call-Back Pay

A. Call Back Pay

An employee who has been released from work and has left the work premises and is called back to duty, shall be paid for the reasonable estimate of the time required for said employee to travel from and to his or her residence and the work area and for the time the employee actually works. The total time of call-back pay, including travel time, shall not be less than four (4) hours, and shall be computed at the employee's premium overtime rate. This call back pay provision shall also apply under circumstances where the employee is issued a call back order before he/she leaves the workplace at the end of his/her shift.

B. Call Back Pay Exceptions

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

1. 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;
2. 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;
3. When an employee is required to attend a meeting scheduled before or after the employee's shift, and which is contiguous with the shift;

4. 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 other not specifically identified as entitling an employee to the four-hour minimum, the employee should receive compensation only for the time actually worked, or spent in court or meetings before or after his/her shift.

ARTICLE 64

Objective Hearing Officers

Objective Hearing Officers will be assigned to hear disciplinary appeals at the department level. Objective means a managerial employee who has not conducted the fact finding or investigation which lead to the proposed discipline and is not the person recommending the discipline. The primary responsibility for conducting a disciplinary investigation and the resulting advanced notice of disciplinary action when warranted will be delegated by the Appointing Authority to someone other than the individual prospectively responsible for hearing an appeal of such action. The individual delegated the primary responsibility will also sign the Advance Notice. This language is in no way intended to preclude any managerial employee from the normal managerial review of actions recommended within a work unit.

The Appointing Authority may delegate the appeal hearing officer responsibility to any supervisory or managerial employee at least one level above the employee requesting appeal. Exceptions may be granted by the **Human Resources Director**. In any event, Union represented employees will not act as hearing officers for terminations of any employee in a job class represented by Union.

ARTICLE 65

Workloads

After a section undergoes a reduction, Management will prepare a plan demonstrating how the work will be restructured, reassigned or delayed. Additionally, new or revised work expectations, standards and adjusted timelines for work product will be developed.

Before and after implementation of the plan, Management shall meet with impacted employees for input. Opportunities for follow-up, feedback and proposed adjustments in the reorganization plan will be provided to employees.

ARTICLE 66

Overpayments to City Employees

If it has been discovered that an overpayment or unauthorized payment has been made to a City employee, it is the responsibility of the department to notify the employee in writing and supply the employee with the documentation used to determine the overpayment.

If the employee contends that any portion or the entire amount is not owed, he or she may request a meeting with the appointing authority to attempt to resolve the disagreement. If the dispute about the payment originates in another department, the employee has a right to request a meeting with the appointing authority in that department. The employee may have a representative attend such meeting(s) with him or her.

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

Repayment of Funds

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

The employee shall have the right to select one of the two following options for the repayment of the funds:

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

The final agreement on the repayment will be committed to writing, with the lump sum payment date, or the biweekly amount and the beginning and ending date of the installment plan identified.

Disputes over repayment of funds which were overpaid to an employee through no fault of the employee, shall not be a factor in employee performance reports or discipline.

Referral to Collections

A department may refer an employee to the Treasurer, Collections Section only when the employee, after being duly notified of the overpayment and having had

the opportunity to review the relevant documentation, refuses to agree to a repayment of the amount owed.

The employee will be notified of the referral and informed that the Collections Section will proceed with collection as it would for any other debtor.

ARTICLE 67

Rights of Industrially Injured Employees to Schedule Medical Appointments

An employee who has suffered an industrial injury, whether on light duty or full duty status, shall have the right to schedule medical appointments, including physical therapy, which are related to treatment of the industrial injury, during his or her regularly scheduled work hours without loss of pay.

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

ARTICLE 68

Catastrophic Leave Plan

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. 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.
 1. 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 **Human Resources Department**.
1. An eligible employee will submit a completed “Request to Establish Catastrophic Leave Bank” form to the **Human Resources Director**, accompanied by:
 - a. A medical statement from the attending physician, including a brief statement of the nature of the illness or injury and an estimated time the employee will be unable to work, or other appropriate documentation supporting the request.
 - b. Evidence of the Department Head’s approval of leave of absence.
- C. Donations of annual leave may be made to an employee eligible for catastrophic leave. The Donor Department will be billed for the dollar amount of the Donor’s Annual Leave donation.
1. Donations of leave will be strictly voluntary; the identity of leave 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 **Human Resources Director** for tracking and submission to the **Comptroller’s Office for processing**.

Donation authorization forms which do not contain all requested information shall not be processed.

- D. Upon receipt of donation authorizations, the **Comptroller's Office** 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.
- 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 69

Union Newsletter Distribution

Union may use the mail system to distribute its **newsletter** or equivalent communication, to all employees in its bargaining unit. **The City agrees to provide Union with a complete list of workplace email addresses for all employees in the bargaining units it represents, as well as a list of all applicable Mail Stations for represented employees, and to update these lists annually.**

ARTICLE 70

New Employee Orientation

The City agrees to provide general information to City employees during new Employee Orientation regarding the applicability of the Meyers-Milias-Brown Act to City employment, and regarding the legitimate status of employee organizations as exclusive bargaining representatives.

Union may provide the pertinent information on its dental and vision plans for presentation by the City during New Employee Orientation, and a Union representative may attend the presentation as an observer. Union may report any inaccurate or improper presentations related to its plans to the **Human Resources Director** for his/her immediate attention.

The City will provide new employees with the forms associated with the various benefits plans during the pre-lunch “benefits” portion of the program.

ARTICLE 71

Identity of Appeal Hearers

The City agrees that Union may bring to the immediate attention of the **Human Resources Director** any occasion when it feels that the Department Head or designee who intends to hear an appeal pursuant to Article 10, Section J, or Article 37 is unduly biased under the circumstances. The **Human Resources Director** agrees to take reasonable steps to assure an employee minimum due process in this regard.

ARTICLE 72

Side Letters

Effective July 1, 1994, all side letters previously in effect between the parties are rescinded.

ARTICLE 73

Training Reimbursement

A. Public Safety Exceptions to Tuition Reimbursements

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

B. Use of Tuition Reimbursement for Job-related Training

One half of the Tuition Reimbursement benefit may be used by an employee each fiscal year for reimbursement of seminars or other training / educational events which will maintain or enhance an employee’s job-related skills or knowledge or contribute to the employee’s broadening and diversification of

his/her skills. An employee shall submit a request for approval of the proposed reimbursable event in advance of attendance and pre-approval by the Department is required for reimbursement. The employee must subsequently submit satisfactory evidence of attendance at the proposed event in order to receive reimbursement. The parties intend the general procedural requirements of the Tuition Reimbursement plan to be applicable except the requirement of a grade. It is the intent of the parties that this provision will supplement rather than replace training funds heretofore made available by departments for the benefit of employees. It is also the intent of the parties that this opportunity to avail oneself of one-half of the tuition reimbursement plan benefit shall be at the initiation of the employee based on his or her proposal for training or education.

C. Tuition Reimbursement Amount

Tuition Reimbursement benefit amount will be \$1,000 per fiscal year.

Administrative Regulation 70.30 will be amended as follows:

2. Policy

2.4 b. An education plan must be approved by the Appointing Authority prior to requesting tuition reimbursement for a specific course. This plan must include:

2.4 f. Requests for reimbursement must be submitted for approval to the Appointing Authority within sixty (60) days of completion of the specific course for which reimbursement is being sought.

3. Requests and Reimbursement - Procedure

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

ARTICLE 74

Appointing Authority Interview Feedback

Upon request, an Appointing Authority involved in a selection interview process shall provide feedback to those candidates not selected which includes how the

candidate's experience and training compared to the announced criteria, and an assessment of candidate's interview skills.

ARTICLE 75

Drug Screening

DMV Drug Screening

The City on 7/1/92 implemented a drug and alcohol testing program (urinalysis) for all employees who undergo the biennial medical examination required by State Law for Department of Motor Vehicles Class A and B drivers' 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 and drug tests will be determined by Management.

Lifeguards Random Drug and Alcohol Screening

A random drug/alcohol screening program shall include all lifeguard personnel covered by this MOU, including lifeguards currently covered by the Department of Transportation Drug Testing Program. The term Lifeguard hereinafter refers to the following classifications:

Lifeguard I
Lifeguard II
Lifeguard III
Lifeguard Sergeant
Marine Safety Lieutenant

A. Procedures

1. **The Fire-Rescue Department, Human Resources Director, and the City Personnel Department's Random Drug Testing Coordinator will administer the Drug and Alcohol Screening Program.**
2. The lifeguards will be tested twice every 18 months through the provision of a urine sample which will be screened for the presence of specific drugs. For lifeguards who are tested under the Department of Transportation's (DOT) Random Drug Testing Program, the DOT test shall count towards the testing requirement under this Article.

3. The drug screening shall be conducted to detect only the following drug groups:
 - a. Amphetamines/Methamphetamines (e.g., Speed, Crystal)
 - b. Benzodiazepines (e.g., Valium, Librium, Oxazepam, Serax, Dalmane, Ativan)
 - c. Barbiturates (e.g., Amobarbital, Butabarbital, Pentobarbital, Phenobarbital, Secobarbital)
 - d. Cocaine
 - e. Methadone
 - f. Ethanol
 - g. Opiates (e.g., Codeine, Heroin, Morphine)
 - h. Phencyclidine (PCP)
 - i. THC (Marijuana)
4. Lifeguards will be selected through a computer generated random selection process.
5. Lifeguards may provide appropriate documentation of legally prescribed drugs. Such documentation shall be included in the review of test results.

B. Sample Collection

1. Medical Contractor's personnel will be responsible for obtaining the urine sample from the lifeguard being tested.
2. Medical Contractor's personnel will be available for test processing between 0800 and 0200 hours, 5 days a week, to allow lifeguards to be tested during normal work hours. (Hours vary at some Medical Contractor locations.)
3. Medical Contractor's personnel will not observe as the sample is being given.
4. Lifeguards selected for testing 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 lifeguard's shift begins. Refusals or failures to complete the test as required will

be referred to the **Fire-Rescue Department** and Human Resources Director for investigation.

5. At the Medical Contractor's site, the lifeguard being tested will:
 - a. Identify himself/herself by presenting his/her City identification or California driver's license.
 - b. Complete requested paperwork.
 - c. Remove jackets, bags, or other bulky items of clothing prior to entering the testing area.
 - d. Provide a urine sample.
 - (1) Lifeguards will be required to stay within the Medical Contractor's facility until the required sample is given.
 - (2) Sample must be at least 45 ml, the minimum amount required for testing purposes.

6. At the Medical Contractor's site, the Medical Assistant (MA) will:
 - a. Direct the lifeguard being tested to a private lavatory.
 - b. Assure that the lavatory is secured in accordance with established City procedures (as detailed in the contract with the Medical Contractor).
 - c. Wait outside of the lavatory for the sample.
 - d. Upon receipt of the urine sample, and in the presence of the lifeguard, the MA will:
 - (1) split the sample into two unused separate containers which will be referred to as the test sample and control sample.
 - (2) seal the containers.
 - (3) complete the appropriate chain-of-custody forms for the samples, and ask the lifeguard to sign and initial the chain of custody forms and documents.
 - e. The MA will refrigerate both the test sample and control sample until picked up by the laboratory courier.

C. Screening Procedure

1. The initial screening of all collected samples will generally be conducted within 48 hours of receipt by a City designated laboratory certified by the Substance Abuse and Mental Health Services Administration (S.A.M.H.S.A.).
2. Initial screening of urine samples will be conducted using a testing methodology based primarily upon an “Enzyme Immunoassay” or other testing methodology of equivalent quality and acceptability.
3. If a confirmation test is conducted, it will be conducted by Gas Chromatography/Mass Spectrometry (GC/MS) testing or other testing methodology of equivalent quality and acceptability.
4. Upon receipt of a sample for testing, the designated laboratory will:
 - a. Check the container to ensure it is not damaged, and that the seal is intact.
 - b. Complete the appropriate “chain-of-custody” forms for the sample.
 - c. Conduct the initial testing of the sample using an “Enzyme Immunoassay” technique or other testing methodology of equivalent quality and acceptability. Results of the initial test should be known within 24 hours.
 - d. If the sample tests “negative,” all urine samples will be discarded.
 - e. If the sample tests “positive,” a confirmation test will be performed for the specific drug(s) found in the sample during the initial test.
 - f. If the confirmation test confirms the presence of drugs, any remainder of the test sample and the entire control sample will be retained in a locked freezer for a minimum of one year.
 - g. If the confirmation test is “negative,” the whole test will be considered negative.
5. Alcohol Test
 - a. The standard for alcohol testing will be the converted urinalysis equivalent of a blood alcohol level of 0.04 percent.

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

D. Reporting Test Results

1. Test results will be provided to the City Personnel Department’s Random Drug Testing Coordinator by the Medical Contractor.
2. The lifeguard will be notified of his/her test results in writing without delay.
3. If test results are positive for legally prescribed drugs, the City Personnel Department’s Random Drug Testing Coordinator will request the lifeguard to provide acceptable documentation, such as a medical prescription or doctor’s statement, to explain the presence of this drug.
4. If test results are positive for alcohol (.04 or above), illegal drugs or inadequately explained legal drugs, the **Fire-Rescue Department** and Human Resources Director will be notified and will be responsible for initiating an investigation, resulting in the issuance of disciplinary action to be held in abeyance and a Last Chance Agreement to the lifeguard.
5. Alcohol test results below the 0.04 level shall be cause for mandatory referral of the lifeguard 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 lifeguard is on a Last Chance Agreement. The Personnel Department shall be responsible for making the referral of the lifeguard 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 **Fire-Rescue Department** of the test result or the referral of the lifeguard 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-Rescue Department** for appropriate action. **Fire-Rescue Department** 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.

E. Independent Testing

1. If the test results are positive, the affected lifeguard shall have the right to request independent testing of the control sample. That request must be made in writing and addressed to the Personnel

Department's Random Drug Testing Coordinator. The affected lifeguard will be placed on light duty while the control sample is being tested.

- a. The right of the lifeguard to independent testing of the control sample shall include the right to designate the laboratory, which must be a S.A.M.H.S.A. certified laboratory.
- b. The control sample will be transported by a courier designated by the original testing laboratory to the testing laboratory designated for the independent test.
- c. All costs associated with independent testing shall be borne by the City.

F. Program Records

1. All drug testing information relating to individual lifeguards is strictly confidential.
2. All records related to the program shall be maintained as directed by the Fire-**Rescue Department's** Human Resources **Manager**.

G. 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, the Department shall not be precluded from taking further action.

H. Last Chance Agreement

1. Violation of the Last Chance Agreement may result in termination of employment.
2. The Last Chance Agreement will be held in a sealed envelope for one year after the conclusion of testing for the Last Chance Agreement to be considered for additional action up to termination. The disciplinary action issued as a result of testing positive will be removed upon successful completion of the Last Chance Agreement.
3. Last Chance Agreements will begin after the employee's first visit to the Employee Assistance Program (EAP). The employee will provide written verification from EAP to the Human Resources Division that the first visit has occurred.

4. Employees who are on a Last Chance Agreement will not be eligible for special assignments within **Fire-Rescue Department**.
5. The Last Chance Agreement Form currently utilized in **Fire-Rescue Department** is the form to be used for Lifeguards covered under this Article.

ARTICLE 76

Parking Subsidy

Management agrees to make its best effort to negotiate with Parking Facility Providers reduced rates comparable to those at the City Concourse for employees assigned to City facilities.

ARTICLE 77

Military Leave

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

ARTICLE 78

Reimbursement of Emergency Meals

Effective July 1, 2002, employees who ordinarily qualify for a meal during the performance of after hour emergency work shall, with the proper receipts, be reimbursed up to \$12.00. Effective July 1, 2003, the reimbursement amount shall increase up to \$13.50 and effective July 1, 2004, it shall increase up to \$15.00.

ARTICLE 79

Bereavement Leave

Effective July 1, 2005, paid bereavement leave of up to three days is available upon the death of an employee's spouse, father, mother, brother, sister, son, daughter (including step-, foster, or adopted son or daughter), or state-registered domestic partner, with a limit of one eligible death per fiscal year. **Proof of death (death**

certificate, obituary, funeral program, etc.) must be provided in order to receive Bereavement Leave, which is in addition to Annual Leave.

ARTICLE 80

Alcohol Consumption Prohibited

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

[A. R. 97.00 will be changed to conform to this provision.]

APPENDIX A: Bargaining Units

SUPERVISORY LIFEGUARD UNIT

Lifeguard Sergeant
Marine Safety Lieutenant

LIFEGUARD UNIT

Lifeguard I
Lifeguard II
Lifeguard III

APPENDIX B: Uniforms

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

Items Required:

Wetsuit*
Wetsuit Hood
Hat
Dress Shirt (3)*
Trousers (3)*
Dress Shoes (Class A)
Tennis Shoes
Orange Float Coat (1)* (BSU members only)
Swim Shorts (2)
Swim Suits – Female (2)
Fins
Name Tag (2)*
Belt *
T-shirts (3)
Sweats (2)
Sunglasses
Shoes with Non-Slip Soles (2) (Boating Safety Unit Members Only)*
Shorts, Navy Blue (2) (Boating Safety Unit Members Only)
Golf Shirts (5)*
Nylon Windbreaker with fleece flannel lining*
“Third Reef” Foul Weather Jacket
“Third Reef” Foul Weather Trousers
“Third Reef” Foul Weather Boots
Equipment Bag

*Uniform Reimbursement Items

LIFEGUARD II (Hourly)

Items Required:

Hat
Wetsuit*
Swim Suit
Fins
T-Shirts (3)
Sweats (2)
Sunglasses

LIFEGUARD I (Hourly)

Items Required:

Hat

Swim Suit

Fins

T-Shirts (3)

Sweats (2)

Wear Guard Lightweight Jacket Model #401 (optional)

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

APPENDIX C: Smoking Policy

No smoking in the workplace.

APPENDIX D: Appearance Guidelines

All **bargaining unit** employees shall maintain a professional appearance through attire reflecting the specific requirements of his/her job duties.

All employees shall dress in clean clothing, free of tears.

Each employee shall maintain an inoffensive level of personal hygiene.

Each employee shall wear any required safety equipment.

No employee may wear any article of clothing, which bears a sexually suggestive or profane symbol or word.

All bargaining unit employees shall adhere to the Lifeguard Division Uniform Policy.

These guidelines establish minimum standards normally applicable. They will be reasonably applied in order to accommodate the various situations not susceptible to enumeration.

IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding effective July 1, **2009** – June 30, **2011**, to the appropriate bodies.

CALIFORNIA TEAMSTERS LOCAL 911

CITY OF SAN DIEGO

Ray Whittmer
Secretary Treasurer

Scott Chadwick
Human Resources Director

Chester Mordasini
President

Lordes N. Silva
Labor Relations Officer

Bill Bowers
911 Consultant

Rick Wurts
Lifeguard Chief

Ed Harris
Lifeguard Sgt.

Jeff Carle
SD Fire Assistant Chief

Casey Owens
Lifeguard Sgt.

Timothy Davis
Lead Negotiator

James Gartland
Lifeguard Sgt.

Eric Jones
Lifeguard II

Chris Zimmer
Lifeguard II

Alex Riley
Lifeguard II

Rob Brown
Lifeguard II

Larry Sanders
Lifeguard III