

MEMORANDUM OF UNDERSTANDING

between the

CITY OF CYPRESS

and the

CYPRESS MAINTENANCE EMPLOYEES' ASSOCIATION



JULY 1, 2007 to JUNE 30, 2010

CYPRESS MAINTENANCE EMPLOYEES' ASSOCIATION
MEMORANDUM OF UNDERSTANDING
EFFECTIVE JULY 1, 2007 THROUGH JUNE 30, 2010

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**MEMORANDUM OF UNDERSTANDING BETWEEN THE
CITY OF CYPRESS AND THE CYPRESS MAINTENANCE EMPLOYEES' ASSOCIATION**

ARTICLE I - RECOGNITION

Section 1. Pursuant to the Provisions of the Employer-Employee Relations Resolution No. 970, as amended, the City of Cypress (hereinafter called the "City" and/or "Employer" interchangeably) has recognized the Cypress Maintenance Employees' Association as the majority representative of the employees in the bargaining unit, which includes employees in the classifications and assignments of Maintenance Worker, Maintenance Specialist, Mechanic, Street Sweeper Operator, Assistant Mechanic, and *Custodian. The classification of Street Sweeper Operator will be eliminated effective when the current incumbents retire from the City. Thereafter, the vacated positions will be classified as Maintenance Worker, assigned to street sweeping duties.

Section 2. The City shall recognize the Association as the representative of the employees in the classifications and assignments set forth in Section 1. above for the purpose of meeting its obligation under this Agreement, the Meyers-Milias-Brown Act, Government Code §3500, et. seq., when City Rules, Regulations or laws affecting wages, hours and/or other terms and conditions of employment are amended or changed.

Section 3. Recognizing the above-mentioned body, the City shall conduct open and good faith negotiations between the City and its employees through their Maintenance Employees' Association Representatives.

ARTICLE II - NONDISCRIMINATION

Section 1. The City and the Association agree that they shall not discriminate against any employee because of race, color, sex, age, national origin, disability, political or religious opinions or affiliations. The City and the Association shall reopen any provision of this Agreement for the purpose of complying with any final order of the federal or state agency or court of competent jurisdiction requiring a modification or change in any provision of this Agreement in compliance with state or federal anti-discrimination laws.

Section 2. Americans With Disabilities Act of 1990 (ADA). To comply with federal law, the language below shall apply:

A. The ADA requires reasonable accommodations for individuals protected under the ADA, and because reasonable accommodations must be determined on an individual, case-by-case basis, exceptions to the provisions of this Agreement may be required for the City to avoid discrimination in the hiring, promotion, granting of permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

B. The City has the legal obligation to meet with the individual employee or applicant to be accommodated before any adjustment is made in working conditions. The Association will not be notified of these proposed accommodations prior to implementation by the City, unless the employee desires such notice.

C. Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or be used as evidence of a past practice in the grievance, discipline, or other legal procedure.

D. The City's ADA Committee shall review all ADA related issues and the City's ADA Technical Advisory Committee will review the City's self-evaluation and disputed reasonable accommodation issues. An individual employee shall submit any ADA related concern to the appropriate ADA Committee.

Section 3. Whenever the masculine gender is used in this Memorandum of Understanding, it shall be understood to include the feminine gender.

ARTICLE III - COMPENSATION PLAN

Section 1. Basic Compensation Plan.

A. All employees covered by this Agreement shall be included under the Basic Compensation Plan. Every position under this Plan shall be assigned a range established by the City Council by resolution. All pay changes shall be at the beginning of the closest start of the pay period, unless there is a special justification as approved by the Personnel Officer. The salary schedule shall consist of six (6) steps within each range.

B. The first step, A step, is the minimum rate and is normally the hiring rate for the class. An employee may be assigned, upon appointment, to other than the normal entering salary step upon the recommendation of the department head and the approval of the City Manager or his designee when it is decided that such action is in the best interest of the City.

C. The second step, B step, is a merit adjustment which may be given at the end of six (6) months of employment, subject to the recommendation of the department head and approval of the City Manager or his designee.

D. The third (C step), fourth (D step), fifth (E step), and sixth (F step) steps are merit adjustments to encourage an employee to improve his work and to recognize seniority and increased skill on the job. Employees are normally eligible for these adjustments at any time after the completion of one (1) year of service at the preceding step. Each adjustment shall be made only if recommended by the department head and approved by the City Manager or his designee.

E. Effective 7/2/04, a seventh (G step) step will be added to the Maintenance Worker classification salary range. The previous steps of A through F will become the B through G steps respectively. Current employees in the previous classifications of Maintenance Worker I and Maintenance Worker II shall be placed on the appropriate step to equal their previous step. If an employee's previous step is higher, the employee's salary shall be "Y-rated" until the G step of Maintenance Worker reaches the "Y-rated" salary. The new A step will be effective for new hires after 7/2/04 and will be 5% lower than the previous A step.

F. Effective 7/2/04, eighth (H step) and ninth (I step) steps will be added to the Maintenance Worker classification salary range. Advancement to the H and I steps shall be earned on performance standards. Performance standards must be maintained at each annual evaluation thereafter to remain at the H or I steps. Current employees placed on the G step effective 7/2/04 will be eligible for steps H and I at their next scheduled evaluation after 7/2/04.

G. All rates shown are in full payment for services rendered and covers full payment for the number of hours now being regularly performed in each class.

H. The comprehensive wage and salary plan, as outlined herein, is based on a forty (40) hour work week for all employees covered by this Agreement.

Section 2. Initial Compensation. All new employees appointed to a position in the competitive service shall be paid a salary or wage within the established range for the position's class. The initial employment shall generally be at the minimum rate for the class. However, the appointing power may, with approval of the City Manager or his designee, when circumstances warrant it, appoint at other than the minimum step.

Section 3. Anniversary Dates Shall be Established as Follows:

A. Employees appointed, promoted or reinstated on or between the first and the fifteenth day of the month inclusive shall, for the purpose of eligibility for consideration of future compensation increases, have the first day of that same month as their anniversary date.

B. Employees appointed, promoted or reinstated on or between the sixteenth and the last day of the month inclusive shall, for the purpose of eligibility for consideration of future compensation increases, have the first day of the month immediately following, as their anniversary date.

C. Anniversary dates shall change upon promotion or reclassification. Anniversary dates shall not change following demotions or transfers.

Section 4. Advancement Within Salary Range.

A. In order to properly compensate an employee, advancement in salary shall be based on merit.

B. Advancements in salary shall not be automatic, but shall depend upon increased service value of the employee to the City.

C. The department head and/or the employee's immediate supervisor shall be responsible to evaluate employees fairly in an unbiased fashion for the determination of job performance. Advancement shall be made only upon recommendation of the department head with approval of the City Manager or his designee.

D. Employees beginning at A step must be reviewed for performance advancement prior to the completion of six (6) months of service from the date of appointment. Thereafter, an employee must be reviewed at least once every twelve (12) months from the effective date of his last performance step increase, special performance advancement or promotion. Nothing contained herein shall restrict the department head from denying the increase after evaluation, nor shall it prevent him from recommending a special performance advancement in salary at any time when unusual or outstanding achievement has been demonstrated.

E. It shall be the responsibility of each supervisor to establish realistic achievement levels for each step increase within a salary range. Achievement levels may be formal or informal and shall be reviewed by the department head for the purpose of maintaining uniformity of standards throughout the department.

Section 5. Salary Increases Following Promotion. When an employee in the City is promoted to a position with a higher salary range, such employee shall automatically be entitled to the lowest step in the higher salary range that would represent a salary increase of approximately 5% over the base salary received immediately prior to promotion (e.g. approximately 5% means 4.5% or higher).

Section 6. Salary Decreases Following Demotion. In the case of a demotion of an employee in the department to a class with a lower maximum salary, such employee shall be assigned to the appropriate salary step in the new class as recommended by the department head and approved by the City Manager. The employee shall retain his previous anniversary date.

Section 7. Salary Following Transfers. In the case of the transfer of any employee from one position to another in the same class to which the same salary range is applicable, the employee shall remain at the same step and shall retain his same anniversary date.

Section 8. Adjustment of Salary Ranges. When a salary range for a given class is revised upward or downward, the incumbents of positions and classes affected shall have their existing salary adjusted to the same relative step in the new salary range and their anniversary date shall not be changed.

Section 9. Salary and Benefits on Suspension. During suspension from City service for disciplinary cause, an employee shall forfeit all rights, privileges and salary, except he shall not forfeit his medical health plan, dental insurance plan, vision insurance plan, retirement plan, disability insurance or life insurance plans. Should such suspension be later modified or revoked, the employee shall be entitled to receive payment to compensate for loss of income and benefits during the period of suspension.

Section 10. Salary Increases.

A. Attached hereto and incorporated herein is Exhibit "A" which reflects pay increases effective the beginning of the pay period on 6//29/07 (3.5% + 1% equity adjustments to total 4.5%), 6/28/08 (4%) 6/26/09 (based upon the May CPI-U for Los Angeles-Riverside-Orange Co, minimum 3% to a maximum 4%).

ARTICLE IV - HOURS OF WORK

Section 1. Standard Work Week. The standard work week shall be forty (40) hours. However, all employees of the department shall be subject to be called for service at any time to meet any and all emergencies or unusual conditions which, in the opinion of the department head or designee, may require such service from any of said employees. [See 9/80 Plan, attached as exhibit "C"].

ARTICLE V - OVERTIME COMPENSATION

Section 1. Definition.

A. Overtime work for regular and probationary employees shall be defined as any hours worked beyond 40 hours of actual work in a work week and leave time will be counted toward that calculation, with the exception of sick leave (using the FLSA calculations only).

B. Time worked in excess of the normal work week due to changes in days off or shifts shall not be considered as overtime. Shift changes shall not be made to avoid the payment of overtime.

Section 2. Compensation. Authorized overtime shall be compensated for at the rate of one and one-half (1-1/2) times the straight time hourly equivalent of the monthly salary or by allowing compensatory time off at the rate of one and one-half (1-1/2) hours for each hour of overtime worked. All paid leaves will be counted as time worked, with the exception of sick leave.

Section 3. Use of Compensatory Time. Employees shall be permitted to accumulate a maximum of eighty (80) hours of compensatory time with the following provisions: the employees will provide two (2) working days advance notice; requests shall be for a minimum of eight (8) hours per day and a maximum of twenty-four (24) hours per three (3) days. Exceptions may be granted in special cases where it has been determined by the Public Works Maintenance Superintendent that there will be no adverse effect on productivity. This determination shall be at the sole discretion of the Public Works Maintenance Superintendent. All accumulated CTO shall be paid off in December of each year, unless the employee

files a written request with the Personnel Office to have up to eighty (80) hours of accumulated compensatory time carried over to the following payroll year.

Section 4. Overtime Reporting. In order for an employee to earn compensation for overtime, he must receive supervisor or department head approval. Overtime worked to meet an emergency situation does not require advance approval, but shall be certified by the department head before being credited to the employee's record.

Section 5. Authorization. It is the policy of the City to avoid the necessity for overtime work. However, when overtime work is necessary and consistent with the efficient operation of the City, such overtime shall be authorized, but shall be kept at a minimum.

ARTICLE VI - SPECIAL PAY PROVISIONS

Section 1. Callback. Employees shall be paid for time worked when called back or out to duty for other than a normal shift or work day assignment and departing from the work premises as follows: Employees called back or out to work as defined above shall be paid one and one-half (1-1/2) times the employee's regular straight time hourly rate for each hour worked on callback; if during a holiday, the employee is paid time and one-half for each hour worked if less than a complete day is worked. If a complete day is worked, and the hours coincide with the employee's regular scheduled hours, pay is at straight time and hours remain in holiday bank for future use. Callback time shall commence from the time the employee reports to the department offices. This pay must comply with overtime rules, Article V., section 1, regarding exclusion of sick leave during a work week.

Section 2. Stand-by.

A. Any responses to calls during the stand-by period shall be compensated in accordance with the callback special pay provisions of this Memorandum of Understanding, Article VI, Section 1.

B. Employees assigned to stand by status for a seven (7) day assignment shall be compensated at a rate of three hundred (\$300) per assignment in the event one employee is required to carry two pagers during that stand by assignment. In the event of two employees assigned to stand by pay during the seven (7) day assignment period, and required to carry one pager, the amount assignment pay will be two twenty five (\$225) per employee.

Section 3. Training Time. When an employee is sent to a training program at the request of the City, the employee shall receive nine (9) hours of pay for each full day of training and such nine (9) hours of pay shall be credited towards the computation of overtime. The department shall also pay such reasonable expenses as may be incurred by the employee in traveling to and from the training course as well as for meals and lodging. The department head may request receipts for meals and lodging, as well as transportation, and for the purchase of any materials required by the training course. Reimbursement for lodging shall apply to training courses which require overnight lodging.

Section 4. Uniforms and Safety Equipment.

A. All designated employees will be provided with appropriate uniforms and laundering of same as determined by the City's Personnel Officer.

B. Employees shall be allowed to wear appropriate uniform short pants as determined by the City's Personnel Officer. Such permission shall be at the sole discretion of the Public Works Superintendent. The City shall provide uniform short pants to those employees designated by the Public Works Superintendent as being eligible to wear said short pants.

C. All designated employees shall receive reimbursement up to one hundred fifty dollars (\$150) total for safety shoes or boots and any repairs to the new shoes or boots during each calendar year. In the event of extreme work related wear, with approval from the Superintendent, an employee may receive up to an additional (one hundred dollars) \$100 towards the purchase of a replacement pair of boots.

D. The employee's division supervisor must certify, in writing, to the Personnel Officer, that the safety shoes or boots are satisfactory for the job being performed prior to the employee receiving reimbursement.

E. To be eligible for the reimbursement for repairs (applicable only on shoes/boots costing less than one hundred dollars), the employee must submit the shoes/boots for inspection by the Public Works Maintenance Superintendent before and after the repair work. All requests for reimbursement for shoes/boots or for repairs must be accompanied by a receipt initialed by the Public Works Maintenance Superintendent.

F. The City shall continue to provide other safety equipment as deemed necessary.

G. The City shall supply a new jacket to each employee covered by this Agreement every other fiscal year, beginning in the 1995/96 fiscal years. The jackets will be ordered in the early summer and the jacket should be issued by the early fall. Each employee is responsible for maintaining his/her own jacket. Each employee may maintain his/her previous jacket for use in work that produces excess wear. However, the employee must consider the environment and the City's image in use of the previous jacket. The City may require the employee to use the new jacket to maintain the City's image. Employees shall return his/her jacket to the City upon termination from City service.

Section 5. Commercial Driver's License.

A. All employees covered by this MOU, except Custodians, shall possess and maintain a Commercial Driver's License (California Class A or B). New employees will have six months to obtain the License from the date of employment. Current employees who do not possess a Commercial Driver's License will have six months from the start date of this contract to obtain such license. Failure to obtain or maintain Commercial Driver's License may lead to disciplinary action up to and including dismissal.

B. Grandfather Clause: Employees classified as of January 1, 2001, who are not able to obtain or possess a Commercial Driver's License due to a verified medical disability, will not be required to possess such license as a condition of continued placement in their position or employment. Those current employees, who have verified learning disabilities that may cause them not to get licensed within the six months, may be granted an extension by Management.

Section 6. Assignment Pay.

A. Employees in the classification of Maintenance Worker who are assigned Lead Worker duties shall be compensated at 5% above their current salary. A minimum of six (6) Maintenance Worker positions shall be assigned to Lead Worker duties. Initial Lead Worker positions will be assigned by 7/15/04.

Section 7. Certification Pay.

A. Employees in assignments required to possess a Collection System Maintenance Grade 1 and/or Grade 2 Certification shall receive fifty (\$50) per month.

B. Employees in the classification of Maintenance Worker who are assigned to Street Sweeping duties shall be compensated at 2.5% above their current salary.

ARTICLE VII - HOLIDAYS

Section 1. Recognized Holidays.

A. For pay purposes, the following holidays are recognized as municipal holidays for regular employees. Said employees shall receive these holidays off with pay: New Year's Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday following Thanksgiving Day, Christmas Eve Day and Christmas Day.

B. Beginning the first pay period of the payroll year current employees shall be credited with two (2) floating holidays (16 working hours). Employees hired after the beginning of the payroll year, but before September 1 of the payroll year, will be credited with two (2) floating holidays. Floating holidays may be taken subject to approval of the department head after consideration of the department workload and other staffing considerations such as, but not limited to, leave schedules of other employees already approved, sick leave and position vacancies. Floating holidays must be taken as paid time off in the payroll year of crediting. There shall be no cash payment for unused floating holidays.

C. When any holiday, recognized by the City, falls on a Sunday, the following Monday shall be considered the holiday; when any day, recognized by the City as a holiday, falls on a Saturday, the preceding Friday shall be considered the holiday.

D. Religious holidays requested off shall be done so in writing to the department head. If approved, such time shall be charged against accumulated compensatory time off or sick leave.

Section 2. Employees Required to Work on Holidays.

A. Any employee eligible for holiday pay, required to work on a day designated as a holiday under the provisions of the Personnel Rules, shall be paid at the straight time rate for the normal work hours on said day, and, in addition, shall receive pay equal to and in lieu of time off for said holiday. Hours worked in excess of the normal work hours on such holiday shall be considered as overtime hours and shall be compensated for under the appropriate overtime pay provisions. For any hours worked, the employee shall accumulate compensatory time at the rate of one and one-half (1-1/2) hours for each hour worked. When a holiday falls on a normally assigned day off for an employee who is eligible to receive holiday pay, that employee shall receive additional pay equal to and in lieu of time off for said holiday. Said additional pay equal to and in lieu of time off for said holiday shall be eight (8) hours at the employee's regular straight time hourly rate of pay.

B. When an employee eligible for holiday pay, who is required to work on a day designated as a holiday under the provisions of these Personnel Rules, becomes ill and is unable to report for work on that day, the employee shall be paid at the straight time rate for the sick leave hours scheduled to work on said day, and in addition will receive pay equal to and in lieu of time off for said holiday.

Section 3. Holidays Falling During Approved Leaves of Absence Without Pay. Any employee on an approved leave of absence without pay, having the holiday fall during the period of such leave of absence without pay, shall be eligible for such holiday pay only in those instances where said employee has worked either the day before or the day immediately following said holiday.

ARTICLE VIII - PROBATIONARY PERIOD

Section 1. Regular Appointments Following Probationary Period.

A. The original appointment of every employee, other than those whose appointment is exempt, shall be tentative and subject to a probationary period of twelve (12) months of service.

B. The promotional appointment of every regular employee shall be tentative and subject to a probationary period of six (6) months.

C. The Personnel Officer shall notify the department head and the probationer concerned, two weeks prior to the termination of the probationary period.

D. If the service of the probationary employee has been satisfactory, the department head shall file with the Personnel Officer a statement, in writing, to such effect stating that the retention of such employee in the service is desired. No actions changing an employee's status from probationary to regular shall be made or become effective until approved by the City Manager or his designee.

Section 2. Objective of Probationary Period. The probationary period shall be regarded as a part of the testing process and shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to his position, and for rejecting any probationary employee whose performance does not meet the required standards of work.

Section 3. Employee Performance Reports.

A. Each probationary employee shall have his performance evaluated at the end of each three (3) months of service or at a more frequent interval when deemed necessary by the appointing power. Regular employees shall have their performance evaluated annually or at more frequent intervals when deemed necessary by the appointing power. Such evaluations shall be reported in writing and in a form approved by the Personnel Officer.

B. The written report of an employee's performance evaluation shall be filed in triplicate, the original to be filed with the Personnel Officer and made a part of the employee's personnel records, one copy to be retained by the department, and one copy to be given to the employee.

Section 4. Rejection of a Probationary Employee.

A. During the probationary period, an employee may be suspended, demoted or rejected any time by the department head, with approval of the City Manager, without cause and without right of appeal. Notification of rejection, in writing, shall be served on the probationary employee and a copy filed with the Personnel Officer. A termination interview may be conducted with each rejected probationer.

B. An exception will be applied where the probationary employee's job termination or dismissal is based on charges of misconduct which stigmatizes his reputation or seriously impairs his opportunity to earn a living, or which might seriously damage his standing and association in the community. Where there is such a deprivation of a "liberty interest," the employee shall be given pre-disciplinary procedural due process as defined in these Rules. Prior to the disciplinary action becoming final, the employee must be notified of his right to the appeal procedures as outlined in these Rules.

ARTICLE IX - VACATION

Section 1. Eligibility. All regular, full-time and part-time employees, having completed a minimum of six (6) months continuous service with the City; and annually, thereafter, shall be eligible for a paid vacation at his then current rate of pay.

Section 2. Vacation Accrual.

A. Each regular full-time and probationary employee shall accrue vacation leave by the following formula:

| <u>Hours/Month</u> | <u>Year of Employment</u> | <u>Annual Amount</u> |
|--------------------|---------------------------|---|
| 1. 6.6670 | 1st year | (80 hours). |
| 2. 7.3334 | 2nd year | (88 hours). |
| 3. 8.0000 | 3rd year | (96 hours). |
| 4. 8.6667 | 4th year | (104 hours). |
| 5. 9.3334 | 5th year | (112 hours). |
| 6. 10.0000 | 6th year | (120 hours). |
| 7. 10.6667 | 7th year | (128 hours). |
| 8. 11.3334 | 8th year | (136 hours). |
| 9. 12.0000 | 9th year | (144 hours). |
| 10. 12.6667 | 10th year | (152 hours). |
| 11. 13.3334 | 11th year | (160 hours), and each month thereafter. |

B. Each regular part-time and probationary employee shall accrue vacation at one-half the formula set forth in "A" above.

Section 3. Maximum Accrual.

A. An employee may accumulate unused vacation to a maximum of the amount accrued in the twenty-four (24) months immediately preceding the employee's anniversary date of employment. Vacation shall cease accruing subsequent to reaching said maximum with further accrual occurring only upon the vacation balance falling below the maximum accumulation.

B. For purposes of this Article, the term "anniversary date of employment" is the date an employee began accruing vacation with the City.

Section 4. Use of Vacation.

A. The time at which an employee's vacation is to occur shall be determined by the department head with due regard for the wishes of the employee and particular regard for the needs of the service. To provide for flexibility the department can waive advanced notice requirements for requesting vacation leave if the needs of the service permits the absence of employee.

B. An employee who has completed five (5) years or more of continuous service and who has taken forty (40) cumulative hours of vacation in his/her current anniversary year may elect to be paid for up to a maximum of eighty (80) hours of accrued vacation. Such election may be exercised each anniversary year. Request for payment shall be made at least seven (7) calendar days prior to the employee's anniversary date of employment.

Section 5. Vacation Payment at Termination.

A. Employees terminating employment shall be paid in a lump sum for all accrued vacation leave.

B. When termination is caused by the death of the employee, said payment for unused vacation shall be paid to the beneficiary designated by the employee. Such designation shall be in writing, signed by the employee and filed with the Finance and Administrative Services Department. In the event an employee has not designated a beneficiary, the payment shall be made to the estate of the employee.

Section 6. Holidays Falling During Vacation Leave. In the event one or more municipal holidays fall within an annual vacation leave, such holiday shall not be charged as vacation leave and the vacation leave shall be extended accordingly.

Section 7. Vacation Earned During Leave of Absence. No vacation leave shall be earned during any leave of absence without pay for each thirty (30) day period of such leave.

Section 8. Vacation - Miscellaneous. Employees shall not work for the City during their vacation and, thereby, receive double compensation from the City. For an exception of usage of vacation for sick leave purposes, see Article XIII, Section 5.

ARTICLE X - LEAVES OF ABSENCE

Section 1. Authorized Leave of Absence Without Pay.

A. Excluding leave which may fall under the Federal Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), upon recommendation from the department head, with approval of the City Manager, a regular employee may be granted a leave of absence without pay in cases of emergency or where such absence would not be contrary to the best interest of the City, for a period not to exceed one (1) year. Approval of such leave shall be in writing and a copy filed with the Personnel Office.

B. At the expiration of the approved leave, within a reasonable period of time, after notice to return to duty, the employee shall be reinstated to the position held at the time leave was granted. Failure on the part of the employee on leave to report promptly at such leave's expiration, within a reasonable time after notice to return to duty, shall be cause of discharge.

C. During any authorized leave of absence without pay, an employee shall not be eligible to accumulate or receive fringe benefits except as specifically provided for in this Agreement. The City shall contribute to an employee's medical health plan, dental insurance plan, disability insurance plan, life insurance plan and retirement plan for the first thirty (30) days of an employee's authorized leave of absence. Thereafter, the City shall not have any obligation to contribute to an employee's medical health plan, dental insurance plan, disability insurance plan, life insurance plan and retirement plan. Employees on unpaid leave of absence do not accrue vacation or sick leave and are not eligible for any other paid leave.

Section 2. Bereavement Leave. Regular and probationary full-time employees may be granted a bereavement leave of absence by reason of the death or critical illness where death appears imminent in the immediate family which shall be restricted and limited to Father, Mother, Brother, Sister, Spouse, Child, Grandmother, Grandfather, Mother-in-law, or Father-in-law. Upon approval of said leave, the employee shall be allowed a maximum of five (5) working days. Employees shall receive eight (8) hours of pay for each day of bereavement leave they are entitled to as set forth above.

Section 3. Military Leave of Absence.

A. Military leave shall be granted in accordance with the provisions of State Law. All employees entitled to military leave shall give the department head an opportunity within the limits of military regulations, to determine when such leave shall be taken. Whenever possible, the employee involved shall notify the department head of such leave request ten (10) working days in advance of the beginning date of such leave.

B. In addition to the provisions of State law, the City shall continue to provide to said employee the current health benefits [medical, dental, disability and life insurance, and retirement (if applicable)] for the first six (6) months of military leave. During said period, the employee shall be required to pay to the City the same co-payments as required of other employees in the bargaining unit. After the first six (6) months of military leave, the employee may continue said health benefits at his/her cost.

Section 4. Pregnancy Disability Leave of Absence.

A. An employee who is disabled due to pregnancy shall be granted a pregnancy disability leave of absence for a minimum period of four (4) months provided that a lesser period may be granted upon the request of the employee.

B. Disabilities arising out of pregnancy shall be treated the same as other temporary disabilities in terms of eligibility for, or entitlement to, sick leave with or without pay, extended sick leave, or accumulated sick leave benefits.

C. Employees are encouraged to report the existence of pregnancy. Where the nature of the duties performed are hazardous or burdensome, the employee may be required to submit medical evidence as to fitness for the performance of duties of the position.

D. Regular full-time and probationary employees shall be placed on medical leave when the employee's physician states that medical disability would interfere with the performance of the duties of the position or continuing work would be hazardous. Should disagreement arise between the department head and the employee's physician as to the hazardous nature of the job or the ability of the employee to perform the job, a physician representing the City will resolve the conflict. The decision will be binding upon all the parties.

E. Following childbirth and upon release from medical treatment for the disability resulting from the pregnancy, the employee must submit a medical statement of fitness to perform the duties of the position to the Personnel Office. Upon expiration of an approved pregnancy disability leave of absence, the employee shall be reinstated in the position held at the time leave was granted.

Section 5. Family Leave. The City shall comply with State and Federal Family Leave Acts.

Section 6. Unauthorized Leave of Absence. Unauthorized leave of absence shall be considered as days, or portions of days, not worked which are normal working days and will cause the deduction from the employee's pay of an amount equivalent to the time absent. Employees taking unauthorized leaves of absence may be subject to disciplinary action, to and including termination of employment.

ARTICLE XI - JURY DUTY

Section 1. Compensation for Jury Duty.

A. Regular or probationary employees required to report for jury duty shall be granted leave of absence for such purpose, upon presentation of a jury notice to the department head. Said employees shall receive full payment for the time served on jury duty, provided the employee remits any fees received for such jury service, excluding payment for mileage, to the City's Finance and Administrative Services Department. Compensation for mileage, subsistence or similar auxiliary allowances shall not be considered as a fee and shall be returned to the employee by the Finance and Administrative Services Department.

B. If the sum of the employee's jury duty responsibilities is less than a full work day, the employee shall contact his supervisor as to the feasibility of returning to work that day.

C. The employee shall not receive regular pay for work and pay for jury service which shall be in excess of eight (8) hours pay in any one day.

ARTICLE XII - TEMPORARY ASSIGNMENT AND APPOINTMENT

Section 1. In special circumstances, when in the best interest of the City, the City Manager or his designee may approve a temporary assignment of a probationary or regular employee to a higher level classification.

Section 2. The City may work employees in a temporary assignment for up to ten (10) consecutive working days without additional compensation.

Section 3. Temporary assignments shall not be compensated at increased compensation where the temporary assignment is a replacement of an employee on vacation leave.

Section 4. An employee shall receive temporary assignment pay at the lowest step in the higher classification salary range that would represent a salary increase of at least five percent (5%) above the employee's regular salary, for work performed within the scope and responsibilities of the higher classification on the eleventh (11th) consecutive day out of class, and for each consecutive day thereafter an employee works out of class.

Section 5. During the ten (10) consecutive working day eligibility period before an employee is entitled to receive temporary assignment pay, an employee may only be absent from work for eighteen (18) cumulative hours. Any absence in excess of eighteen (18) hours shall break consecutiveness and cause an employee to be ineligible to receive temporary assignment pay. Should an employee be absent in excess of eighteen (18) hours, the ten (10) consecutive day eligibility period shall begin the day after the employee returns to work.

Section 6. Should an employee who has served ten (10) consecutive days in a temporary assignment in accordance with the provisions of Sections 1 - 5 above, be assigned to that same assignment and position within a two (2) year period, he will receive temporary assignment pay from the first day of the subsequent temporary assignment.

Section 7. A temporary assignment shall not exceed one (1) year.

ARTICLE XIII - SICK LEAVE

Section 1. General Sick Leave Provisions.

A. Sick leave shall be requested only in cases of actual personal sickness or disability, medical or dental treatment, or as authorized by the Personnel Officer under the provisions of the Federal Family Medical Leave Act and/or the California Family Rights Act, or California Labor Code Section 233 (use of sick leave). The employee requesting sick leave shall notify his immediate supervisor or department head prior to the time set for reporting to work. Sick leave with pay shall not be allowed unless the employee has met and complied with the provisions of this Memorandum of Understanding and the department head or the Personnel Officer has approved such payment.

B. The department head or Personnel Officer may require a written statement from the attending physician or dentist, or a physician or dentist to whom the department head or Personnel Officer directs the employee to report, to establish that the employee is or was incapacitated and unable to perform his duties.

C. The department head or Personnel Officer may require a written statement from the attending physician or dentist, or from the physician or dentist to whom the department head or Personnel Officer has required the employee to report and be examined by, that the employee is capable of and released to return to the performance of all of the duties of his position.

Section 2. Eligibility. All employees covered by this Agreement shall be eligible to accrue sick leave.

Section 3. Accrual. Sick leave shall be accrued at the rate of eight (8) hours per calendar month for each calendar month that an employee has worked regularly scheduled hours and/or has been on authorized leave which provides for full pay, for at least fifteen (15) working days in that month.

Section 4. Accumulation and Payment Plan.

A. Accrued sick leave may be accumulated without limit, except that payment of accumulated sick leave shall be granted by the City Manager on an annual basis to all permanent employees who have a minimum of one hundred twenty (120) hours of accumulated sick leave on record on December 1st, and opt to receive payment, during the subsequent December on a date determined by the City Manager at a rate of fifty percent (50%) of current salary for one-half (1/2) of their annual unused sick leave.

B. Payment of accumulated sick leave shall be granted by the City Manager on an annual basis to all employees covered by this Agreement who have a minimum of two hundred forty (240) hours of accumulated sick leave on record on December 1st, and opt to receive payment, during the subsequent December on a date determined by the City Manager, at a rate of one hundred percent (100%) of current salary for one-half (1/2) of their annual unused sick leave.

C. Employees wishing to opt for payments stated in Section 4. (A) and (B) above, must notify the Personnel Office of said decision thirty (30) days in advance of the payment date. The sick leave hours for which the employee receives payment shall be deducted from his or her sick leave record with the remaining one-half (1/2) of the annual accumulated sick leave being continued as a credit to the employee's sick leave account.

D. In accordance with the annual conversion policy set forth in Section 4. (A), (B) and (C) above, an employee shall have the option of depositing their sick leave payment in a City deferred compensation program instead of receiving payment in cash. All deposits made into the deferred compensation program shall be made in accordance with any and all regulations governing the deferred compensation program.

E. Upon death, retirement, separation or termination of an employee covered by this Agreement, with a minimum of sixty (60) days or four hundred eighty (480) hours of sick leave accumulation, said employee is entitled to receive fifty percent (50%) compensation for that accumulated sick leave.

F. Upon death, retirement, separation or termination of an employee covered by this Agreement, with a minimum of five (5) years of service and with between two hundred forty (240) hours and four hundred eighty (480) hours of sick leave accumulation, said employee is entitled to receive payment for the difference between that amount of sick leave and two hundred forty (240) hours at fifty percent (50%) compensation.

G. In accordance with the payment plan set forth in Section 4.(E) and (F) above, upon separation, termination or retirement of an employee covered by this Agreement, said employee shall have the option of depositing their sick leave payment in a City deferred compensation program, instead of receiving payment in cash. All deposits made into the deferred compensation program shall be made in accordance with any and all regulations governing the deferred compensation program.

Section 5. Use.

A. Sick leave may be requested and used as approved by the department head or the City Manager. Payment for approved sick leave shall be authorized until the employee's accumulated total of sick leave hours has been exhausted and at such time the employee shall receive no further payment for sick leave. An employee shall have his accumulated sick leave balance reduced by an amount equal to the number of hours of sick leave for which he receives payment.

B. Sick leave shall not be granted for disability arising from any sickness or injury purposely self-inflicted or caused by an employee's own willful misconduct.

C. Vacation leave may be used for sick leave purposes when sick leave is exhausted, if, (1) the employee has a certified illness and has been off work for 10 or more working days, and, (2) the employee does not have a record of sick leave abuse.

Section 6. Sick Leave During Vacation. An employee who becomes ill while on vacation may have such period of illness charged to his accumulated sick leave provided that immediately upon return to duty, the employee submits to his department head a written request for sick leave and a written statement signed by his physician describing the nature and dates of illness, and the department head recommends and the City Manager approves granting of such sick leave. The employee may request an extension of vacation due to illness, subject to the approval of the department head and City Manager.

Section 7. Extended Sick Leave.

A. In the event of an employee's continuing illness which results in depletion of sick leave accumulation, the employee may request, in writing, to his department head and City Manager, a leave of absence without pay for the purpose of recovering from an illness, provided:

1. The employee has used all of his accumulated sick leave.
2. The employee presents to his department head for referral to and consideration by the City Manager, a written explanation of the employee's illness and an estimate of the time needed for recovery signed by the employee's physician.
3. Prior to resuming his duties, the employee may be required to take a medical examination at City expense and provide a medical release to return to work from the employee's physician as prescribed by the City Manager. The employment record and the results of such examination shall be considered by the City Manager in determining the employee's fitness to return to work.
4. The maximum period of such leave shall be three (3) calendar months. If the employee desires an extension, he shall follow, prior to the termination of his initial leave, the procedure described in subparagraph (2) above.

Section 8. Related Leave Chargeable to Sick Leave.

A. An employee may be granted time off with pay for the conduct of personal business up to a maximum of 18 hours per payroll year. Sick leave utilization studies conducted by the City shall not include personal leave charged to sick leave. Employee who has exhausted 18 hours for personal business may use vacation leave to care for sick dependent children who stay at home and City will waive any advanced notice requirement for vacation leave. Employee must still notify supervisor as to absence.

B. Such granting of time off with pay shall be subject to the discretion of the department head and City Manager or his designee. When any such time is authorized, it shall be charged against the employee's accumulated sick leave account.

Section 9. On-the-job Injury. For all regular employees covered by this Agreement, when an employee is disabled by injury or illness arising out of and in the course of his duties for the City, he shall become entitled, regardless of his period of service with the City, to leave of absence for the period of such disability, but not exceeding one (1) year, or until such earlier date as he is retired on permanent disability pension. During the first five (5) working days of such disability, the City shall pay one hundred percent (100%) of the salary in lieu of temporary disability payments. Thereafter, the employee shall receive eighty percent (80%) of salary in lieu of temporary disability payments. Any payments made pursuant to this Section shall not be charged to sick leave; provided, however, no sick leave or vacation benefits shall accrue during the period of such disability.

Section 10. Off-the-job Injury. An employee injured outside of his service with the City may apply for benefits under the disability insurance plan provided by the City.

Section 11. California Labor Code Section 233. Pursuant to California Labor Code Section 233, effective January 1, 2000, employees may use a total of forty-eight (48) hours of their accrued and available sick leave to attend to the illness of their child, parent, spouse, or domestic partner of the employee.

ARTICLE XIV - FRINGE BENEFIT ADMINISTRATION

Section 1. Administration. The City reserves the right to select the insurance carrier or administer any fringe benefit programs that now exist or may exist in the future during the term of this Memorandum of Understanding.

Section 2. Selection and Funding. In the administration of the fringe benefit programs, the City shall have the right to select any insurance carrier or other method of providing coverage to fund the benefits included under the terms of this Memorandum of Understanding, provided that the benefits of the employees shall be no less than those in existence as of implementation of this Agreement.

Section 3. Changes. If, during the term of this Memorandum of Understanding, any change of insurance carrier or method of funding for any benefit provided hereunder occurs, the City shall notify the Association prior to any change of insurance carrier or method of funding the coverage.

ARTICLE XV - HEALTH, LIFE, DENTAL, DISABILITY AND VISION INSURANCE

Section 1. Health Insurance Plan.

A. For the employees covered by the terms of this Agreement, the City and the employees shall contribute the sums listed below per month per employee toward health insurance:

MEDICAL RATE PROVISIONS AND SCHEDULE

Flexible Benefit Plan: The City shall maintain a benefit plan which will allow employees to utilize pre-tax dollars for health contributions (medical, dental, and life insurance contributions) and will provide additional contributions above the "PERS Health Coverage" for health insurance as noted below.

PERS Health Coverage:

The City shall continue to pay the minimum monthly payment to PERS for all those employees and retirees choosing the PERS Health Plan, and shall pay any adjustment to this amount pursuant to PERS law. An employee and retiree may choose any plan offered by PERS that said employee or retiree is eligible to receive.

Employees eligible for this plan may choose, depending on their family status (single, one dependent or more), any medical plan offered by PERS (as eligible) and the following monthly City maximum contribution and employee minimum contribution benefit shall apply:

The following monthly City maximum contribution and employee minimum contribution benefit shall apply for the period July 2007 through June 2010:

Effective the following year when the next PERS Health Plan increases are effective (anticipated January 2007), the following monthly City maximum contribution and employee minimum contribution benefit shall apply:

| <u>Status</u> | <u>*City Maximum</u> | <u>*Employee Minimum</u> |
|----------------------|---------------------------------|-------------------------------------|
| Employee Only | \$875.00 | \$ 0 |
| Employee + 1 | \$875.00 | \$ 5 |
| Employee + Family | \$875.00 | \$10 |

Effective the following year when the next PERS Health Plan increases are effective (anticipated January 2008), the following monthly City maximum contribution and employee minimum contribution benefit shall apply:

| Status | *City Maximum | *Employee Minimum |
|-------------------|--------------------------|------------------------------|
| Employee Only | \$900.00 | \$ 0 |
| Employee + 1 | \$900.00 | \$ 5 |
| Employee + Family | \$900.00 | \$10 |

Effective the following year when the next PERS Health Plan increases are effective (anticipated January 2009), the following monthly City maximum contribution and employee minimum contribution benefit shall apply:

| Status | *City Maximum | *Employee Minimum |
|-------------------|--------------------------|------------------------------|
| Employee Only | \$925.00 | \$ 0 |
| Employee + 1 | \$925.00 | \$ 5 |
| Employee + Family | \$925.00 | \$10 |

Effective the following year when the next PERS Health Plan increases are effective (anticipated January 2010), the following monthly City maximum contribution and employee minimum contribution benefit shall apply:

| Status | *City Maximum | *Employee Minimum |
|-------------------|----------------------|--------------------------|
| Employee Only | \$950.00 | \$ 0 |
| Employee + 1 | \$950.00 | \$ 5 |
| Employee + Family | \$950.00 | \$10 |

* The City will only pay up to the maximum contribution (City Maximum) or the premium of the health plan selected by the employee, whichever is lower. The employee must pay either the cost of the premium not covered by the City Maximum or the minimum contribution (Employee Minimum) as stated above, whichever is higher.

PERS Health Plan Deletion: An employee cannot be enrolled in the PERS health plan if a spouse is enrolled in the same agency or enrolled in an agency with PERS health, unless the employee (or the spouse) is enrolled without being covered as a family member. Additionally, an employee may choose to not be enrolled in the PERS health plan. If an employee chooses to delete the health plan coverage, the City, after determining that a minimum amount of health coverage is provided to the employee (by their spouse or other coverage), shall pay a cash allowance of \$40 per month or pay to the employee's deferred compensation plan (a plan administered by the City) \$40 per month. [The same concept is applied to Dental at \$5 per month]. If the employee wants to have all or a portion of the deferred compensation payment to be credited towards the dependent coverage cost, then the remaining balance, if any, shall be credited to the employee's deferred compensation account. To be eligible for this "deletion" payment, the employee must provide proof, as determined by the Personnel Officer that comparable medical insurance is in full force and effect. In the event the employee loses eligibility (with documentation) then the employee may re-enroll in the plan pursuant to the PERS health plan rules.

B. Retiree Health Savings Plan

a. The City will contribute \$75.00 per month for each employee participating in the Retiree Health Savings Plan beginning 7/1/07.

b. Employees hired after 7/1/07 are required to participate in the Retiree Health Savings Plan.

c. Each employee will be required to select one of the following options:

1. Elect to be grandfathered into the Supplemental Health Care Benefit Program as described in Section C.

2. Elect to participate in the Retiree Health Savings Plan.

C. Supplemental Health Care Benefit - Eligible Retirees:

1. Active employees as of 7/1/07, in lieu of the Retiree Health Savings Plan, employees that make the election as described above, may choose to be grandfathered in to the Supplemental Health Care Benefit.

2. Employees who retire from the City under a PERS service retirement, on or after 12/25/89, with at least ten (10) years of continuous service may be eligible for supplemental health care benefits effective on the date of retirement. The employee's service retirement date must immediately follow the employment

separation date for the employee to be eligible to receive the supplemental health care benefit.

3. The retiree may receive a payment for this benefit pursuant to the following schedule:

| <u>Yrs. of Continuous Service</u> | <u>City Payment</u> |
|-----------------------------------|---------------------|
| 10 | \$100/month |
| 15 | \$150/month |
| 20 | \$300/month |

4. The monthly payment amount set forth in B above, can be used by the retiree to either continue his/her health care benefits as may be available through the PERS Health Plan or use the monthly payment amount to purchase alternative health care benefits. This monthly payment shall be sent to the eligible retiree on a separate City check (and may be paid quarterly or as mutually agreed).

5. If the retiree chooses to participate in a plan other than the PERS Health plan, the retiree must provide the City with verification, as determined by the Personnel Officer, that the City payment is being used to secure alternative health care benefits.

6. The above City payment will terminate on the date that the retiree reaches age 65 or on the date that the retiree becomes eligible for MediCare, whichever comes first.

7. This provision does not relate to the minimum payment to PERS for employees and retirees selecting the PERS Health Plan. Therefore, if a retiree eligible for the above supplemental health care benefit selects the PERS Health Plan coverage, then the retiree would be eligible for the above City payment and the minimum payment to PERS by the City.

Section 2. Dental Insurance Plan.

A. The City shall pay one hundred percent (100%) of the employee's premium to a dental insurance plan.

B. Payment for dependent coverage in the dental insurance plan shall be the responsibility of the employee.

C. The City will pick up the cost of rate increases that occur within the Dental Plan for the duration of the current MOU contract, through 6/30/10.

Section 3. Vision Plan. The City shall pay one hundred percent (100%) of the employee's and dependent's premium to a vision insurance plan.

A. The City will pick up the cost of rate increases that occur within the Vision Plan for the duration of the current MOU contract, through 6/30/10.

Section 4. Life Insurance Plan. The City shall pay one hundred percent (100%) of the premium for a term life insurance policy for each eligible employee which shall be based upon a formula of one times the employee's annual salary rounded up to the nearest thousand dollars up to a maximum City paid coverage of \$50,000, i.e., an employee who earns \$20,100 would receive \$21,000.

A. The City will pick up the cost of rate increases that occur within the Life Insurance Plan for the duration of the current MOU contract, through 6/30/10.

Section 5. Disability Insurance Plan. The City shall provide a long-term disability insurance plan

for all employees covered by this agreement. The City shall pay one hundred percent (100%) of the premium for the employee's long-term disability insurance plan. Modifications to the plan shall be made only after the City has met and consulted with the Association.

ARTICLE XVI - RETIREMENT

Section 1. The City/District shall make contributions for permanent employees to the PERS plan known as two percent (2%) at fifty-five (55). Publications relating to employee benefits and rights shall be posted in the Employees' lounges when received by the City. Upon request, the City agrees to re-open negotiations to discuss enhanced retirement after July 2009.

Section 2. The City/District shall pay all of the employees' contribution to their retirement plan and place it in the employees' individual accounts.

Section 3. The City's PERS contract shall provide the Survivor's Continuance Benefit to employees.

Section 4. The City's PERS contract shall provide for the 1959 Survivor's Benefit (Level 3). The City shall make the employees' contribution in the amount of \$2.00 per month.

Section 5. The City will be going forward with a contract amendment to change the PERS retirement formula to single highest year.

Section 6. In the event the City and its employees are required to participate in the Federal Social Security program, the contribution designated by law to be the responsibility of the employee shall be paid in full by the employee, and the City shall not be obligated to pay or "pick up" any portion thereof.

ARTICLE XVII - EMPLOYEE TRAINING AND EDUCATION PROGRAMS

Section 1. Tuition Reimbursement. Employees who meet the requirements of the plan and who secure at least a passing grade ("C"), shall receive up to twelve hundred dollars (\$1200) per fiscal year reimbursement for the cost of tuition, fees and books to attend accredited colleges taking courses pursuant to the employees' training and education programs. Coursework eligible for reimbursement shall include courses taken in pursuit of a college degree, including general education courses, a job related certificate program, vocational courses, or courses that are job related or for career enhancement.

ARTICLE XVIII - SAFETY AND HEALTH

Section 1. The City and the employees of the City agree to comply with all applicable Federal and State laws, which relate to health and safety.

ARTICLE XIX - LAYOFF PROCEDURES

Section 1. Policy.

A. Whenever there shall be need for layoff, employees within the class(es) of position(s) involved shall be terminated in the following order: emergency, provisional, temporary, probationary, regular. The order of layoff of regular employees shall be based upon recommendation of the department head. The department head shall take into consideration such things as tenure and job performance. Regular employees, subsequently laid off, shall be given a minimum of one month's notice, and written notice of the reasons for such action. The City will discuss with the Association the impact of the layoff and alternatives available. Regular employees in good standing (those deemed to have produced satisfactory

service) shall be placed on appropriate employment lists and will have precedence for employment over persons whose names appear on employment lists for the same class of position.

B. An employee may be terminated by the department head when deemed necessary or convenient as a result of substantial changes in duties or organization, abolition of position, shortages of work funds, or completion of work for which employment was made. Such termination shall not be subject to appeal.

ARTICLE XX - REINSTATEMENT

Section 1. Policy.

A. Regular employees who have been laid off shall be entitled to reinstatement to positions in the same class where such positions are to be refilled during the period of their eligibility on the layoff employment list. Any employees so reinstated shall retain all benefits accrued in prior service with the City. During such layoff, no benefits shall accrue and the anniversary date shall be adjusted, if such layoff time exceeds thirty (30) consecutive days.

B. Any regular employee who has resigned from the City's service in good standing may, upon written request and approval of the department head and City Manager, be considered for reinstatement to a position in the same or similar class in the classified service within two (2) years of such termination. Such reinstatement shall be made without benefit of additional examination and may take precedence over employment lists, but in no way shall it be mandatory for the department head to reappoint a former employee should he desire not to do so. Appointment shall otherwise be made in the manner as for original employment.

C. Upon reinstatement, any employee so appointed shall be considered a new appointee and shall have no vested interest in or be entitled to any benefits accrued during any previous employment with the City.

ARTICLE XXI - TRANSFER, PROMOTION AND DEMOTION

Section 1. Transfer.

A. An employee may be transferred at any time from one position to another position in the same or comparable class having the same salary range and reasonably similar qualifications. Transfer involving a change from one department to another will require consent of both department heads unless the City Manager orders the transfer. Transfers shall not be used to effectuate a promotion, demotion, advancement or reduction, each of which may be accomplished only as provided in these Rules. No person may be transferred to a position for which he does not possess the minimum qualifications. Transfers shall be accomplished, when practicable, with consideration of the City's Affirmative Action Plan. The City Manager may require a transferring employee to serve a new probationary period.

B. For purposes of this Agreement, a transfer shall not include the reassignment of personnel within the internal operation of the department as may be made from time to time by the department head.

Section 2. Promotion.

A. Insofar as practicable and consistent with the best interests of the service, all vacancies in the competitive service shall be filled by promotion from within the competitive service, after a promotional examination has been given and a promotional list established. To be eligible to compete in a promotional

examination, an employee must have City experience in a lower classification in the same occupational field performing work that is sufficiently preparatory for the work of the promotional classification. The City Manager shall determine the appropriate positions from which employees may be drawn to compete in a promotional examination.

B. If, in the opinion of the department head, a vacancy in the department could be filled better by an open, competitive examination, then the department head may instruct the Personnel Officer to call for applications for the vacancy and arrange for an open, competitive examination and for the preparation and certification of an employment list. Regular employees who meet the requirements of the position will be considered eligible to compete in the open, competitive examination.

C. Promotion shall be accomplished insofar as practicable and consistent with the best interests of the service, with consideration for the City's Affirmative Action Plan.

Section 3. Demotion.

A. The department head, with approval of the City Manager, may demote an employee for any of the following reasons or conditions:

1. An employee whose ability to perform his required duties falls below acceptable standards.
2. For disciplinary reasons set forth in Chapter 11.03 of the Personnel Rules and Regulations of the City of Cypress.
3. When the need for a position which an employee fills no longer exists.
4. When an employee requests such demotion and has the consent of the prospective supervising official.
5. For any other reasonable grounds as approved by the City Manager.

B. No employee shall be demoted to a classification for which he does not possess the minimum qualifications. Written notice shall be given an employee at least three (3) working days before the effective date of the demotion and complete information regarding such change shall be reported to the Personnel Officer.

ARTICLE XXII- EMPLOYEE ORGANIZATIONAL RIGHTS AND RESPONSIBILITIES

Section 1. Dues Deductions. The City shall deduct twice monthly the amount of Association regular and periodic dues and insurance premiums as may be specified by the Association on an authorization card furnished by the Association and signed by the employee.

Section 2. Indemnification. The Association agrees to hold the City harmless and indemnify the City against any claims, causes of actions, or lawsuits arising out of the deductions or transmittal of such funds to the Association, except the intentional failure of the City to transmit to the Association monies deducted from the employee's salary pursuant to this Article.

Section 3. Agency Shop

Legislative Authority

The City of Cypress, charter city (the "City"), and the Teamsters Local 911 (the "Union"), representing the Cypress Maintenance Employees' Association Bargaining Unit, (hereinafter referred to as "CMEA") mutually understand and agree that, in accordance with the State of California law, per adoption of SB 739, and the Agency Shop election held on March 5, 2003, a majority of the full-time, regular employees in classifications represented by the Union voted to be covered by an Agency Shop agreement. As a result

of the Agency Shop election, as a condition of continued employment, this Agency Shop agreement hereby requires that all CMEA bargaining unit employees:

1. Elect to join the Union and pay union dues
2. Pay an agency fee for representation
3. Or with a religious exemption, pay a fee equal to the agency fee to be donated to selected charities.

Union Dues/Agency Fee Collection

Effective with the pay period beginning April 11, 2003, City's Finance Department shall deduct union dues, agency fee, and religious exemption fees from all employees who have signed a written authorization and the original of that authorization has been provided to the City's Finance Department. Employees on leave without pay or employees who earn a salary less than the union deduction shall not have a union dues or agency fee deduction for that pay period.

The Union shall notify the City's Director of Finance and Administrative Services of any agency fee payer who elects to only pay fair share fees, the fee equal to direct representation costs as determined by the Union's certified financial report. The Union shall notify the City's Director of Finance and Administrative Services of the amount of the fair share fee to be deducted from the fair share fee payer's paycheck, which amount shall be subject to review and verification by the City.

New Hire Notification

Effective April 11, 2003, any new hire of a full-time, regular employee to positions within the CMEA shall be informed, in writing, by City, at the time of the sending of a conditional offer of full-time employment, that an Agency Shop agreement is in effect for the job classification to which the conditional offer of employment is made. The employee shall be provided a copy of this agreement, the then-applicable Memorandum of Understanding, and a form, to be mutually agreed upon between City and Union that outlines the employee's choices under this Agency Shop Agreement. The employee shall be provided thirty (30) calendar days from the date of the conditional offer of employment to make the election contained therein and provide a signed original election form to the City's Finance Department. The Union may request to meet with any new hire at a time and place mutually agreed upon between the Department Head and the Union.

Religious Exemption

An employee who is a member of a bona fide religion, body, or sect that has historically held conscientious objections to joining or financially supporting a union shall not be required, as a condition of employment, to join Union and pay union dues or pay an agency fee for representation.

An employee claiming religious exemption status shall be required to provide proof of affiliation with such a religious, body, or sect.

In lieu of union dues or agency fee, the employee claiming religious exemption shall be required to pay a fee equal to the Agency Fee, and those fees shall be remitted by City, at the election of the employee, to the non-labor, non-religious charitable organizations of the employee's written designation.

Records

On an annual basis, Union shall provide to City's Finance Department a copy of the Union's certified financial report.

City shall provide Union a list of all CMEA unit members and dues paying status with each union dues check remitted to Union.

Rescission of Agreement

The Agency Shop agreement may be rescinded pursuant to Government Code 3500.

Indemnification

Union agrees to indemnify City, its officers, agents and employees against, and shall hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of, related to, or in connection with City's entry into or performance of the terms and conditions of this Agency shop Agreement, whether or not there is concurrent passive or active negligence on the part of City, its officers, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of City, its officers, agents or employees, who are directly responsible to the City, and in connection therewith:

- 1) Union shall defend any action or actions filed in connection with any of said claims or liabilities and shall pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;
- 2) Union shall make provisions for the payment of any judgment rendered against City, its officers, agents or employees for any such claims or liabilities arising out of, related to, or in connection with City's entry into or performance of the terms and conditions of this Agency Shop Agreement; and Union agrees to save and hold City, its officers, agents, and employees harmless therefrom;
- 3) In the event a dispute arises regarding this condition of employment and an employee is required to appear in court on Union business, City will not recognize time off as paid release time and the employee shall use accrued vacation leave, compensatory time off or floating holiday hours.

ARTICLE XXIII- NO STRIKE - NO LOCKOUT

Section 1. Prohibited Conduct.

A. The Association, its officers, agents, representatives and/or members agree that during the term of this Agreement, they will not cause or condone any strike, walkout, slowdown, sickout or any other job action by withholding or refusing to perform services.

B. The City agrees that it shall not lock out its employees during the term of this Agreement. The term "lockout" is hereby defined so as not to include the discharge, suspension, termination, layoff, failure to recall, or failure to return to work of employees of the City in the exercise of its rights as set forth in any of the provisions of this Agreement or applicable ordinance or law.

C. Any employee who participates in any conduct prohibited in Section A above may be subject to termination by the City.

D. In addition to any other lawful remedies or disciplinary actions available to the City, if the Association fails, in good faith, to perform all responsibilities listed below in Section 2, "Association Responsibility;" the City may suspend any and all of the rights, privileges, accorded to the Association under the Employee Relations Resolution in this Memorandum of Understanding, including, but not limited to, suspension of recognition of the Association, grievance procedures, right of access, check off, the use

of the City's bulletin boards and facilities.

Section 2. Association Responsibility.

A. In the event that the Association, its officers, agents, representatives, or members engage in any of the conduct prohibited in Section A, "Prohibited Conduct," the Association or its duly authorized representatives shall immediately instruct any persons engaging in such conduct that their conduct is in violation of this Memorandum of Understanding and unlawful, and they should immediately cease engaging in conduct prohibited in Section A, "Prohibited Conduct," and return to work.

B. If the Association performs all of the responsibilities set forth in Section A herein, its officers, agents and representatives shall not be liable for damages for prohibited conduct performed by employees who are covered by this Agreement in violation of Section A "Prohibited Conduct."

ARTICLE XXIV – GRIEVANCE PROCEDURE

A. The Grievance Procedure is defined in the Personnel Rules and Regulations.

ARTICLE XXV – NO SMOKING POLICY

Section 1. Pursuant to California Government Code § 7596 through 7597, employees shall not smoke any tobacco product inside a public building, or in an outdoor area within 20 feet of a main exit, entrance, or operable window of a public building, or in a passenger vehicle, as defined by Vehicle Code § 465, owned by the state.

Section 2. Employees shall not smoke or use tobacco products at any time in any City vehicle.

Section 3. Employees shall not smoke or use tobacco products at any time in public view of City Hall, Community Center or the Senior Center.

Section 4. Violation of this Article may result in appropriate disciplinary action.

ARTICLE XXVI - ENTIRE MEMORANDUM OF UNDERSTANDING

Section 1. It is the intent of the parties hereto that the provisions of this Memorandum of Understanding shall supersede all prior agreements and memoranda of agreement, or memoranda of understanding, or contrary salary and/or personnel resolutions or administrative codes, provisions of the City, oral and written, expressed or implied, between the parties, and shall govern the entire relationship, and shall be the sole source of any and all rights which may be asserted hereunder. This Memorandum of Understanding is not intended to conflict with Federal or State Law.

Section 2. Notwithstanding the provisions of Section 1, there exists within the City certain personnel rules and regulations. To the extent that this Agreement does not specifically contradict these personnel rules and regulations or departmental rules and regulations or City ordinances, they shall continue subject to being changed by the City in accordance with the exercise of City rights under this Agreement and applicable State Law.

Section 3. Exhibit "C" relating to the 9/80 Plan is part of this MOU for reference purposes.

Section 4. Exhibit "B" incorporates a previous agreement of addendum #1, dated 6/5/96.

ARTICLE XXVII - WAIVER OF BARGAINING DURING TERM OF THIS AGREEMENT

Section 1. Except where required by the terms of this Agreement, during the term of this Memorandum of Understanding, the parties mutually agree that they will not seek to negotiate or bargain with regard to wages, hours and terms and conditions of employment, whether or not covered by this Memorandum of Understanding or in the negotiations leading thereto, and irrespective of whether or not such matters were discussed or were even within the contemplation of the parties hereto during the negotiations leading to this Memorandum of Understanding. Regardless of the waiver contained in this Article, the parties may, however, by mutual agreement, in writing, agree to meet and confer about any matter during the term of this Memorandum of Understanding.

ARTICLE XXVIII - CITY RIGHTS

Section 1. The City reserves, retains and is vested with, solely and exclusively, all rights of management which have not been expressly abridged by specific provision of this Memorandum of Understanding or by Law to manage the City, as such rights existed prior to the execution of this Memorandum of Understanding. The sole and exclusive rights of management, as they are not abridged by this Agreement or by Law, shall include, but not be limited to, the following rights:

- A. To manage the City generally and to determine the issues of policy.
- B. To determine the existence or non-existence of facts which are the basis of the management decision.
- C. To determine the necessity and organization of any service or activity conducted by the City and expand or diminish service.
- D. To determine the nature, manner, means, and technology and extent of services to be provided to the public.
- E. Methods of financing.
- F. Types of equipment or technology to be used.
- G. To determine and/or change the facilities, methods, technology, means and size of the work force by which the City operations are to be conducted.
- H. To determine and change the number of locations, relocations and types of operations, processes, and materials to be used in carrying out all City functions including, but not limited to, the right to contract for or sub-contract any work or operation.
- I. To assign work to and schedule employees in accordance with requirements as determined by the City, and to establish and change work schedules and assignments.
- J. To relieve employees from duties for lack of work or similar non-disciplinary reasons.
- K. To establish and modify productivity and performance programs and standards.
- L. To discharge, suspend, demote or otherwise discipline employees for proper cause in accordance with the provisions and procedures set forth in departmental disciplinary procedures.
- M. To determine job classification and to reclassify employees.
- N. To hire, transfer, promote and demote employees for non-disciplinary reasons in accordance with the Memorandum of Understanding.
- O. To determine policies, procedures and the standards for selection, training and promotion of employees.
- P. To establish employee performance standards including, but not limited to, quality and quantity standards; and to require compliance therewith.
- Q. To maintain order and efficiency in its facilities and operations.
- R. To establish and promulgate and/or modify rules and regulations to maintain order and safety in the City which are not in contravention with this Agreement.
- S. To take any and all necessary action to carry out the mission of the City in emergencies.

Section 2. Except in emergencies, or where the City is required to make changes in its operations because of the requirements of Law, whenever the contemplated exercise of management's rights shall impact on a significant number of employees of the bargaining unit, the City agrees to meet and confer in good faith with representatives of the Association regarding the impact of the contemplated exercise of such rights prior to exercising such rights unless the matter of the exercise of such rights is provided for in this Memorandum of Understanding.

ARTICLE XXIX - EMERGENCY WAIVER PROVISION

Section 1. In the event of circumstances beyond the control of the City, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, provisions of this Memorandum of Understanding or the Personnel Rules and Regulations of the City, which restrict the City's ability to respond to these emergencies, shall be suspended for the duration of such emergency. After the emergency is over, the Association shall have the right to meet and confer with the City regarding the impact on employees of the suspension of these provisions in the Memorandum of Understanding and any Personnel Rules and Regulations.

ARTICLE XXX - SEPARABILITY

Section 1. Should any provision of this Memorandum of Understanding be found to be inoperative, void, or invalid by a court of competent jurisdiction, all other provisions of this Memorandum of Understanding shall remain in full force and effect for the duration of this Memorandum of Understanding.

ARTICLE XXXI - TERM OF MEMORANDUM OF UNDERSTANDING

Section 1. The term of this Memorandum of Understanding shall commence at 12:01 P.M. July 1, 2007, and shall continue in full force and effect until noon June 30,2010.

ARTICLE XXXII - RATIFICATION AND EXECUTION

Section 1. The City and the Association acknowledge that this Memorandum of Understanding shall not be in full force and effect until ratified by the Association and adopted by the City Council of the City of Cypress. Subject to the foregoing, this Memorandum of Understanding is hereby executed by the authorized representatives of the City and the Association.

CITY OF CYPRESS

By: Richard M. Spang Date: 8/6/07

By: [Signature] Date: 8-6-07

CYPRESS MAINTENANCE EMPLOYEES' ASSOCIATION

TEAM STARS 911
By: [Signature] Date: 8/6/2007

By: [Signature] Date: 8/6/07

By: [Signature] Date: 8/6/07

EXHIBIT "A"

| Maintenance Employees' Association | | | | | | | | | | |
|---|-------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--|
| Effective 6/29/07 pm | | | | | | | | | | |
| Regular F/Time Classifications | SALARY RANGES (Per Month/Hr) | | | | | | | | | |
| | A | B | C | D | E | F | G | H | I | |
| Maintenance Specialist | \$3,544 20.4462 | \$3,721 21.4673 | \$3,907 22.5404 | \$4,102 23.6654 | \$4,307 24.8481 | \$4,522 26.0885 | | | | |
| Mechanic | \$3,375 19.4712 | \$3,544 20.4462 | \$3,721 21.4673 | \$3,907 22.5404 | \$4,102 23.6654 | \$4,307 24.8481 | | | | |
| Maintenance Worker | \$2,776 16.0154 | \$2,915 16.8173 | \$3,061 17.6596 | \$3,214 18.5423 | \$3,375 19.4712 | \$3,544 20.4462 | \$3,721 21.4673 | \$3,907 22.5404 | \$4,102 23.6654 | |
| Assistant Mechanic | \$2,915 16.8173 | \$3,061 17.6596 | \$3,214 18.5423 | \$3,375 19.4712 | \$3,544 20.4462 | \$3,721 21.4673 | | | | |
| Custodian | \$2,518 14.5269 | \$2,644 15.2538 | \$2,776 16.0154 | \$2,915 16.8173 | \$3,061 17.6596 | \$3,214 18.5423 | | | | |

| Maintenance Employees' Association | | | | | | | | | | |
|---|-------------------------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--------------------|--|
| Effective 6/27/08 pm | | | | | | | | | | |
| Regular F/Time Classifications | SALARY RANGES (Per Month/Hr) | | | | | | | | | |
| | A | B | C | D | E | F | G | H | I | |
| Maintenance Specialist | \$3,686 21.2654 | \$3,870 22.3269 | \$4,063 23.4404 | \$4,266 24.6115 | \$4,479 25.8404 | \$4,703 27.1327 | | | | |
| Mechanic | \$3,510 20.2500 | \$3,686 21.2654 | \$3,870 22.3269 | \$4,063 23.4404 | \$4,266 24.6115 | \$4,479 25.8404 | | | | |
| Maintenance Worker | \$2,888 16.6615 | \$3,032 17.4923 | \$3,184 18.3692 | \$3,343 19.2865 | \$3,510 20.2500 | \$3,686 21.2654 | \$3,870 22.3269 | \$4,063 23.4404 | \$4,266 24.6115 | |
| Assistant Mechanic | \$3,032 17.4923 | \$3,184 18.3692 | \$3,343 19.2865 | \$3,510 20.2500 | \$3,686 21.2654 | \$3,870 22.3269 | | | | |
| Custodian | \$2,619 15.1096 | \$2,750 15.8654 | \$2,888 16.6615 | \$3,032 17.4923 | \$3,184 18.3692 | \$3,343 19.2865 | | | | |

Exhibit “B”

CITY OF CYPRESS - ALCOHOL AND CONTROLLED SUBSTANCE PREVENTION PROGRAM POLICY AND TESTING PROGRAM

The City and the Association have met and conferred in good faith on an alcohol and controlled substance prevention program and agree to the following:

1. To implement the document titled "CITY OF CYPRESS - ALCOHOL AND CONTROLLED SUBSTANCE PREVENTION PROGRAM POLICY AND TESTING PROGRAM", dated 6/5/96, and the document is incorporated herein by reference.
2. To modify job descriptions of the following positions: Maintenance Worker, Maintenance Specialist, Mechanic, and Assistant Mechanic.
3. To waive requirements of the program for certain employees who may be ineligible for the program, otherwise known as a "Grandfather Clause", as follows:

Grandfather Clause: Employees classified as of January 1, 2001, who are not able to obtain or possess a Commercial Driver’s License due to a verified medical disability, will not be required to possess such license as a condition of continued placement in their position or employment. Those current employees, who have verified learning disabilities that may cause them not to get licensed within the six months, may be granted an extension by Management.

Exhibit “C”

[See attached 9/80 Plan]

Exhibit “E”

Modification of Personnel Rules

CHAPTER 1. – GENERAL

Section 1.02 Authority of the City Manager

Modification of 2nd paragraph: *The City Manager may delegate to the department heads the power to appoint individuals to the City service, replace with:*

The City Manager may delegate to the Department Head the power to appoint, promote, discipline, demote and remove any officers and/or employees of the City except the City Clerk, City Attorney and City Treasurer.

CHAPTER 11. DISCIPLINARY ACTIONS

Section 11.07 Suspension Modification

Modification of 1st paragraph starting at 3rd sentence – delete the following: *Department heads may suspend subordinate employees for not more than five (5) working days Suspension without pay may be made by the City Manager for suspensions of more than 5 working days,*

Section 11.11 Pre-Disciplinary Procedures

Change all references from “appropriate” authority to “appointing” authority