

MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING made and entered into this 1st day of JULY, 2012.

BY AND BETWEEN

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

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Parties to the Agreement

This Memorandum of Understanding (**MOU**), is **made and** entered into **on July 1, 2013**, by and between the City of San Diego (**City**) and **San Diego City Firefighters, International Association of Firefighters Local 145**, hereinafter referred to as **Local 145**.

ARTICLE 1

Payroll Deductions

- A. It is agreed that Local 145 dues, assessments, and other authorized deductions shall be deducted by Management from the salaries of each member and past member with a valid withdrawal card, **when the deductions are authorized by Council Policy 300-06, Employer Employee Relations Policy, section VI (B). Employees must file a written authorization requesting that the deductions be made.** Remittance of the aggregate amount of all deductions shall be made to **Local 145** by Management biweekly. All deductions shall be wire transferred to the pre-designated Local 145 accounts. There will be no cost to Local 145 for this transfer.
- B. Deductions shall be for a specified amount or for total compensation and shall be made only upon the voluntary written authorization of the member or past member with a withdrawal card. Deduction authorization or cancellation shall be made on clearly marked cards provided by City and **Local 145** in accordance with past procedures.
- C. **Local 145** shall disburse funds received from City in accordance with the deduction authorizations received.
- D. **Local 145** shall indemnify, defend, and hold City harmless against any claims or suits instituted against City contesting the collection or dispersal of any authorized deductions. In addition, **Local 145** shall refund to City any amounts paid to it in error upon presentation by City of evidence supporting the error.
- E. **Special Deduction – Fire Fighters’ Aid Fund – Mass Changes.**
1. The Office of the City Comptroller, upon receipt of notification from Local 145, shall deduct the specified amount from the paychecks of members of the fund.
 2. Mass changes of this nature shall not require individual authorization.
- F. If an employee submits a payroll deduction authorization change to City which has not been processed by Local 145, City will forward a copy of the change notice to Local 145.
- G. All employees will be required to provide authorization to the **Office of the City Comptroller** to electronically deposit their paychecks to a financial institution of their choice (subject to electronic compatibility). Employees shall not **be required** to change financial institutions if their financial institution is not compatible with the wire transfer.

ARTICLE 2

Trades

- A. City agrees to continue the practice of allowing employees to trade work schedules, subject to the provisions of the Fair Labor Standards Act (**FLSA**). Disputes regarding the impact of **a trade or trades** upon hours worked for retirement **and** overtime computation purposes, shall be resolved by reference to the records maintained by Department payroll.
- B. Approval of trades will be subject to the staffing requirements of the **San Diego Fire-Rescue Department (Department)** as determined by the **Fire Chief** or his **or her** designee. Once a trade has been approved, the employee who accepts the trade assumes the responsibility for completing the assigned shift.
1. **Trades shall be limited to the exchange of scheduled work shifts, time for time, between two employees of the same classification.**
 2. **All trades must be between the original employees agreeing to the trade. All trades of scheduled shifts must be completed within one year.**
 3. **Trades of will-work assignments of four hours or less will be allowed with the proper payroll documentation.**
 4. **The above procedures apply to all trades regardless of the amount of time involved.**
 5. **Employees shall be allowed to trade holidays within the twenty-eight-day cycle.**
- C. Fire Engineers wishing certification on equipment for which they have not previously been certified, shall make a request to the Fire Chief or his **or her** designee. To the extent feasible, the Fire Chief shall arrange for **the** Fire Engineer to be assigned to a work station where he **or** she can achieve such certification during his **or** her normal work shift.

ARTICLE 3

Will - Work List

- A. **Local 145** agrees to support a **will-work** list consisting of sufficient numbers of volunteers to fill normal staffing vacancies. An employee who has volunteered for the **will-work** list may remove his **or** her name from that list any time prior to being called for work. In the event that there are insufficient numbers of suitable volunteers, **Local 145** agrees to the use of **mandatory call-back** according to the agreement in the Transfer Policy Manual.
- B. Members wishing to volunteer for will-work will use the approved methods outlined in the Telestaff Manual and in the Transfer Policy Manual as incorporated in this **MOU**.

- C. Changes to the existing transfer policies shall be **made** by mutual consent **of the Parties**. Local 145 agrees to meet and confer in **Fiscal Year 2004**, through impasse to the City Council, over SDFD proposed changes to the Transfer Policy Manual.
- D. City and Local 145 agree to develop a section in the Transfer Policy Manual that will outline a bidding procedure to transfer among the various sections in the Fire Prevention Bureau. Said policy will further clarify the procedures for transferring from **forty-hour** assignments to **fifty-six-hour** assignments.

ARTICLE 4

Seniority

- A. **The Parties** agree that layoffs shall be governed by the provisions of Civil Service Rule V. Changes to Civil Service Rule V which affect members of Local 145 shall be by mutual consent **of the Parties**.
- B. For purposes of this Article:
 - 1. City-wide seniority shall mean service in a classification regardless of the department or division.
 - 2. Right of competition shall mean the right of an employee who has been laid off to compete for positions in lower classes in which he or she has served satisfactorily, subject to the superior rights of any other employee who has been laid off.
- C. In cases of intra-**D**epartmental processes, seniority shall be established as follows:
 - 1. Relative seniority among employees in the same Academy hired into the Fire Fighter classifications will be established by class standing in their Academy.
 - 2. Relative seniority among employees promoted into the same classification on the same effective date shall first be established on the basis of seniority in the classification from which they were promoted. In the event seniority is equal in that classification, standing in the **A**cademy will be used to determine seniority. If a tie remains, a lottery shall be used to determine seniority. The Department will make a reasonable and documented effort to offer the opportunity to attend the lottery to all **P**arties with a material interest in the results.

ARTICLE 5

Provisions of Law

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

ARTICLE 6

Employee Rights

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

ARTICLE 7

Station and Work Site Living Conditions

- A. City agrees to continue to furnish and maintain in proper working condition those items or facilities now provided for all represented personnel which are considered to be essential living conveniences. Items that will be replaced include, but are not limited to, mattresses, microwaves, refrigerators, tables and chairs, carpet, washers and dryers, heating and air conditioning systems, exhaust extraction systems, David Clark Communication Systems, and station fencing. City agrees to initiate repairs or replace the above-referenced equipment within one month of official notification of need. Department must meet and confer with Local 145 on modifications of station sites and space utilization of station sites should modifications **to station sites** impact working conditions.
- B. City will provide **Local 145** with a copy of the Capital Improvement Program as it relates to Department facilities, **after** the City Council has approved the CIP budget.
- C. City will ensure that employees are held reasonably accountable for **the security of** their uniforms and related equipment during their assigned shifts.
- D. Nothing in this Article shall be interpreted to prevent City from complying with applicable state health and safety laws. City shall comply with applicable federal, state, and local health and safety laws **on a timely basis**. City and Local **145** shall jointly study National Fire Protection Association standards for training and equipment for future adoption.
- E. In the event a repair necessitates closure of a facility for more than **forty-eight** hours, on-site alternative accommodations will be made available.

ARTICLE 8

Mileage Allowance

- A. City agrees to reimburse members of the **Bargaining** Unit for use of their private vehicles to travel from one work station to another work station when **the** travel results from a reassignment of work station during the employee's normal work hours. City agrees to reimburse members of the unit for the use of their private vehicles in the event they are on page and are called back to work.
- B. **“C” Mileage reimbursement will be paid in accordance with the current IRS Standard Mileage Rates for business reimbursement.**

City agrees to notify Local 145 when mileage rates change.

- C. In the event an employee is transferred **to a different work site** after reaching his **or** her normally assigned work site and does not have transportation available, the Department will arrange transportation to the new work site. At the end of the duty shift, the employee has the option of leaving the assigned work site upon being relieved or requesting **that** the Department arrange **for** transportation to the original work site. In the event the employee requests return transportation, the Department shall arrange such transportation as soon as practical. The employee shall be compensated for time spent in excess of one hour waiting for transportation after being relieved by his **or** her replacement.

ARTICLE 9

Appendices and Amendments

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

ARTICLE 10

Formal Recognition

- A. City recognizes **Local 145** as the exclusive representative for employees in the Fire Fighter Unit.
- B. The Fire Fighter Unit consists of all employees in the following classes:
1. Fire Recruit
 2. Fire Fighter I
 3. Fire Fighter II
 4. Fire Fighter III
 5. Fire Engineer
 6. Fire Captain
 7. Fire Battalion Chief
 8. Fire Prevention Inspector I
 9. Fire Prevention Inspector II
 10. Fire Prevention Supervisor
 11. Assistant Fire Marshal
 12. Emergency Medical Technician
 13. Paramedic I
 14. Paramedic II
 15. Fire Helicopter Pilot
 16. Air Operations Chief

17. Fire Captain (Emergency Management Coordinator Option)

- C. The Parties agree to eliminate the position of Medical Operations Coordinator pursuant to Article 26 of **this** MOU.
- D. City agrees not to meet and confer with organizations other than Local 145 on matters falling within the scope of representation including, but not limited to, hours, wages, working conditions, and hiring and promotional policies.
- E. In the event that the Department assumes the contract for paramedic services, all paramedic classifications shall be placed in the Local 145 **Bargaining Unit**.
- F. Fire Fighters who were hired as “limited” employees and are performing at a satisfactory level shall be moved into “permanent” positions as **positions** become available.
- G. Effective July 1, 2009, no future hires into the Fire Prevention Bureau will be civilians.
- H. **During the term of this agreement, Local 145 will submit a request to study the appropriate classification for the Emergency Resource Officer position in the Fire Communications Center, through the Personnel Department and the Civil Service Commission as necessary.**

ARTICLE 11

Employee Representation

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

ARTICLE 12

Indemnification

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

ARTICLE 13

Fire/Police Coordination

- A. It is the policy of City for the Department to coordinate **its** activities with the **San Diego Police Department (Police)**.
- B. Department employees will not be required to involve themselves in a Police situation in which the ranking Fire Officer on scene reasonably believes that Department employees are endangered absent Police support.
- C. The Fire Chief shall coordinate with the Police Chief to provide appropriate support in the event Fire Fighters become involved in threatening situations.
- D. Department employees shall not be required to identify suspects while on duty. Fire stations shall not be utilized as suspect I.D. meeting points.
- E. The Fire Chief and representatives from Local 145 will mutually develop a policy on Police and Fire coordination.

ARTICLE 14

Bulletin Boards

- A. City **will** furnish and maintain suitable bulletin boards **to be used by Local 145** in mutually convenient places in each station for the posting of responsible, non-controversial material related to **Local 145** business. **Local 145** shall limit its posting of notices and bulletins to **the designated** bulletin boards, and **Local 145** shall furnish the Fire Chief with a copy of each item to be posted **at the time each item is posted**.
- B. Present locations and space allocations **for bulletin boards** are considered adequate.
- C. As a courtesy, the Fire Chief shall furnish **Local 145** via U.S. Mail with a copy of all correspondence which is directed to be posted in fire stations. Such correspondence shall be **sent via facsimile or emailed to Local 145 twenty-four** hours prior to being mailed.
- D. Local 145 may use City's email system to direct employees to information contained on the Local 145 website. No further use or access of City's email system is authorized unless **the** use pertains directly to the employer-employee relationship. Examples of this relationship include, but are not limited to: communicating with Management or Labor Relations, responding to disciplinary actions or appeals, submitting grievances, and communicating a tentative agreement for ratification purposes. Local 145 agrees to comply with all City policies on the use of City resources.

ARTICLE 15

Modification and Waiver

- A. The Parties shall provide reasonable written notice of any ordinance, rule, resolution, or regulation directly relating to matters within the scope of representation proposed to be adopted **or changed** by the City Council or by the Civil Service Commission, or by the **Retirement Board or by the Fire Chief**, and shall be given the opportunity to meet and confer **with the appropriate person** prior to adoption, as required by law.
- B. In cases of emergency pursuant to the Charter, when City determines that an ordinance, rule, resolution, or regulation must be adopted immediately without prior notice or meeting with **Local 145**, the City Council or the board or commission of City **responsible for changes** shall provide notice and opportunity to meet **to Local 145** at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation.
- C. It is recognized that from time to time, the Department may, in its discretion, issue **Departmental** procedures in writing which pertain to matters not within the scope of representation. In order to provide information to Local 145, the Department agrees to **provide** a copy of proposed written **Departmental** procedures to **Local 145** prior to publication. Nothing in this Article is intended to require or obligate, directly or indirectly, the Department to meet and confer on any subject contained as proposed **Departmental** procedures, which is not within the scope of representation.
- D. All communications or notices required to be **provided to Local 145** by City shall be delivered to the President of **Local 145**, or to the Vice-President in the noticed absence of the President, at his **or her** current **business** address on file in the **Human Resources Department** by United States Mail or hand-delivered, whichever is most convenient. **Seventy-two hours is considered** reasonable notice.
- E. Nothing in this Article shall limit or otherwise restrict the **Department** from immediately publishing **Departmental** procedures which, in the determination of the **Department**, are of an emergency nature. Communications shall be sent **via facsimile or email** to Local 145 simultaneously.

ARTICLE 16

Management Rights

- A. The rights of City include, but are not limited to:
1. The exclusive right to determine the mission of its constituent departments, commissions, and boards;
 2. Set standards of service;
 3. Determine the procedures and standards of selection for employment and promotion;

4. Direct its employees **and** take disciplinary action for just cause;
5. Relieve its employees from duty because of lack of work or for other legitimate reasons;
6. Maintain the efficiency of governmental operations;
7. Determine the methods, means and personnel by which government operations are to be conducted;
8. Determine the content of job classifications;
9. Take all necessary actions to carry out its mission in emergencies; and
10. Exercise complete control and discretion over its organization and the technology of performing its work.

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

ARTICLE 17

Special Assignment Pay

- A.** Uniformed members will receive an additional 5 **percent** of their base salary, with the exception of the **Bomb** Squad and all HAZMAT personnel including qualified **Fire** Battalion Chiefs conditioned under the HIRT contract who oversee the HAZMAT team, who will receive 10 **percent**. Station 4 & 41 **Technical Rescue Team (TRT)** personnel are eligible to receive up to an additional 10 **percent as described in the TRT Administration Manual**, and personnel assigned to the Air Operations program will receive 10 **percent**, as Special Assignment pay, only when assigned to the following duties in a station designated as a specialty station.
1. **Bomb** Squad
 2. Hazardous Materials Squad
 3. "D" Division (Training) for special assignments.
 4. Station 4 & 41, **Technical Rescue Team**
 5. Station 20, Hose Repair
 6. Station 23, Small Equipment Repair
 7. Stations 26 & 9, Emergency Medical Services (**EMS**)
 8. Station 28, Annual Pump Testing
 9. Station 36, Breathing Apparatus Repair
 10. Station 40, Ladder Repair
 11. Airport Station, Staffing Desk
 12. **Metro Arson Strike Team (MAST)** Personnel
 13. Administrative Assignment
 14. Special Tactics and Rescue (STAR) Team
 15. Canine Handler
 16. Battalion Medical Officer (**BMO**)

B. Stations 26 & 9 EMS Specialty Pay.

- 1. Fire personnel assigned to the Emergency Medical Services (EMS) specialty station or stations will be paid 5 percent specialty pay when assigned to Stations 26 or 9, or other Department-identified EMS specialty station, and performing EMS administrative functions. Station 26 will maintain three certified paramedics and one Fire Fighter/Emergency Medical Technician (EMT) per shift. Station 9 will maintain four certified paramedics and one Firefighter/EMT.**
- 2. The Paramedic Premium (Article 44) shall be paid to the EMS Fire Battalion Chief if that person is a licensed paramedic conditioned upon the SDMSE contract or alternative provider contract.**
- 3. For so long as the SDMSE or alternative provider contract with City exists and provides for a 5 percent of base salary special assignment pay for BMOs, City shall provide this special pay to EMS BMOs. This is a special assignment pay only; BMO is not a new classification.**
- 4. Rated-Medic Pay. Effective 7/1/12, the 5 percent paramedic specialty pay, paid to certified paramedics serving in the Captain or Engineer classifications, is codified in this MOU**

C. Administrative Assignment Pay.

- 1. All employees in classes represented by Local 145 who are permanently assigned to straight-day administrative assignments shall receive 15 percent Administrative Assignment pay. This shall not apply to personnel in temporary light-duty assignments.**
- 2. Individuals assigned to straight day administrative assignments shall also be subject to the following:**
 - a. Absent a Management-determined business purpose at the conclusion of an administrative assignment of two or less years, the employee shall be permitted to return to the pre-administrative assigned station.**
 - b. Upon agreement of Management and the effected employee, the administrative assignee shall be assigned to a flexible schedule which can be fixed at a 5/8, 44/36 or 4/10.**

D. Special Tactics and Rescue Team Pay.

Certified paramedics when assigned to the Special Tactics and Rescue team will be paid a 5 percent specialty pay.

E. Canine Handler Pay.

The Accelerant Canine handler will be paid a 5 percent specialty pay when the handler is assigned a dog. Up to four members of the US&R Team will be designated as canine handlers. Contingent upon continued availability of grant funding, **all** costs associated with the acquisition, training, maintenance, and care of the dog will be **paid** through grant funding, with the exception that no vehicle shall be provided. Management agrees to assign a high priority to the use of available grant funds for continuation of the US&R canine program. However, should grant funding to support this program be discontinued, this program, support for the program, and associated special pays will be terminated effective immediately upon termination of the grant funding.

F. Station 4 & 41 Technical Rescue Team (TRT).

1. Stations 4 & 41 Technical Rescue Team personnel are eligible to receive **up to an additional 10 percent specialty pay** pursuant to the agreement on file with San Diego Fire-Rescue Department Human Resources, the Labor Relations Office, **and as described in the TRT Administration Manual.**
2. Special assignment pay will only be paid for hours worked in the specialty station designated for the employee's specialty duties. Will-work or light duty work performed in non-specialty stations **is not eligible** for specialty pay.
3. Firefighter Paramedics who receive specialty pay as part of a permanent assignment to a specialty station will not lose the specialty pay when rotated out of the specialty station to meet quarterly training rotational obligation.

G. Bilingual – English Pay.

1. City agrees to continue a program which will provide extra compensation for employees whose job assignment requires **the** ability to communicate orally in Spanish, Tagalog, or Indo-Chinese, as well as English. **Participants** in this program who are certified by **Personnel** and who are otherwise eligible shall receive **3.5 percent** of base salary while in the job assignment requiring this additional skill. City reserves the right to establish criteria which will enable candidates in this program to qualify for the extra compensation.
2. **Employees** will be required to be periodically retested in order to ensure that their bilingual language skills are current. The retest will be administered on City time by the **Personnel Department**. City may retest an employee every three years.
3. The number of participants eligible to receive bilingual pay shall be limited to a maximum of sixty-five positions per shift.

ARTICLE 18

Business Representatives

- A. Authorized **Local 145**, full-time paid business representatives, **and** the President or elected officers of **Local 145**, shall be granted access to work locations in which employees covered by **this MOU** are employed, for the purpose of conducting grievance investigations and observing working conditions. Authorized **Local 145** representatives **seeking** access to work locations shall first request **access** from the Fire Chief or his **or her** designee, at which time the authorized representative shall inform the Fire Chief or his **or her** designee of the purpose of the visit. The Fire Chief or his **or her** designee may deny access to a work location if in his or her judgment, it is **determined** that a visit will unduly interfere with the operations of the **Department** or facility. **In that** event, the Fire Chief or his **or her** designee will recommend an alternative time for the visit. The **Local 145** representative shall not unduly interfere with the operations of the **Department** during a visit. **Local 145** representatives shall be allowed access to work locations **during lunch or after 5:00 p.m.**
- B. Solicitation of membership and activities concerned with the internal management of **Local 145** such as collecting dues, holding membership meetings, campaigning for office, conducting elections, and distributing literature to individual employees, shall not be conducted during working hours.
- C. Elected or appointed officials of Local 145 may, at the discretion of the Fire Chief or his **or her** designee, be allowed to use holiday or annual leave credits for time off as necessary to conduct **Local 145** business.
- D. **On July 1 of each year**, Local 145 shall **provide** the Fire Chief a written list identifying by name all elected officers of **Local 145** and any full-time paid **Local 145** business representatives, and **the** list shall be kept current by **Local 145**. **Access to work locations will be granted only to representatives on the current list.**
- E. Handling Grievances.
1. When an employee **has a grievance**, **he or she may request that** a Board member, with permission of his or her supervisor, investigate **the** grievance in his or her assigned work area and assist in its preparation and presentation. If no Board member is assigned to the employee's work area or if the Board member assigned **to the employee's work area** is not available at the time the grievant makes his or her request, another Board member may investigate the grievance.

2. After notifying and receiving approval of the immediate supervisor, a Board member shall be allowed reasonable time off during working hours, without loss of time or pay, to investigate, prepare and present such grievances. The immediate supervisor will authorize the Board member to leave his or her work **assignment**, unless compelling circumstances require refusal of such permission. **In such** case, the immediate supervisor shall inform the Board member of the reasons for the denial **of release time** and establish an alternate time when the Board member can reasonably be expected to be released from his or her work assignment.

F. Board of Directors Meetings.

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

- G.** Local 145 officers and **B**oard members may be granted use of City facilities for meetings, provided space can be made available without interfering with City's needs.

ARTICLE 19

Out of Class Assignment

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

- A. Out-of-Class **Assignment** (OCA) budgeted positions shall be made in rotational order from the top of the list of on-duty eligible employees. The list shall be comprised of those employees on the promotional list for each rank or position.
 1. Each employee is expected by City to reasonably consider accepting the assignment when notified. Names of employees who are excused from an OCA by the **Fire** Chief or **his or her designee** for good reason shall remain in their respective positions on the list for rotational assignment.
 2. Taking all things equally, first consideration will be given for appointment to an OCA **of thirty** days or more to employees on the eligible list for the class in which a vacancy occurs, except in those cases in which the specialized needs of the assignment necessitates appointment of an employee not on the eligible list.

3. **If no eligible, on-duty personnel are available for an OCA**, employees not on a promotional list shall be eligible based on Personnel Manual **Regulations** and the section on seniority agreed to in this **MOU**.
 4. **OCA** for straight-day employees shall be limited to their functional division.
 5. Employees who fulfill an OCA in a budgeted position shall be rotated to the bottom of the list **at the completion of the OCA**. For this purpose, **a minimum of eight hours will be considered** an assignment.
 6. Under emergency conditions, as determined by the Fire Chief, personnel may be assigned OCA without restriction.
- B. Copies and/or information regarding OCA lists or assignments shall be made available to **Local 145** on request.
- C. Personnel who satisfactorily work OCA shall be eligible for a reduction of the time between promotion and the first step increase according to the following:
1. Each employee wishing to participate in this program shall be responsible for obtaining the approved form and shall have his or her supervisor enter time served in an OCA capacity **after each assignment**.
 2. **After being promoted, the** employee shall **give** the form to the **Fire Chief or his or her designee** for verification.
 - a. Time served in OCA during the four-year period immediately preceding promotion shall reduce the time element for the first step increase from the rate received at the time of promotion to the next highest rate for which the employee is eligible. However, **OCA** time shall not reduce the normal time for a step increase to less than one-half the normal time nor shall OCA time affect requirements for additional step increases.
 - b. Any employee who loses the **OCA** form and **who** fails to report **the** loss to the **Fire Chief or his or her designee** shall not be eligible to receive any credits under this provision.
- D. Credit for OCA to operate brush rigs shall be limited to emergency in-service operating time.
- E. The standard for shift conversion to calendar time shall be **nine** shifts per month. Time served credit shall be apportioned accordingly.
- F. Employees on OCA will be compensated at the rate of their regular job classification. Employees shall be compensated for **OCA** at the rate of the higher paid class only after **thirty** cumulative days of being assigned to the same higher level class. Compensation would begin on the **thirty-first** day and would be prospective. EMTs working OCA as a

Paramedic shall be compensated for the **OCA** at the rate of the higher paid class on the first day of the OCA to the Paramedic classification.

- G. Mandatory recall of personnel shall be **in accordance with the staffing policy manual** on a rate for rate basis with forty-four hours notice.

ARTICLE 20

Hours

- A. Members of the unit assigned to fire suppression companies shall normally work an average **fifty-six**-hour week consisting of **twenty-four**-hour work shifts. All other members of the unit shall work an average **forty**-hour work week. City agrees that a permanent alteration to existing work schedules during the term of this **MOU** shall be subject to meet and confer.

Employees assigned to the **fifty-six**-hour work schedule will work nine **twenty-four**-hour shifts each **twenty-eight**-day work period. Each employee will also be assigned to work an additional **eight** hours in **twelve** of the **thirteen twenty-eight**-day work periods. This additional eight hours will be scheduled as compensated leave. In the other one work period in which they will take their **twenty-four**-hour holiday they will be scheduled to work **two-hundred-sixteen** hours and compensated for **two-hundred-twenty-four**.

- B. Straight-day schedules will normally fall between the hours of 7:00 a.m. - 6:00 p.m.
- C. In-service training will normally not be scheduled for fire suppression companies on City holidays.
- D. Fire Fighters of equal rank assigned to **fifty-six**-hour work weeks shall be allowed to relieve each other from duty up to **sixty** minutes prior to scheduled changes of shifts subject to approval of the duty officer:
 - 1. Personnel participating in early relief shall do so on a voluntary basis.
 - 2. Any increase in time that may develop from an early relief will not result in additional compensated hours of work.
 - 3. City will not be required to keep records of any individual's time worked in early shifts.
 - a. In **the** event of legislative action requiring compensation for time worked in early relief, this policy shall become null and void.

ARTICLE 21

Uniforms and Safety Equipment

A. Department Issued Equipment.

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

- | | |
|------------------------------|--|
| a. Turnout pants | g. Gloves |
| b. Turnout coat | h. Hose Strap |
| c. Turnout boots | i. Hood |
| d. Turnout suspenders | j. Brush Jacket and Pants |
| e. Spanner | k. Helmet |
| f. Utility Strap | l. Breathing Apparatus Face Piece |

m. A Nomex jump suit shall be provided to employees assigned to **the** STAR Team.

n. **City agrees to immediately provide wild-land brush-boots for all recruits upon successful completion of the Academy. The Department will develop written guidelines for the repair or replacement of Department issued wild-land brush-boots and will meet and confer over the impacts of these guidelines.**

B. Fire Fighter's Uniform.

1. Initial requirement.

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

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

- | | |
|-----------------------------------|-----------------------|
| a. Dress Jacket | e. Tie |
| b. Dress trousers or skirt | f. Belt |
| c. Shirt | g. Dress Shoes |
| d. Dress Hat | |

3. Maintenance and Upkeep.

The uniform allowance for all employees is \$475 per fiscal year. On the first pay day in September 2009, City shall pay those Fire Fighters who have completed twelve months of service as a Fire Recruit/Fire Fighter I the sum of \$475 for maintenance and replacement of the items described in Paragraphs B. 1. and 2.

4. City will provide an ongoing reimbursement in September of each year of up to **\$650** for the purchase of tools by twelve employees designated to perform maintenance and repair work by **the** Support Services Division. The list of “essential” tools that will be eligible for this reimbursement will be mutually developed by Department and Local 145.
5. This **uniform** allowance will be used by members of the **Unit** to purchase and maintain their own linen to include pillow cases and sheets.
6. City will continue to maintain brush gear specifications which are equal to or better than equipment currently in use by **Department**. City will provide replacement brush gear to all members of the **Fire Suppression Unit**. Replacement gear will be provided based on need in accordance with **California Department of Occupational Safety & Health Administration (OSHA)** standards.

C. Administration.

1. Fire Fighters reporting for duty are expected to have the uniforms as described in Section **B. 1.** and **B. 2.** Failure to have any of these items may result in discipline of the employee.
2. For the term of this **MOU**, Local 145 agrees that City has discharged City’s obligation pursuant to state law requirements to provide safety equipment as set forth in **California** Labor Code section 6401.

D. Civilian Fire Inspectors.

Civilian Fire Inspectors and the Fire Inspector Supervisor in **the** Fire Prevention Bureau will receive **\$500 in lieu of the uniform allowance** on the first payday in September **of each year** for the purchase and maintenance of required uniforms.

E. STAR/US&R Teams.

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

F. MAST.

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

1. **Hand gun and ammunition**
2. **Badge**
3. **Protective vest and cover**
4. **Pepper Spray and nylon Pepper Spray holder**
5. **Handcuffs and nylon holder**
6. **Dig out uniform**
7. **Respirator**
8. **Inner Belt**
9. **Outer Belt**
10. **Belt Keepers**
11. **Holster**
12. **Radio Holder**
13. **Magazine Holder**
14. **Key Keeper**
15. **Knife or Multi-Use Case**
16. **Flashlight Holder**
17. **U-Dig It Shovel**

G. Air Operations.

Personnel regularly assigned to Air Operations shall be provided with:

1. Nomex jacket
2. **Helicopter crew boots; and**
3. **Flight gloves.**

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

ARTICLE 22

Flexible Benefits Plan

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

employees must have no less than **forty** hours of compensated time during each pay period in order to receive City-paid benefits. If an eligible employee has less than **forty** hours of compensated time during a pay period, the eligible employee will have the right to continue **his or her** benefits by paying City the full cost to continue any or all of the employee's benefits during the period. In the case of **Family Medical Leave Act (FMLA)**-approved absences, City will continue to pay for the employee's health, life, and dental insurance for up to **twelve** weeks per year in accordance with FMLA requirements.

B. City's contribution to the **FBP** will be based on the level of health insurance coverage selected by the eligible employee. City's contribution to **the** FBP will be prorated according to the percentage of time worked if the employee works less than full-time status. The FBP annual value for **Fiscal Year** 2010-2011 will be as follows:

1. Health Waiver (for employees who have other comprehensive health coverage) - \$1,750.
2. Employee only - \$4,750
3. Employee and adult – \$7,800
4. Employee and children – \$7,225
5. Employee and family – \$9,400

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

D. Significant changes to the benefit options FY 2010-2011 are:

1. Effective August 1, 2010, Local 145 will make available its own HMO medical plan through City's **FBP**.
2. Local 145 members will have the option of enrolling in City's Kaiser HMO Medical Plan, City's PPO Medical Plan, or Local 145 HMO Medical Plan.

E. Notes.

1. It is the intent of the **Parties** that all plans offered in the **FBP** comply with all applicable state and federal laws, including IRS regulations, as interpreted by the City Attorney. All disputes over interpretation of **this Article** shall be submitted to the appropriate agencies for interpretation.
2. The employee must select **a** health insurance **plan** unless he **or** she has other comprehensive health insurance.
3. Other optional benefits may be purchased with remaining FBP monies, if any, and payroll deduction. **Optional** benefits include dental, vision, 401(k), Dental/Medical/Vision, and Dependent Care reimbursement. Any remaining FBP monies not used on other optional benefits will be paid as a cash payment. All eligible employees are eligible to select any of the optional benefits.

4. In addition to designating Flexible Benefits monies to pay for Dental/Medical/Vision or Dependent Care reimbursements, employees may designate a specific amount of pre-tax money (IRS restrictions apply) to be withheld from their paychecks to reimburse eligible out-of-pocket **Dental/Medical/Vision** or **Dependent Care** expenses. These payroll deductions must be designated during the open enrollment period, are irrevocable, and monies are forfeited if not used within the fiscal year.
5. 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 (or comparable plan if unavailable) will be automatically continued at the same level for the next year as if the employee had elected to keep them. Employees agree that City may make a payroll deduction for employee and/or dependent health coverage if the FBP allotment **is insufficient** to pay for the benefit options **selected by the employee**. Any monies remaining from the FBP allotment will be paid out as a taxable cash payment. All payroll deductions, including **Dental/Medical/Vision** and Dependent Care reimbursement, will continue and may not be eligible to be stopped until the following open enrollment period.
6. Effective **Fiscal Year 2010**, Hyatt Legal Plan will be eliminated as a benefit option.
7. **The Parties agree to meet and discuss potential changes to health, dental and vision plans for Local 145 represented employees. The Parties will discuss options to lower costs to Local 145 members to include options for Local 145 to become the exclusive provider for health, dental and vision and/or consolidation of City health plans. Potential options will be jointly determined no later than December 1, 2012.**

ARTICLE 23

Retirement

A. SDCERS Employee Pickup/Offset.

Effective July 1, 2009, the City's offset or "pick-up" of employee pension contributions for employees in Local 145 represented bargaining unit shall be eliminated.

B. DROP.

1. **City contends that the Deferred Retirement Option Plan (DROP) is an employment benefit subject to modification through the meet and confer process. Despite Local 145's disagreement with this contention, the Parties agree that, during the term of this MOU, they will meet and confer over proposals to modify DROP to make DROP "cost free" to City. The Parties acknowledge that City's proposals will modify DROP to make DROP "cost free" as defined by City and may include any and all aspects of DROP,**

including but not limited to, all of the DROP alternative plan design proposals set forth in a study by Buck Consultants presented by City to Local 145 on March 14, 2012, or any variations of the alternative proposals which changes numbers or percentages reflected in the Buck study. However, by agreeing to meet and confer regarding proposals to modify DROP, Local 145 is not waiving its right to challenge any proposed modification to DROP on the basis that it may impair a constitutionally protected, individually vested pension benefit, or on any other ground. Local 145 further reserves its right to argue, despite any contrary assertion by City, that the current unmodified DROP is, in fact, “cost free” within the meaning of reasonable actuarial principles and appropriate margins of error. Moreover, in agreeing to meet and confer regarding proposals to modify DROP, neither Party is waiving its rights to make any legal arguments or pursue any legal action related to any proposed DROP modification.

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

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

C. Effect Of New Provisions.

Sections 1 through 9 of this Article reflect the Parties’ agreement regarding retirement contributions and benefits resulting from prior negotiations.

D. Annual Leave Sweep into Retiree Medical Trust.

During Fiscal Year 2013, the City and Local 145 agree to meet and consult to determine the necessary process to permit Local 145 represented employees to sweep Annual Leave into the Retiree Medical Trust, administered by the Southern California Firefighters Benefit Trust. The Parties understand that any process to allow this change must be in compliance with all applicable federal tax laws as interpreted by City.

1. 2005 Benefit Changes.

a. Retirement Contribution Adjustments.

- (1) Effective July 2, 2005, the employee pension contribution for employees in Local 145-represented **Bargaining Units** will increase by 3.0 **percent** of the employee's base salary. This negotiated increase in the employee pension contributions represents a decrease in City's offset or "pick-up" of the employee pension contributions.
- (2) The 3 **percent** negotiated employee pension contribution increase effective July 2, 2005, is in addition to the employee pension contribution increase that will take effect automatically upon depletion of the Employee Contribution Rate Reserve in 2005. City will calculate the amount of this automatic pension contribution increase by September 1, 2005. As initial payment of this automatic pension contribution increase beginning July 2, 2005, the employee pension contribution for Local 145 unit members will increase by 1.5 **percent** of the employee's base salary, with the goal of applying the increase in approximately equal amounts over the entirety of **Fiscal Year 2006**. City will adjust the 1.5 **percent** figure as needed following calculation of the actual amount of the automatic pension contribution increase.

b. Use of Negotiated Employee Pension Contribution Increases.

- (1) All monies resulting from the 3 **percent** negotiated employee pension contribution increase effective July 2, 2005 (i.e., City savings that result from substituting those increases for City "pick-up" of employee pension contributions), shall be designated exclusively for payment to support a leveraged mechanism to reduce the **San Diego City Employees Retirement System (SDCERS)** unfunded actuarially accrued liability ("UAAL"), such as Pension Obligation Bonds, lease capitalization, or a similar mechanism selected by City. If City does not implement a leveraged mechanism to reduce the UAAL within the term of this MOU, then these monies shall be deposited into the SDCERS Employee Contribution Rate Reserve and used to defray the pension contribution obligation of employees in Local 145-represented **Bargaining Units**.
- (2) The Parties agree that Local 145 will not contend that City has breached Article 23(2)(B) of the **Fiscal Year 2006** MOU, provided that for **Fiscal Year 2007**, City uses the negotiated employee pension contributions of Local 145 members from **Fiscal Year 2006** and **2007** to support a leveraged mechanism to reduce the SDCERS "UAAL", such as Pension Obligation Bonds, lease capitalization, or a similar mechanism selected by City. If City does not implement a leveraged mechanism to reduce the UAAL within the term of this MOU, then these monies shall be deposited

into the SDCERS Employee Contribution Rate Reserve and used to defray the pension contribution obligation of employees in Local 145-represented **Bargaining Units**.

c. Retirement Contribution Offsets.

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

d. Purchase Of Service Credit.

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

e. "13th Check" Supplemental Benefit.

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

f. Calculation of Service Retirement Allowance.

The only service retirement allowance calculation formulae for employees hired on or after July 1, 2005, will be 2.5 **percent** at age **fifty-five** for General Members and 3.0 **percent** at age **fifty** for Safety Members, with the existing tiers for those formulae. 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.

2. Retirement Contribution Offsets.

- a. City agrees to continue to "pick up" or pay for 4.3 **percent** of the employee's portion of the required retirement contribution to SDCERS. The employee, upon termination, will have no vested right in the amount so contributed by City. Substitution of this portion of the employee's contribution by a City payment will not decrease the total amount applied towards the required retirement contribution, and will not affect retirement benefits. Provided, however, such payment shall not exceed any employee's total contribution to the **Retirement system**.

- b. The following language has been left in the MOU for historical information purposes only, and is of no force and effect during the term of this MOU.
 - c. City agrees that it will apply an amount that is approximately equal to **7.3 percent** of the base salary of employees covered by this **MOU** who are SDCERS Safety Members, into the City Retirement System, thereby reducing the amount deducted from employee's paychecks as the employee's retirement contribution by that amount. Effective July 1, 2002, this amount for Safety Members will be increased to **9.0 percent**. This increase to remain in effect until the Employee Contribution Reserve is exhausted. Effective July 5, 2003, this amount, for Safety Members, will increase to **10 percent** of base salary. This increase to remain in effect until the Employee Contribution Reserve is exhausted. For SDCERS General Members represented by Local 145, effective July 5, 2003, City agrees that it will apply an additional **1.6 percent**, for a total of **7.0 percent**, of the base salary of employees covered by this **MOU**, into the Retirement System, thereby reducing the amount deducted from employee's paychecks as the employee's retirement contribution by that amount. This increase **is** to remain in effect until the Employee Contribution Reserve is exhausted. The employee, upon termination, will have no vested right in the amount so contributed by City. Substitution of this portion of the employee's contribution by a City payment will not decrease the total amount applied towards the required retirement contribution, and will not affect retirement benefits **provided**, however, such payment shall not exceed any employee's total contribution to the **Retirement System**.
 - d. City agrees not to propose reductions in the retirement offset through 2002.
3. 1981 Pension Plan.
- Effective July 1, 1991, for the purpose of benefit calculation only, 1981 Plan service will be made equivalent to **SDCERS Service**.
4. COLA.
- Effective July 1, 1992, the cost of living adjustment (COLA) for retirees who retired before October 6, 1980, will increase from **1.5 percent** to **2 percent** per year.
5. Widows Benefit.
- Effective July 1, 1992, and thereafter, a group of widows of deceased **Safety Members** from the special safety class will receive a benefit of \$350 per month.
6. **Internal Revenue Code section 414(H)(2).**
- Beginning January 3, 1993, City agrees to implement **Internal Revenue Code (IRC) section 414(H)(2)** for Local 145 employees, allowing employee contributions to the **Retirement System** to be made pre-tax.

7. 1997 Benefit Changes.

- a. The Disability Income Offset provision is eliminated. There will be no reduction of retirement benefits if the retiree has other income.
- b. A five-year purchase of service credit provision is established effective January 1, 1997. Under this provision, the Member may purchase up to five years of service credit by paying both employee and employer contributions in an amount and manner determined by the **SDCERS** Board to make the **Retirement** System whole for such time. In addition, members retiring on or after January 1, 1997, may purchase probationary periods, **Military and Veterans Code** leaves, waiting periods for the 1981 Pension Plan, actual time worked hourly or part-time, **SLOWP** occurring prior to January 1, 1997, the difference in time between part time and full-time prior to January 1, 1997, **LTD**, **Vocational Rehabilitation Maintenance** and **Temporary Total Disability**, **FMLA** periods, special leaves of absence with job to be saved periods, and any period preceding reinstatement by the Civil Service Commission following a termination appeal.
- c. DROP is established effective April 1, 1997. DROP provides an alternative form of benefit accrual while allowing a Member to continue working for City. During the DROP period, a DROP **participant** retains all rights, privileges and benefits of being an active City employee, except as specifically modified in 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 **Plan** for the classification and is not eligible for “**Retiree**” **Health Benefits** until such time as the Member completes or terminates the DROP period. Under DROP, a monthly service retirement allowance along with any COLA increases, Supplemental Benefit checks and any adjustments to such payments applicable to retirements effective on the date the Member entered DROP, are 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 City each contribute **3.05 percent** of the Member’s salary each pay period that the Member participates in the DROP. The Member’s contribution is made on a pre-tax basis pursuant to **IRC** section 414(h)(2). These monies are placed in a trust account and are distributed to the DROP participant upon termination of employment or completion of the DROP period, whichever occurs first. No withdrawals may be made from the DROP account until the Member completes or terminates his or her DROP period. Interest will be credited to the Member’s DROP account in the same manner and at the same rate that interest is credited to employee **SDCERS** accounts. The Member is **100 percent** vested in the DROP from its inception.
 - (1) A DROP participant who becomes disabled may apply for conversion of **his or her** deferred retirement allowance to a disability allowance calculated at the date of entry into DROP, and the employee shall retain all of the DROP and matching contributions. A Member who participates in

DROP irrevocably designates a specific consecutive period of months for participation, not to exceed sixty months. The Member must terminate City service at the end of the designated period.

- (2) At the completion of the DROP period, the DROP account will be distributed as a lump sum, or in any other manner permitted by the IRS as soon as those options are developed by the Retirement Administration.
- d. For retirements effective on or after January 1, 1997, the **50 percent** 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 percent** continuance is eliminated.
- e. The surviving spouse of a Member who is killed while in the performance of duty is entitled to continued health coverage as provided in California Labor Code section 4856.
- f. The modified special death benefit provided to the surviving spouse of a Member killed in the line of duty is amended to eliminate the requirement that the benefit be discontinued if the spouse remarries. Any benefit terminated to such spouse as a result of remarriage shall be reinstated effective January 1, 1997.
- g. A retirement allowance cap of **90 percent** of Final Compensation (high one year salary) is established for Fire Safety Members.
- h. City and Local 145 agree to jointly support a request to the SDCERS Board to pay **0.49 percent** of the employee's contribution from SDCERS' undistributed earnings effective **July 1, 1998**. This **0.49 percent** represents a portion of the increase in employee's contribution scheduled to go into effect **July 1, 1998**, as a result of benefit improvements, which were implemented **January 1, 1997**.

8. 2000 Retirement Benefit Changes.

City and Local 145, having met and conferred, and having participated in the settlement of a class action lawsuit challenging the calculation of "compensation earnable" have agreed to benefit changes to SDCERS. The benefit changes resulting from this class action settlement were approved by the SDCERS active and retired membership in June, 2000.

a. Formula Change for Calculation of SDCERS Monthly Retirement Benefit.

The Retirement Calculation Factor to be applied to the Fire Safety Member's high one year salary at specified ages may be increased from the current levels to those shown below for all retirements effective on or after July 1, 2000 if the Fire Safety Member selects this option.

Retirement Age	Retirement Calculation Factor effective 1/01/97-6/30/00 [Current]	Retirement Calculation Factor effective 7/01/00 [New]
50	2.50%	3.00%
51	2.60%	3.00%
52	2.70%	3.00%
53	2.80%	3.00%
54	2.90%	3.00%
55+	2.9999%	3.00%

b. Member Option.

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

- (1) The Retirement Calculation Factor in effect on July 1, 2000, with no change in the Fire Safety Member's Final Compensation; OR
- (2) A **10 percent** increase in the Fire Safety Member's Final Compensation, with the Fire Safety Member's Unmodified Service Retirement Allowance calculated using the Retirement Calculation Factor in effect on June 30, 2000.

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

d. Fire Safety Member's SDCERS Contribution Rate Change.

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

e. Eligibility for Industrial Disability Retirement Change.

A Fire Safety Member may be eligible for an industrial disability retirement if it has been medically determined that the Fire Safety Member has become psychologically or mentally incapable of performing 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, 2002, and such application for industrial disability retirement must be submitted before July 1, 2005. This provision shall sunset on June 30, 2005, and no such applications may be made after that date.

9. 2002 Benefit Changes.

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

(1) The Retirement Calculation Factors used to calculate a General Member’s Allowance will increase to the levels shown below (“New Factors”) for all retirements effective on or after July 1, 2002, unless the General Member elects, before retirement, to have his or her Allowance calculated using the Old Factors (2 **percent at** age 55, etc., with 10 **percent** added to the Member’s Final Compensation) or the Corbett Factors (2.25 **percent at** age 55, etc.). The New Factors will apply to all City employees who join the Retirement System after June 30, 2002, and their Allowances will be capped at 90 **percent**. The 90 **percent** cap will also apply to: (1) General Members who joined the Retirement System on or before June 30, 2002, except as provided below, and (2) General Members who participated in the Retirement System on or before June 30, 2002, who left City employment but are rehired by City on or after July 1, 2002.

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

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

(a) Any General Member who joined the Retirement System before July 1, 2002 may continue to accrue benefits above the 90 **percent** cap using either the Old Factors or the Corbett Factors. If the Member selects one of these options, the Member’s Allowance will not be capped, and the **Retirement** System will refund to the Member, at retirement, any excess contributions the Member made to fund the New Factors.

(b) Any General Member who joined the **Retirement** System before July 1, 2002, and reaches the 90 **percent** cap by choosing the New Factors, may continue to accrue benefits above the 90 **percent** cap until December 31, 2002, at which time the Member's **Retirement Calculation Factor** and **Creditable Service** are capped; the Member's **Final Compensation** is not capped. On January 1, 2003, the Member must choose one of the following options:

i. If the Member is eligible for a service retirement on January 1, 2003, he or she may:

(i) Continue working and contributing to the Retirement System,

(ii) Enter DROP, or

(iii) Retire.

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

(i) Continue working and contributing to the Retirement System, or

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

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

- (c) A General Member may exceed the 90 **percent** cap if the Member:
 - i. Applied to purchase **creditable service** on or before June 5, 2002, and thereafter signed the contract to purchase that time,
 - ii. Was hired at age 24 or younger, and
 - iii. Will exceed the 90 **percent** cap because of the **Creditable Service** he or she applied to purchase on or before June 5, 2002. The Member may not exceed the cap by **creditable service** that he or she applied to purchase after June 5, 2002.

- (d) When a Member who meets the conditions of paragraph 3 first becomes eligible for a service retirement, his or her **Retirement Calculation Factor** and years of **creditable service** will be capped at that time, even if the Member continues to work and contribute to the Retirement System. The Member's Final Compensation will not be capped. When eligible to retire, the Member may:
 - i. Continue working and contributing to the Retirement System,
 - ii. Enter DROP; or
 - iii. Retire.

b. GENERAL Members SDCERS Contribution Rate Change.

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

c. Annual Leave Conversion.

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

Effective July 1, 2002, employees in the **Bargaining Unit** who have not yet entered DROP will be allowed to convert annual leave cash equivalent to retirement service credit on a pre-tax basis. The amount of service credited will be the employer and employee cost of that service credit as determined by the Retirement Board. Employees in the **Bargaining Unit** will no longer be eligible to exercise any cash out feature of annual leave

accrued from July 1, 2002 prospectively. Since employees cannot cash out post-July 1, 2002 annual leave, employees who have balances of post-July 1, 2002 annual leave at the end of their DROP period, will be permitted to extend the DROP period beyond the five year maximum by that amount of post-July 1, 2002 annual leave not converted to service credit prior to entering DROP. Specific procedures for implementing this benefit will be subject to **IRS** rules, as interpreted by the City Attorney's Office.

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

d. Health Eligible Retiree Benefits.

City and Local 145, having met and conferred, have agreed to benefit improvements to the Retirement System for Health Eligible Retirees.

- (1) Effective July 1, 2002, a Health Eligible Retiree, as defined in the Municipal Code, will have the applicable Medicare eligible or Non-Medicare eligible insurance premiums paid for the Health Eligible Retiree-only insurance, or the Health Eligible Retiree will be reimbursed the actual cost incurred from the Medicare eligible or non-Medicare eligible retiree-only premium up to the maximum amount allowed in Municipal Code Division 12. Municipal Code Division 12 will be amended to set the maximum amounts to be paid on behalf of or reimbursed to a Health Eligible Retiree for retiree-only Medicare eligible or non-Medicare eligible health insurance premiums based on the premium for City-sponsored PPO plan for Fiscal Year 2003 and annually adjusted thereafter based on the Centers for Medicare & Medicaid Services, Office of the Actuary, projected increase for National Health Expenditures for the full year period ending in the January preceding the start of the new plan year; such adjustment shall not exceed **10 percent** of such Medicare-eligible or non-Medicare eligible retiree-only premium. Pursuant to this provision the based monthly maximums are established for **Fiscal Year 2003** as follows:

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

10. Local 145 represents several general employee classifications. Management shall not fill these positions with newly hired employees. Subject to Personnel's revision of minimum qualifications to reflect the safety employee status of future hires into the former general employee classifications, employees hired on and after July 1, 2008 into the classifications of Fire Inspector Series I and II, Fire Inspector Supervisor, and Assistant Fire Marshal, shall be classed as safety employees. The existing transfer list for these classifications shall remain valid. Non-safety (general) transfers from the list and current general employees in the above classes shall not become safety employees.
11. After July 1, 2008, **Local 145** shall have the right to notice City in writing of the intent to implement a medical expense reimbursement plan to provide a tax-favored benefit to retirees in accordance with the Plan's Trust document. **Local 145** notice shall specify the proposed date of implementation, which shall be no earlier than July 1, 2008. The notice shall include a copy of the trust document and other pertinent operational documents that are sufficient for City to determine compliance with IRS regulations. It is understood that the trust shall be established, governed and administered by the trust and **Local 145**. City shall not be responsible for the trust and appropriate hold harmless and indemnity provisions shall be endorsed by **Local 145** prior to implementation. Once City has approved the trust, City agrees to implement payroll withholding from all employees in the **Bargaining Unit** in an amount designated by the trust and approved by **Local 145** for deposit to the trust. **Local 145** will not authorize payroll withholding from employees on a unit wide mandatory basis that has not been approved by **Local 145** membership in the **Bargaining Unit** covered by this **MOU**. Membership approval shall be determined by a majority of ballots cast following the notice of election.
 - a. City shall fund an amount not to exceed \$80,000, as and for the purpose of formation of the trust. The maximum \$80,000 City-funding shall be utilized only for the initial formation of the trust, and shall not be a recurring City-funded expenditure. The "formation" process for which the maximum City-funded amount of \$80,000 is applicable, shall terminate when the trust is lawfully empowered to accept employee deposits.
 - b. Under no circumstance shall City be required to participate in administration of the trust or in funding any expenses of or deposits to the trust, other than the amount described above, which shall be used solely for trust formation.
12. City Initiation of Retirement-Related Litigation.
 - a. It has been, and continues to be, the position of the Mayor that the above described DROP and service credit purchase provisions are not vested benefits and are therefore subject to modification without compliance with the strict rules governing modification of vested retirement benefits. Local 145 disagrees. Therefore, the Parties acknowledge that during the term of this agreement, City shall initiate a declaratory relief and/or other civil causes of action as in City's the sole determination are deemed appropriate by which to secure a determination as to any or all of the following issues:

- (1) Are the above- described Deferred Retirement Option Plan (DROP) and/or any and all MOU/Code provisions allowing for the purchase of service credit for retirement benefit calculation purposes, “vested” benefits.
 - (2) Can the purchased service credits be utilized to determine vesting into the Retirement System.
 - (3) Are benefits subject to modification pursuant to any and all provisions of the Charter or other applicable rules and regulations.
 - (4) And/or what, if any, conditions precedent exist to the implementation of City-initiated steps by which to modify and/or eliminate DROP and/or service credits.
 - b. Although Local 145 reserves its rights to plead any and all substantive defenses which it deems appropriate as to such future litigation, Local 145 shall not take a position to the effect that initiation of such future litigation is barred.
13. During the term of this MOU, if any provision regarding the level of pension benefits, pension contributions, or the availability of a defined benefit pension plan is invalidated by court order or by an amendment to the **California** Constitution, the reductions in the “pick-up” contained in Article 23 of this MOU will immediately sunset and revert back to the level of “pick-up” in effect on June 30, 2005, and the Parties will reopen negotiations on pension issues.
14. **New Retirement Factor Computation for Safety Members hired on or after January 1, 2012, as Fire Fighters of the City Fire-Rescue Department.**

A Safety Member, who is employed as a Fire Fighter of the City Fire-Rescue Department and is hired by City on or after January 1, 2012, will have a Retirement Calculation Factor of three percent when the Safety Member reaches the age of fifty-five years with at least ten years of Creditable Service. A Safety Member who is employed as a firefighter of the City Fire-Rescue Department and is hired by City on or after January 1, 2012, will have the option to retire at the age of fifty years after twenty years of Creditable Service with a proportionately reduced Unmodified Service Retirement Allowance, as follows:

Retirement Calculation Factor is 2.5 percent at age fifty; 2.6 percent at age fifty-one; 2.7 percent at age fifty-two; 2.8 percent at age fifty-three; 2.9 percent at age fifty-four; and 3.0 percent at age fifty-five. For purposes of determining retirement allowance for these Safety Members, "Final Compensation" will be defined as the average of the Safety Member's three highest years of Base Compensation at any time during his or her Membership in the System.

ARTICLE 24

Salaries/Compensation

There will be no general salary increase for the term of this MOU, **nor will there be any increases to specialty pays during the term of this MOU.**

ARTICLE 25

Grievance Procedure

A. Definitions.

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

B. Policy.

1. Employees have the right to file grievances without jeopardizing their positions.
2. Employees may represent themselves or select whomever they wish to represent them at any or all steps in the grievance procedure.

- a. The employee has the right to the assistance of a Local 145 representative in the investigation, preparation, and presentation of a written grievance.
 - b. Employees may have no more than one City employee and one non-City employee as representatives for grievance hearings.
 - c. Battalion Chiefs and Fire Captains may not represent Fire Fighters and Fire Engineers. Battalion Chiefs may not represent Fire Captains. Members of the Board of Directors may represent employees in all Fire classifications in grievances.
3. If an employee chooses to have representation on any formal grievance concerning a matter that directly involves the interpretation or application of the specific terms and provisions of this **MOU**, **the** representation must come from Local 145.
4. The employee's or **Local 145's** first contact regarding job and working conditions is with **his or her** immediate supervisor who shall attempt to settle grievances informally at this level.
5. A grievance will normally be presented and processed on City time, and a grievant attending a grievance meeting **on his or her** own behalf on City time will not lose pay. In scheduling the time, place, and duration of any grievance meeting, the employee, a steward and Management will give due consideration to all the participant's responsibilities in the essential operations of the **Department**. However, the final decision for scheduling hearings rests solely with Management. No overtime pay will be given to the grievant. Representatives, witnesses, or other participants will receive overtime pay if ordered to be present by the Appointing Authority **at a time outside their normal work hours**.
6. Waivers and Time Limits.
 - a. Failure by Management to reply to the employee's grievance within the time limits specified **in this Article** automatically processes the grievance to the next level. **An** automatic referral to the next level shall not be construed as removing the responsibility of Management at the next level from hearing the grievance and responding within applicable time limits, if it is within the authority of that level to settle **the** grievance.
 - b. Any level of review, or any time limits established in this procedure, may be waived or extended for good cause and only by mutual agreement confirmed in writing.
 - c. If an employee fails to appeal from one level to the next level within the time limits established in this grievance procedure, the grievance shall be

considered settled on the basis of the last decision and the grievance shall not be subject to further appeal or reconsideration.

- d. By mutual agreement, the grievance may revert to a prior level for reconsideration.
 - e. If a grievant fails to appear for a scheduled grievance meeting, **the failure to appear** without an **approved** excuse by the Appointing Authority shall entitle Management to decide on the grievance without the presence of the grievant, or to schedule another meeting at that level (in which case the time requirements for hearing and decision are automatically waived). Failure to appear at two meetings on the same grievance without an approved excuse automatically terminates **the** grievance and it is deemed denied. The grievance shall not be subject to further appeal or reconsideration.
 - f. When a grievant is on approved leave the time limits established in this procedure shall be suspended for the period of the leave.
 - g. No grievance shall be finally dismissed for an unexcused failure to appear at a scheduled hearing unless the grievant had been given **twenty-four** hours **advance** notice of the hearing.
7. **Local 145** agrees to pursue all claims of violation of this MOU through the grievance procedure. Resort to other remedies shall not be pursued until all steps of the grievance procedure have been exhausted.
8. Management shall provide **Local 145** with copies of all grievances regarding this **MOU** filed by employees within the **Local 145 Bargaining Unit**, who choose to represent themselves.

C. Procedures.

1. General.

- a. Management of the Department (i.e., Captains and higher **ranking** officers) has the responsibility to inform an employee of any limitation of a given level of Management's authority to fully resolve the grievance. In this regard, Management shall:
 - (1). Determine, at any time during the processing of a grievance, if the grievance requires modification or interpretation of Civil Service Rules or Personnel Manual provisions and forward **the** grievance immediately to the Personnel Director for resolution or referral to the Civil Service Commission.

- (2). Supply the employee with the necessary **and relevant** information to process the grievance **at the proper step in the process**.
 - (3). Advise an employee when any matter under submission is determined by Management **to be** not grievable according to the definitions in **Section A**. The “grievance” paperwork submitted by the employee shall be returned to the employee along with a memorandum explaining why the matter is not grievable and what alternative procedures, if any, the employee may follow to process his **or** her complaint.
- b. When a group of identical grievances develop, only one grievance form shall be submitted. The grievants may select not more than two spokespersons who will be their representative “grievants.” The acceptance of **a** decision by the spokespersons at any step (or final decision if the grievance moves to **Step 5**) will be binding on all **Parties**.
 - c. A grievance shall be recognized if it is brought to the attention of the immediate supervisor either informally or formally within ten working days, **as defined in section A.3**.
 - d. If the grievance is between the employee and **his or her** immediate supervisor, the **Step 1** may be to the **employee’s** next higher level supervisor.
 - e. If **Local 145** wishes to process a grievance on behalf of a class of represented employees which will require resolution by the **Fire Chief**, it may submit the grievance directly to the **Fire Chief** or his **or her** designee, pursuant to Step 4 of this grievance procedure. Thereafter, should this grievance not be resolved, the remaining steps of this grievance procedure may be implemented by **Local 145**. However, **Local 145** shall meet with the Chief to discuss the matter prior to submitting the matter as a formal grievance.
 - f. To be recognized, a grievance must state which policy, rule, regulation, is involved in the matter and the nature of the remedy sought by the employee or **Local 145**.

2. Steps.

- a. Step 1: At the employee’s or **Local 145’s** sole option, grievances may be presented to the supervisor either orally or in writing. If the complaint is presented orally, the procedure is informal and may be settled by an oral answer given within five working days. If the grievance is presented in writing, the procedure is formal and the answer must be given in writing within five working days after submission.

- b. Step 2: If the **grievance** cannot be resolved at Step 1, the employee or **Local 145** may present the complaint in writing to the second-level supervisor (if not done at Step 1) within five working days **of receipt of the Step 1 response**. Within ten working days of the receipt of the grievance **by a second-level supervisor**, a hearing shall be held. The Management representative shall give a written decision to the employee **and** the Local 145 representative.
- c. Step 3: If the **grievance** is not resolved at Step 2, the employee or **Local 145** may submit the grievance to the **Division Head** within five working days **of receipt of Management's written decision**. Within ten working days of the receipt of the grievance, a hearing shall be held and the **Department Head** shall give a written decision to the employee **and** Local 145 representative.
- d. Step 4: If the **grievance** is not resolved in Step 3, the employee or **Local 145** may present the grievance to the Department Head within five working days **of receipt of Management's written decision**. Within ten working days of the receipt of the grievance, a hearing shall be held and the Department Head or his **or her** designee shall give a written decision to the employee **and** Local 145 representative. In non-managerial departments this shall constitute the final resolution of a grievance involving **Management** policy or regulations.
- e. Step 5: Final Resolution of Grievance: If the grievance is still in dispute after Step 4, the employee or **Local 145** may request a further hearing **by submitting the grievance to Management within five working days of receipt of Management's written decision**. **Management will determine whether the hearing** will take place before the Civil Service Commission, on matters over which the Commission has authority, or before the City Manager or his **or her** designee. If it is determined that the hearing should be held before the Civil Service Commission, a fact-finding hearing to define the issues in the grievance will be held by the Personnel Director with the employee and/or **Local 145**, prior to the date set for the Commission hearing. The grievance may be settled during **the** fact-finding hearing if a mutually acceptable solution is developed. Within thirty working days, a hearing shall be held and the written decision issued. The employee or **Local 145** may only request a hearing before the Civil Service Commission **on** matters solely involving Civil Service Rules or the Personnel Manual.
- f. Step 6: Grievances arising out of a disagreement on interpretation or application of this **MOU** shall follow Citywide grievance procedure. Local 145 may formally request to continue the grievance not later than ten **working** days following receipt of the answer **from Step 5** of the grievance procedure by serving written notice upon Management.

Management will refer the grievance to the City Council for hearing and decision.

- g.** The City Council shall have one year from the date that Local 145 serves written notice on Management of its desire to have the grievance heard before **the** City Council, within which to calendar the grievance for hearing. If **the** City Council does not calendar the matter for consideration within the one year period, then the grievance shall be considered granted.

ARTICLE 26

Implementation

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

- A.** The tentative agreement shall be submitted to the City Council and the membership of Local 145 for their action as soon as possible after agreement has been reached by the Management Team and Local 145 negotiating team.
- B.** The members of Local 145 act, by majority vote, formally to approve and adopt the successor **MOU**, no later than April 18, 2012. Local 145 shall notify Management of the result of the Local 145 vote no later than April 19, 2012.
- C.** The City Council and Civil Service Commission act, by majority vote, **to** formally approve and adopt **these** Articles within their respective jurisdictions.
- D.** City shall act as soon as possible to make the necessary changes in ordinances, resolutions, rules, policies, and procedures to conform to this **MOU**. All such changes shall be submitted to Local 145 prior to their submittal for implementation to insure that the proposed changes are consistent with **this MOU**.

ARTICLE 27

Term

This MOU shall begin at 12:01 a.m. on July 1, 2012; however, the effective date for the initial payroll changes shall commence the first pay period that begins on or after July 1, 2012. This MOU shall expire and otherwise be fully terminated at 11:59 p.m. on June 30, 2013.

ARTICLE 28

Leave Programs

- A. An eligible employee, upon retirement (except under a deferred retirement), may request that payment for sick leave and annual leave reimbursement, for annual leave accumulated prior to July 1, 2002 only, be paid. Upon retirement, payment for distributable sick leave and annual leave shall be made in one full payment.
- B. The maximum accumulation of annual leave for employees hired before **July 1, 1994** with **fifteen** or more years of service shall be **seven-hundred** hours for **forty**-hour workers and **nine-hundred-eighty** hours for **fifty-six**-hour workers. The maximum accumulation of annual leave for employees hired prior to **July 1, 1994** with less than **fifteen** years of service shall be **six-hundred** hours for **forty**-hour workers, adjusted appropriately for **fifty-six**-hour workers. Annual leave will be capped at **three-hundred-fifty** hours for **forty**-hour employees hired on or after **July 1, 1994**, adjusted appropriately for **fifty**-hour workers.
- C. During the term of this **MOU**, the ability to receive **payment-in-lieu** annual leave will be limited to employees with **one-hundred-sixty** hours or more of accrued annual leave who may receive a maximum payment-in-lieu of **one-hundred-twenty-five** hours per fiscal year adjusted as appropriate for **fifty-six** hour workers. **Only** annual leave hours accumulated prior to July 1, 2002, will be eligible for use with this **payment-in-lieu** feature.
- D. Employees who reach their maximum permitted accumulation of annual leave on their anniversary date shall cease to accrue additional annual leave. Employees who expect to be in this situation may submit a written plan by which to reduce excess leave which will include time off and pay-in-lieu up to **one-hundred-twenty-five** hours per fiscal year as necessary. If the Appointing Authority denies the specific time off requested and provides no alternative time off which is acceptable to the employee, this cease-to-accrue provision shall not apply until such time as the employee is granted and takes the time off. It is City's intent to accommodate employees' requests to use annual leave and avoid any loss of this benefit.
- E. Benefits While on Special Leave Without Pay (SLWOP).
1. All benefits will be coordinated and/or offset by benefits the employee receives under any other City program, including but not limited to Long Term Disability, and Family Medical Leave.
 2. After one year on SLWOP, City may charge the employee a **2 percent** administrative fee or offer continuation of benefits under COBRA.
 3. Employees will not be eligible for City sponsored Supplemental Life Insurance while on SLWOP.

- F. Military leave from members of Local 145 will be administered in accordance with Personnel Manual Index Code I-10 and USERRA.
- G. Employees in the **Bargaining Unit** who have not yet entered DROP will be allowed to convert annual leave cash equivalent to retirement service credit on a pretax basis. The amount of service credited will be the employer and employee cost of that service credit as determined by the Retirement Board. Employees in the **Bargaining Unit** will no longer be eligible to exercise any cash out feature of annual leave accrued from July 1, 2002 prospectively. Since employees cannot cash out post-July 1, 2002, annual leave, employees who have balances of post-July 1, 2002, annual leave at the end of their DROP period will be permitted to extend the DROP period beyond the five-year maximum by that amount of post-July 1, 2002, annual leave not converted to service credit prior to entering DROP. Specific procedures for implementing this benefit will be subject to **IRS** rules, as interpreted by the City Attorney's Office.
- H. City agrees to submit to the **IRS** for a Private Letter Ruling the issue of applying this pre-tax conversion of leave to service credit for annual leave accrued prior to July 1, 2002.

I. Bereavement Leave.

Paid Bereavement Leave of up to three days (not to exceed thirty-six hours) is available upon the death of an employee's spouse, father, mother, brother, sister, son, daughter (son or daughter to include: step-, foster, or adopted), or state-registered domestic partner, with a limit of one eligible death per fiscal year. Proof of death (death certificate, obituary, funeral program, etc.) must be provided in order to receive Bereavement Leave, which is in addition to Annual Leave, and must be submitted within thirty calendar days of when the employee returns to work.

J. Approved Unpaid Leave.

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

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

1. Use of more than twelve (12) consecutive shifts of leave (Trade, Holiday, Compensatory Time, Annual Leave or Annual Leave Trade) shall require approval through the employee's chain of command, to Shift Commander or Division Head. Employees who wish to take leave in excess of the twelve (12) **twenty-four** (24) hour shifts shall write an FD-7 that details the reasons for the request, and the expected date of **the employee's** return to duty. **Employees are required** to maintain all appropriate licenses, permits, and training requirements **during their approved shift exchanges and show proof of meeting all requirements** upon their return to duty.

2. During the period of leave, TeleStaff access will be blocked for that employee, and reinstated upon **his or her** return to duty.
 3. Employees who request the use of leave in anticipation of retirement shall state that as the reason for their request, and, if **the leave is** granted, **the employee** shall be required to:
 - a. Relinquish their Station assignment
 - b. Relinquish Station bidding privileges turn in all Department issued PPE, Identification and equipment as if **the employee's** separation from service was complete
 - c. Lose TeleStaff access and privileges
- L. If use of annual leave would require absence on a management-designated “restricted day,” the leave shall only be granted as an annual leave trade.
- M. 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 **one-hundred-twenty-five** hours per fiscal year.

ARTICLE 29

Personnel Regulations

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

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

A. Personnel Manual Index Codes.

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

B. Administrative Regulations.

63.00, Industrial Leave

70.30, Tuition Refund Plan
95.01, Overtime Compensation
95.60, **Conflict of Interest and Employee Conduct**
95.90, **Unused Sick Leave and Accrued Annual Leave Reimbursement**
97.00, Substance Abuse Policy

C. Other Regulations and Procedures.

Department Infection Control Plan
Long Term Disability Program (on file with **the Office of the City Clerk**)
Council Policy 300-6, **Employee-Employer Relations Policy**
Will Work Policy, Department Transfer Policy Manual.

ARTICLE 30

Formal Representation

- A. **Local 145** may select three representatives to attend scheduled meetings with Management on subjects within the scope of representation during regular work hours without loss of compensation. In addition, **Local 145** may select one representative to attend City Council and Council Committee hearings and Retirement **Board** meetings when subjects within the scope of representation are being discussed, all Civil Service Commission, and Retirement Board meetings, during regular work hours, without loss of compensation. **Local 145** shall, whenever practicable, submit the names of all **designated** representatives to Management at least two working days in advance of **the** meetings, provided, further:
1. That no representative shall leave **his or her** duty or workstation or assignment without specific approval of the **Department Head** or Management.
 2. That **approval to attend** any meeting is subject to scheduling by Management in a manner consistent with **the** operating needs and work schedules.
- B. Nothing provided in **this Article** shall limit or restrict Management from scheduling such meetings before or after regular duty or work hours under appropriate circumstances.

ARTICLE 31

Renegotiation

- A. In the event Local 145 desires to meet and confer in good faith on the provisions of the successor **MOU**, it shall serve upon City **its written request to commence meeting and conferring in good faith, as well as its full and entire written proposals for such successor MOU by January 16, 2013**, with the exception of initial salary or other economic proposals, which shall be presented no later than January **23, 2013**.

- B. City will serve **upon** Local 145 **its full and entire written proposal for a successor MOU** by February 6, 2013, **with the exception** of salary or other economic **proposals**. Meet and confer shall begin no later than February 12, 2013, at which time City will present its full economic proposal. If federal or state governments take action that has a direct effect upon the areas which fall within **the scope of representation**, City may submit proposals concerning these areas at later dates.
- C. **Me-Too Clause**. City agrees that, if, during the term of this MOU, any other employee labor organization is given a general salary increase or any other economic enhancement to their overall compensation, or has any compensation reduction they have incurred or concession they have made restored to them, then City will extend that same economic benefit to Local 145-represented employees on the same terms and on the same effective date. The Parties agree that this “Me-Too Clause” will remain in effect during Fiscal Year 2013 and will sunset on June 30, 2013.

ARTICLE 32

Impasse Procedure

The impasse procedure is found in Council Policy 300-6, which is incorporated into this MOU by reference in Article 29, Personnel Regulations.

ARTICLE 33

Transfer of Union Officers

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

ARTICLE 34

Vacation Selection Procedure for Fire Suppression Personnel

- A. **The** Appointing Authority is responsible for arranging vacations so that adequate personnel **is** available to carry on necessary City work.
- B. Individuals may indicate their list of preferences for vacation and submit them on an FDR7. This information will be used to select a vacation for the individual.
- C. Annual leave shall be granted when requested, subject to the **operating** needs of the Department.

ARTICLE 35

Mandatory Mess

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

ARTICLE 36

Overtime

- A. Premium compensation at the rate of one and one-half times the base rate shall be paid to employees in the classifications of Fire Fighter, Fire Engineer, Fire Captain, and **Fire** Battalion Chiefs under the following conditions:
 - 1. When an employee is called back to work from a non-duty status, he **or** she shall receive premium pay for all call-back time worked with a four hour minimum of compensation in each instance.
 - 2. When an employee is required under subpoena to appear in court during non-duty hours, he **or** she shall receive premium pay for court time with a four hour minimum of compensation in each instance.
 - 3. When an employee's shift is extended beyond its normal ending time, he **or** she shall receive premium pay for the time of the shift extension but shall not be eligible for minimums referred to in Sections 1 and 2 above.
 - 4. The minimum call-back and court time provisions shall not apply in the following situations:

- a. When an employee is required by subpoena to appear in court prior to his **or** her scheduled shift, and the appearance is contiguous with the shift, or when an employee attends court then reports to work an hour later;
- b. When an employee is already present at the work station and is required by a supervisor to start work early or to resume work following the end of shift;
- c. When an employee is required to attend a meeting scheduled before or after the employee's shift, and which is contiguous with the shift; **or**
- d. When an employee is required to appear in court during a session which begins during the employee's regularly scheduled shift, but which continues past the end of shift.

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

5. For all overtime earned, members shall receive either compensatory time off or pay, at the discretion of the Fire Chief. Only the actual hours worked may be held as "comp time." Any FLSA overtime earned will be paid in the pay period earned. Use of comp time will follow **the** Annual Leave Guidelines. **Compensatory time shall be reduced to forty-eight hours as of June 30 each year unless an exception is granted by the Fire Chief.** Members of the Unit will not be permitted to accrue more than **one-hundred-twenty** hours of compensatory time for overtime worked.
6. Fire Fighters, Fire Engineers, Fire Captains, and **Fire** Battalion Chiefs mandated to attend training sessions on non-regularly assigned shifts will be compensated at the rate of one and one-half times their base rate.
7. **Forty-hour** employee working over **eight** hours per day if on the 5/8 schedule, or a **forty** hour employee working over **nine** hours per day on a 44/36 schedule **will be compensated at the rate of one and one-half times their base rate.**
8. **Forty-hour** employee working over **forty** hours per week **at a rate one and one-half times their base rate.**
9. If a suppression employee (**fifty-six** hour schedule) is scheduled or directed by the **Department** to work on **an** actual holiday (**versus on a** City-observed holiday), he **or** she shall receive pay at premium rate (no comp time) for the time worked, during the first twelve hours of the shift beginning the morning of the actual holiday only.

- B. City and Local 145 agree **that** Fire Fighters, Fire Engineers, Fire Captains, and **Fire** Battalion Chiefs **will work a twenty-eight-day work cycle** in accordance with section 207k of the FLSA.
1. Fire Fighters, Fire Engineers, Fire Captains, and **Fire** Battalion Chiefs who work more than **two-hundred-twelve** hours in any **twenty-eight-day** work cycle will be paid premium overtime for their hours worked in excess of **two-hundred-twelve**. Compensatory time off, vacation, holidays, annual leave, sick leave, or other compensated leave or unpaid leave will not be counted as hours actually worked during the **twenty-eight-day** work cycle in determining eligibility for premium overtime.

ARTICLE 37

Station Transfer Procedures

- A. The Fire Chief may transfer fire fighting personnel to any position within the Department if he **or she** determines that a position requires specific skills, ability, or knowledge or if he **or she** finds that a reassignment is necessary for the efficiency and harmony of the Department.
- B. Any vacancy in Fire Suppression not filled by the provisions in paragraph A, shall be filled on the basis of seniority as vacancies occur.
1. The Department shall make all vacancies known to suppression personnel at the beginning of each bid cycle (approximately one month) prior to filling that vacancy.
 2. In the event that additional stations come open for bid during intervening bid cycles, those vacancies will be advertised for the full period of the next complete bid cycle.
- C. All station transfers shall be **made** in accordance with the Department Transfer Policy Manual.
- D. City agrees to operate the foregoing program strictly in conformance with the seniority provisions in Article 4 of this **MOU**. City further agrees to treat all employees in the unit fairly and equitably in administering this program. Any alleged violation of this **Article** shall be subject to a grievance to the Fire Chief.
- E. In accordance with existing practice, Fire Battalion Chiefs cannot bid for assignments through the formal bid procedure. Management will continue to give employee preference serious consideration in the assignment of Fire Battalion Chiefs to Fire Operations areas. Upon **a** request from the employee, **Management** will provide feedback to those **Fire** Battalion Chiefs not selected, based on knowledge, skills and abilities or **Management** needs to an assignment where the employee has expressed a preference.

- F. Probationary **Fire Fighter** personnel during their first year of employment will not be allowed to bid for permanent station assignments.
- G. Employees who are married or members of the same immediate family shall not be assigned to the same fire station.
- H. Except when a specific policy applies, if an employee is absent from **his or her** permanent assignment for more than six months due to a non job-related medical condition, then **his or her** permanent assignment will be declared vacant. The vacant position will then be filled according to the current procedures pertaining to that position.
- I. City will comply with **the** OSHA policy for two in/two out, for two **Fire Fighters** inside a structure and two **Fire Fighters** outside a structure, as required by law.

ARTICLE 38

Non-Duty Weekend/Holiday Training

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

ARTICLE 39

In House Committees

- A. The Fire Chief may, at his **or** her discretion, create advisory committees to provide information which is necessary to administer the Department. **The** committees shall be precluded from considering subjects which relate to the scope of representation of the recognized **Bargaining Unit**.
- B. In the event that the Fire Chief requires input on matters falling within the scope of representation, he **or** she shall consult Local 145. Local 145 will provide data on the subject requested.
- C. The Department agrees to meet with Local 145 to receive **its** input on developing and implementing any training programs for Fire Fighters.

ARTICLE 40

Implementation of New Programs

- A. The **Parties** agree that they will meet and consult or meet and confer as required by law on the implementation of any new programs during the **fiscal year** and the impact of any **new** programs on working conditions.

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

ARTICLE 41

Grocery Shopping

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

ARTICLE 42

Holidays

Effective July 1, 2009, 140 hours of annually accrued holiday time is eliminated. This includes the reduction of **twenty-four** hours for a Floating Holiday, **twelve** hours for Cesar Chavez Day, and **one-hundred-four** scheduled holiday hours for all **fifty-six**-hour employees who were not previously relieved from D-Division.

- A. Fixed Holidays.
 - 1. **Fixed Holidays** will be:
 - a. January 1;

- b. Third Monday in January, known as “Dr. Martin King, Jr.’s Birthday”;
 - c. Third Monday in February, known as “**President’s Day**”;
 - d. March 31st, known as “Cesar Chavez Day”
 - e. Last Monday in May, known as “Memorial Day”;
 - f. July 4;
 - g. First Monday in September, known as “Labor Day”;
 - h. November 11, known as “Veteran’s Day”;
 - i. Fourth Thursday in November, known as “Thanksgiving Day”;
 - j. December 25; and
 - k. Every day appointed by the City Council for a public fast, Thanksgiving or holiday.
2. For personnel working straight-days, if January 1, March 31, July 4, November 11, or December 25 falls upon a Sunday, the Monday following is **the City-observed** holiday. **If any of the dates listed in this section** fall on a Saturday, the preceding Friday is **the City-observed** holiday.
 3. For suppression personnel working a shift schedule, all holidays will be observed on the day of the actual holiday, not the City observed holiday.

B. Floating Holiday.

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

1. Schedule the **floating holiday** prior to June 1 of each fiscal year;
 2. Take the **floating holiday** off prior to the last day of the last full pay period in June of each fiscal year;
 3. **The floating holiday is a one-time absence; and**
 4. **The floating holiday must be taken at a time convenient to the employee’s Appointing Authority**
- C.** If an employee in suppression (**fifty-six** hour schedule) is scheduled or directed by the **Department** to work on the actual holiday, he **or** she shall receive pay at premium rate (no comp time) for the time worked, during the first twelve hours of the shift beginning the morning of the actual holiday only.
- D.** Employees who are scheduled to work a **shift of nine or more hours** on a fixed holiday shall be credited with floating holiday time **equal to the number of hours in their shift for use on another day**. The additional floating holiday time will be subject to all of the provisions of floating holidays, on a use-it-or-lose-it basis.

ARTICLE 43

Disciplinary Actions and Appeals

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

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

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

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

Government Code **section 11501(c)** provides that:

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

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

A. Disciplinary Sanctions Not Involving Discharge, Demotion or Suspension.

1. Pursuant to Government Code **section 11445.20**, City shall use an informal hearing procedure in those situations where a disciplinary sanction against an employee does not involve discharge, demotion or suspension. Section 11445.20, is specifically incorporated into sections 11500 **through 11529** (see section 11501(c)).
2. Accordingly, **Government Code** section 11400 **through 11475.70** are incorporated into this MOU, with specific reference being made to section 11445.40, which provides the basis for an informal hearing in matters subject to sections 11400 **through 11475.70**.
3. In an informal hearing, the Fire Chief or **his or her** designee shall be the **hearing** officer. The Fire Chief or **his or her** designee shall conduct the

informal hearing in accord with the procedural guidelines set forth in **Government Code** sections 11445.40 **through** 11445.60. The determination of the Fire Chief shall be final and binding.

B. Disciplinary Sanctions Involving Discharge, Demotion or Suspension.

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

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

1. Employees may petition to the Fire Chief for removal of a warning or reprimand from their Human Resources Division file after three years if there is no additional discipline given to the employee. The Fire Chief or his **or her** designee shall consider the petition and make a final decision regarding the removal of the warning or reprimand.
2. Employee performance evaluations with satisfactory or above ratings are not eligible for appeal.
3. When an employee is placed on a Performance Development Plan (**PDP**) for less than satisfactory performance, the employee will remain under the oversight of the supervisor that issued the PDP for the entire review period. If the employee or supervisor successfully bids into another station, or is accepted for a specialty assignment, then the station or assignment will be held until the completion of the **PDP**.
4. Nothing shall be included in an employee's personnel file, which is uncomplimentary, disparaging, or negative, without prior notification.
5. **Prior grievances filed by an employee will not be retained in the employee's personnel files without the employee's consent.**

D. **City shall follow the procedures contained in this Article and in the City's Dimensions in Discipline Manual when administering discipline. No discipline procedure other than those outlined in the Article shall be used by Fire Management unless by mutual agreement.**

ARTICLE 44

Emergency Medical Services

A. Paramedic Assessment Engine Program.

1. A paramedic premium will be paid to Fire **F**ighters, **F**ire Engineers, and **F**ire Captains certified as paramedics. **F**ire Battalion Chiefs are not eligible for the premium. In accordance with Article 17, this exclusion does not apply to the EMS **F**ire Battalion Chief.
2. The paramedic premium shall be the difference between E **S**tep Fire **F**ighter and E **S**tep **F**ire Engineer per month.
3. A paramedic certification bonus of \$500 shall be paid to all certified personnel in the **B**argaining **U**nit, with the exception of **F**ire Battalion Chiefs, upon certification or re-certification as a paramedic. EMS **F**ire Battalion Chiefs certified as paramedics will be eligible for the \$500 bonus.
4. During the term of this **M**OU, additional Fire **F**ighters to be trained as paramedics will be determined by mutual agreement.
5. Effective July 1, 2006, unless sufficient profit exists from the LLC, or the San Diego Medical Enterprise Services LLC Board, **or alternative EMS provider**, votes to fund the **5 percent** rated paramedic specialty pay for **Fiscal Year 2007**, then the **5 percent** paramedic specialty pay will be paid only to certified paramedics working in a posted paramedic position. This specialty pay will be paid on a per diem basis when a certified paramedic is working in a posted paramedic position if not permanently assigned to a posted position on a full-time basis. Rated, non-posted paramedics will no longer receive 5% specialty pay to maintain paramedic licensure. Effective July 1, 2007, to remain eligible to receive the **5 percent** paramedic specialty pay, rated, non-posted paramedics must agree to:
 - a. Participate in a chart audit program wherein they will audit the patient charts of paramedics (chart audits will be equally distributed among rated paramedics); and
 - b. Participate in the continuing education, quality assurance and ambulance rotation programs; and
 - c. Serve as a back-up BMO
6. The Fire Chief agrees to recommend to the San Diego Medical Services Enterprise LLC Board, **or alternative EMS provider**, that the **5 percent**

paramedic specialty pay for rated, non-posted paramedics be funded through the LLC budget and not be dependent on sufficient profit distribution.

B. EMT.

All **Fire** Battalion Chiefs, **Fire** Captains, Fire Engineers, Fire Fighters, Fire Prevention Inspectors, Single-role Paramedics, **Fire Inspection Supervisors, and Assistant Fire Marshals** who are EMT-certified will receive an EMT premium of **8.5 percent** of employee's base pay.

C. Paramedic Program.

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

D. Emergency Medical Services (EMS).

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

- a. Paramedic I
- b. Paramedic II
- c. Emergency Medical Technician

2. Annual Leave Accrual.

Employees working a **twenty-four-hour** shift schedule will receive their maximum regular biweekly accrual of **annual leave** based on full completion of their work schedule which averages **one-hundred-twelve** hours per pay period. Annual leave credits are not earned during period of unpaid leave.

3. Overtime.

Notwithstanding the provision of Personnel Manual section H-4, overtime will be based only on all hours actually worked beyond **forty hours** in a workweek. For purposes of the above provision, compensated leave will count as hours worked in the overtime calculation. If employees in the future become eligible for the **207(k)** exemption in the FLSA, **207(k)** exemption provisions will apply and compensated leave (excluding industrial leave) will not count as hours worked in the overtime calculation. If there are any other changes in the FLSA overtime provisions, or in the interpretation of those provisions by the Department of Labor (DOL) or the courts, this provision may be reopened by either party.

4. Holidays.

City holidays for single role EMS employees working **twenty-four**-hour shifts will be accrued and used in the same manner as Fire **Fighters** who work **twenty-four**-hour shifts (**one-hundred-twelve** standard). For employees working **twelve**-hour shifts, City holidays will be accrued on the official City-**observed** holiday.

5. Special Assignment Station Pay.

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

6. Uniforms and Safety Equipment for EMS Employees.

Single-role Paramedics **and EMTs** are not eligible for the Fire **Fighters** uniform provisions **in** Article 21.

a. The following items of a Class B uniform will be furnished by **the** Department as needed for EMT's and Paramedics.

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

b. The safety items listed below will also be furnished by **the** Department.

- (1) Brush Jacket (1)
- (2) Personal Protective Equipment Pack (1)
- (3) Eye Protection
- (4) Respiratory HEPA Mask
- (4) One-way mouth-to-mouth valve/mask

c. Maintenance and Upkeep.

On September 1 of each year, City shall pay single-role EMTs **and** Paramedics who have completed **twelve** months of service, the sum of **\$900** for maintenance and replacement of the items described in **D.6.a.**

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

7. Will Work.

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

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

8. Drug and Alcohol Screening.

- a. The existing random drug and alcohol testing program shall be expanded to include those EMS employees identified above.
- b. Employees will be deemed in violation of this policy if alcohol percentage of 0.04 or greater is detected in their system during working hours.

ARTICLE 45

Transportation Incentives

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

Employees participating in the Transportation Alternative Program (TAP) shall pay 50 percent of the public daily rate, for up to fifty-two instances per year. Participation in TAP is limited, and is available to employees on a first-come, first-serve basis.

- B. City will provide a 75 percent reimbursement up to \$100 per month to those employees who wish to purchase monthly passes for transportation on the public bus, trolley, and commuter rail service. Transportation passes will be for the exclusive use of the employee/purchaser. City will provide an equal amount to employees who use the San Diego Bay ferry and to employees participating in a vanpool program. Employees must use these subsidized transportation services to commute to and from work at least three days per week to be eligible for reimbursement. Payments for passes are made payable to the City Treasurer no later than the 12th day of the current month for the next month’s pass. Payment is loaded on to issued Compass Cards.
- C. City will provide reimbursement to employees who use the Concourse Parkade and carry riders. The rate of reimbursement will be calculated so that an employee who carries three riders will receive free parking.
- D. Violation of Transportation Alternative Program rules will disqualify the employee from further participation in the program.

ARTICLE 46

Driver's License and Certification

- A. All Fire Engineers shall maintain a valid Class B driver's license (with appropriate endorsement) and training certificate for triple combination, tractor/trailer, aerial ladder, brush apparatus and aerial platform. Any Fire Fighter, **Fire Engineer** or **Fire Captain** required by special circumstances (Bomb apparatus with trailer, HRT truck with trailer or US&R (tractor trailer)) to drive and operate a **Department Class A** vehicle shall maintain a Class A license with appropriate endorsement and medical examiner certificate.
- B. Management will provide **twenty-four** hours of compensated Engineer Preparatory Course (EPC) classroom training for all Fire Fighters to include information necessary for the triple combination pumper certification and Class B driver's license (with appropriate endorsement).
- C. Management will make available for off-duty members not presently certified, a minimum of four hours of instructor-provided training to **assist** the **Fire Fighter** meeting the Department of Motor Vehicle (**DMV**) licensing requirements and to demonstrate their skills as a pump operator. Fire Fighters must be certified on the following fire apparatus to be eligible to take **the** Fire Engineer's promotional exam:
1. Triple Combination
 2. Tractor/Trailer
 3. Aerial Ladder
 4. Brush Apparatus
- D. Fire Fighters participating in the EPC may schedule on-duty a DMV physical through Personnel's Medical Clerk. **The** Department will pay for the cost of the physical. DMV fees for a Class B license will be paid by the employee.
- E. The Department will pay for DMV fees and the physical of Fire Fighters regularly assigned to drive fire support equipment requiring a Class A or Class B driver's license.
- F. City reserves the right to implement a **Drug and Alcohol Screening Program** (urinalysis) for all employees undergoing the biennial medical examination required by state law for **DMV Class A and B** driver's licenses. All employees required to have a Class A or B license for the performance of their regular duties must have the medical examination and drug **and** alcohol test conducted by the medical examiner and testing laboratory designated by City. The scheduling of **these** medical examinations, to include drug **and** alcohol testing, will be determined by **Management**.

ARTICLE 47

Copies of the Agreement

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

ARTICLE 48

This Article is left blank.

ARTICLE 49

Rehabilitation Program

- A.** When an employee is injured and is in a light duty **status** or off the job for a period in excess of **sixty** days, City will ensure that the employee has completed an appropriate rehabilitation program prior to returning to full duty.
- B.** City agrees to provide critical incident stress debriefings at no cost to employees **who** request such counseling as **Management** deems appropriate.

ARTICLE 50

Employee Privacy of Information

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

ARTICLE 51

Access to Department-Provided Equipment

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

ARTICLE 52

Polygraph Examinations

No employee shall be compelled to submit to a polygraph examination against his **or** her will. No disciplinary action or other recrimination shall be taken against an employee **who** refuses to submit to a polygraph examination, **and no comment** shall be entered anywhere in the investigator's notes or anywhere else that **indicate** the employee refused to take a polygraph examination. **No** testimony or evidence **that the employee refused to take a polygraph examination will** be admissible at a **any** hearing, trial, or proceeding, **whether** judicial or administrative.

ARTICLE 53

Health Management Program

- A. City and Local 145 agree to support a Health Management Program. Local 145 will be allowed to provide input **annually** into the **Wellness** Program. Local 145 input must be received by Fire Management prior to September 1 of each fiscal year. The selection of the provider will be in accordance with Council Policy 300-7.
- B. During the term of this **MOU**, City shall continue to fund the Wellness Program. **During the term of this MOU, City shall fund** up to \$35,000 per year **to** be utilized for the maintenance or purchase of **exercise** machines and/or similar equipment.
- C. During the term of this **MOU**, City shall provide Hepatitis B vaccinations to all members of the **Unit**.

ARTICLE 54

Fire Fighter Career Ladder

- A. Local 145 and City agree to support the establishment of a career ladder as follows:
 - 1. Fire Recruit
 - 2. Fire Fighter I

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

ARTICLE 55

Special Salary Adjustments

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

ARTICLE 56

Side Letters

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

ARTICLE 57

Drug and Alcohol Testing Program

- A. A random **Drug and Alcohol Testing Program has been implemented and applies to all Fire Fighter Unit personnel**. The term **Fire Fighter** refers to members of the **Fire Fighter Unit** which consists of the following classifications:
1. Fire Recruit
 2. Fire Fighter I
 3. Fire Fighter II
 4. Fire Fighter III
 5. Fire Engineer
 6. Fire Captain
 7. Fire Battalion Chief

8. Fire Prevention Inspector I
9. Fire Prevention Inspector II
10. Fire Prevention Supervisor
11. Assistant Fire Marshall
12. Emergency Medical Technician
13. Paramedic I
14. Paramedic II
15. Fire Helicopter Pilot
16. Air Operations Chief
17. Fire Captain (Emergency Management Coordinator Option)

B. Procedures.

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

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

h. Phencyclidine (PCP);	25 ng/mL	25 ng/mL
i. THC (marijuana)	50 ng/mL	15 ng/mL

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

D. Sample Collection

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

- a. Direct the **Fire Fighter** being tested to a private lavatory.
- b. Place a colored dye in the toilet.
- c. Wait outside the lavatory for the sample.
- d. Upon receipt of the urine sample, and in the presence of the **Fire Fighter**, the medical personnel will:
 - (1) Split the sample into two separate containers.
 - (2) Seal the containers.
 - (3) Direct the **Fire Fighter** to sign and initial the chain of custody forms and documents.
- e. Complete the appropriate chain-of-custody forms and procedures for the samples.
- f. Arrange transportation of both samples to the laboratory by **an** approved courier.

E. Screening Procedure.

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

- e. If the urine sample tests “positive,” a confirmation test will be conducted.
 - (1) The confirmation test will be determined by the specific drug found in the sample during the initial test.
 - (2) The confirmation test will be conducted using the GC/MS or other alternative technique.
- f. If the confirmation test confirms the presence of drugs, both samples will be retained in a locked freezer for a minimum of one year.
- g. If the confirmation test is “negative,” the whole test will be considered negative **and all urine samples will be destroyed.**

5. Alcohol Test.

- a. The standard for alcohol testing will be the converted urinalysis equivalent of a blood alcohol level of 0.04 **percent**.
- b. An alcohol testing level of 0.04 **percent** or greater will be treated as a “positive” result and may be cause for disciplinary action.

F. Reporting Test Results.

- 1. Test results will be provided to Personnel’s Medical **Program Administrator** via City’s contract medical provider.
- 2. If the test results are “negative,” the **Fire Fighter** will be notified in writing without delay.
- 3. If the test results are positive for legally-prescribed **medications**, Personnel will request **that** the **Fire Fighter** provide written substantiation from his **or** her private doctor prescribing the **medications**.
- 4. If test results are “positive” for alcohol (0.04 **percent** or above), illegal drugs, or inadequately explained legal **medication**, the Department’s Human Resources Manager will be notified and will be responsible for initiating an investigation. **Disciplinary action may be imposed. Alternatively, the disciplinary action may** to be held in abeyance, and a Last Chance Agreement may be offered by City to an **employee at** City’s discretion. Any Last Chance Agreement will be held in a sealed envelope in the Department Personnel file for the duration of the **employee’s** employment. Violation of the Last Chance Agreement may result in termination of employment. The discipline will be removed upon successful completion **of the Last Chance Agreement**.
- 5. Alcohol tests results below the 0.04 **percent** level shall be cause for a mandatory referral of the **Fire Fighter** to the Employee Assistance Program (**EAP**). However,

no disciplinary investigation shall be initiated solely on the basis of the result, including those instances where the Fire Fighter is on a Last Chance Agreement. Personnel shall be responsible for making the referral of the Fire Fighter to City's EAP. Test results are confidential and Personnel will not notify anyone, including the Department, of the **alcohol** test result **that is below 0.04 percent** or the referral of the Fire Fighter to City's EAP. If an employee fails or refuses to follow through with the initial mandatory EAP referral, Personnel will notify **the** Department for appropriate action. **The** Department will not inquire of Personnel or the employee as to the basis for the EAP referral, including, but not limited to, whether there was an alcohol test and the results **of the test**.

G. Independent Testing.

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

H. Program Records.

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

I. Use of Test Results.

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

J. Last Chance Agreement.

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

ARTICLE 58

Catastrophic Leave Plan

City Catastrophic Leave Plan is as follows:

A. Purpose.

Establish a City-administered Catastrophic Leave Bank (**Leave Bank**) permitting City employees to assist other City employees who face extended leaves without pay due to a catastrophic occurrence in their lives. For the purpose of this plan, a “catastrophic occurrence” is defined as any event that would qualify the employee under the Family Medical Leave Act as determined by the **Human Resources** Director. Catastrophic Leave determinations are non-grievable.

B. Procedures.

1. The employee must have exhausted or expect to exhaust his **or** 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**.
 - a. If an employee is diagnosed as terminally ill, a **Leave Bank** may be established without meeting this requirement. In such cases, the donated leave will be paid out **when an employee leaves work due to illness**. A recipient’s total annual leave balance including donated leave cannot exceed **two-thousand-eighty** hours.
 - b. The employee has received approval for an unpaid leave of absence from his **or** her Department Head.
2. Requests to establish a Leave Bank for receipt of donations will be processed by the **Human Resources Department**.
 - a. An eligible employee will submit a completed “Request to Establish Catastrophic Leave Bank” form to the **Human Resources** Director, accompanied by:
 - (1) 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 **in accordance with state and federal law**.
 - (2) Evidence of the Department Head’s approval of leave of absence.

3. 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**. The Department shall not advertise **or** solicit donations. Such advertisement **or** solicitations shall only be sought by Local 145.
 - a. Donation **of** leave will be strictly voluntary; the identity of leave donors will be held in absolute confidence.
 - b. Employees may only donate accrued annual leave.
 - c. Donations **must** be made in whole hour increments. There is no tax benefit to the donor.
 - d. Donors must have an overall annual leave balance of 160 hours remaining after donated time has been deducted.
 - e. Once donated to an individual, donated leave cannot be reclaimed by the donor.
 - f. Employees wishing to donate time shall complete a "Confidential Authorization for Catastrophic Leave Donation" form and submit **it** to their Department **payroll specialist** who will:
 - (1) Verify that **the** donating employee has the minimum required leave balance **of one-hundred-sixty** hours;
 - (2) Convert the donated time to dollars at the hourly rate of the donor and subtract **the donated time** from **the donor's** designated leave category; and
 - (3) Forward **the donation authorization form** to the **Human Resources Director** for tracking and submission to the **Office of the City Controller**.
 - (4) Donation authorization forms which do not contain all requested information shall not be processed.
4. Upon receipt of donation authorizations, the **Office of the City Controller** shall take the following action:
 - a. Convert donated dollars as computed above to hours at the hourly rate of the recipient, and add **the donated hours** to **the** recipient's annual leave balance. **The** recipient will be taxed for the leave when **it is** taken.
 - b. Retain a confidential file of donation authorizations.

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

ARTICLE 59

Long Term Disability Plan and Industrial Leave

A. Long Term Disability Plan.

During the term of this MOU, the Long Term Disability (LTD) Plan shall be subject to a meet and confer reopener in order to better reflect industry standard practices.

B. Industrial Leave.

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

1. Industrial Leave payments will not be granted for any injury which occurs as a result of a motor vehicle accident where the injured employee did not have available safety restraints in use, unless such failure is consistent with prudent police practices, training, and department policies.
2. Industrial Leave benefits will be terminated when an employee misses a medical appointment designed to determine the employees work status, **if it is determined** that the failure to attend the appointment was not excusable.

ARTICLE 60

Agreement to Joint Study

The City agrees to include in its City-wide study of employee salaries and benefits, in which Local 145 will participate, and which will commence in FY 2011.

ARTICLE 61

Terminal Leave

Terminal Leave is eliminated effective June 30, 2011.

ARTICLE 62

Overpayments to City Employees and Repayment of Funds

A. Overpayment.

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

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

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

B. Repayment of Funds.

An employee will pay no penalties, fees or interest as a result of the overpayment. The employee shall have the right to select one of three options for repayment:

- 1. Lump sum payment with the date mutually established by the employee and the department (lump sum payments must be made if the total amount due is 5 percent or less than the employee's biweekly salary).**

Biweekly installment payments through payroll deduction (installment payments must be a minimum of \$10 and repayment must be completed within twenty-six pay periods).

2. Any other repayment arrangement mutually agreed upon between the City and the employee.

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

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

C. **Referral to Collections.**

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

ARTICLE 63

Weapon-Free Workplace

Local 145 represented employees are prohibited from possessing personal deadly weapons or firearms, even if lawfully owned, while performing duties or have stored in the workplace, including City controlled access parking facilities. The City shall have the right to adopt an Administrative Regulation regarding transporting or carrying of weapons by City employees on City property or job sites. For purposes of the Article, tools required or used on the job are not considered weapons. At the request of the Local 145, the City will meet and confer over the identified impacts on the adoption of the Administrative Regulation.

ARTICLE 64

Volunteers

- A. The City's Volunteer Program is governed by City Council Policy 300-01.
- B. For purposes of this proposal, a volunteer is defined as an individual or groups of individuals who offer themselves for some service or undertaking without being compensated pay by the City.

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

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

ARTICLE 65

Take Home Vehicles

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

ARTICLE 66

Discretionary Leave for Fiscal Year 2013

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

leave for use during Fiscal Year 2013. Half time employees will receive eight hours of discretionary leave for use during Fiscal Year 2013.

- B. Each employee will schedule his or her discretionary leave hours in the same manner as annual leave is presently scheduled pursuant to Fire-Rescue Department annual leave guidelines. This leave can also be combined with other types of paid leave.**
- C. All leave granted under this Article must be used by June 30, 2013 or it will be forfeited. The one-time sixteen hours of discretionary leave under this Article will sunset on June 30, 2013.**
- D. The sunset provision of Section 3 above does not amend, modify, or alter any discretionary leave that may be granted under Administrative Regulation 95.91 (Employee Recognition and Rewards Program).**
- E. The Parties will meet and confer over the implementation of the use of discretionary leave under this Article.**

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

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

IN WITNESS WHEREOF, the undersigned agree to submit this Memorandum of Understanding effective July 1, 2012 – June 30, 2013, to the appropriate bodies.

Local 145, International Association of Fire Fighters

(Signature on file, available upon request)
Frank DeClercq, President _____ Date _____

(Signature on file, available upon request)
Cory Beckwith, Vice President _____ Date _____

(Signature on file, available upon request)
Alan Arrollado, Secretary/Treasurer _____ Date _____

(Signature on file, available upon request)
Mike McGhee, Director of Labor Relations _____ Date _____

City of San Diego

(Signature on file, available upon request)
Scott Chadwick, Human Resources Director _____ Date _____

(Signature on file, available upon request)
Tim Davis, Lead Negotiator _____ Date _____

(Signature on file, available upon request)
Karen DeCrescenzo, Labor Relations Officer _____ Date _____

(Signature on file, available upon request)
Jennifer Carbuccia, Human Resources Deputy Director _____ **Date** _____

(Signature on file, available upon request)
Greg Bych, Risk Management Director _____ **Date** _____

(Signature on file, available upon request)
Valerie VanDeweghe, Risk Management Deputy Director _____ Date _____

(Signature on file, available upon request)
Marcelle Rossman, Financial Operations Manager _____ **Date** _____

(Signature on file, available upon request)
Brian Fennessy, Assistant Fire Chief _____ Date _____

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

TIMOTHY L. DAVIS:

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

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

**DATE
SIGNED** _____