

MIDDLE MANAGEMENT EMPLOYEES

MEMORANDUM OF UNDERSTANDING

**JULY 1, 2006 TO
JUNE 30, 2009**

**CITY OF SAN BERNARDINO
OFFICE OF THE
DIRECTOR OF HUMAN RESOURCES**

TABLE OF CONTENTS

<u>Article/Section</u>	<u>Title</u>	<u>Page</u>
Resolution No. <u>2007-343</u>	Implementation of Memorandum of Understanding	1
	Definition of Terms.....	3
ARTICLE I	ADMINISTRATION	4
Section 1	Management Rights	4
Section 2	Agency Personnel Rules	4
Section 3	Labor-Management Committee	5
Section 4	Contract Services	5
ARTICLE II	EMPLOYER-EMPLOYEE RELATIONS	5
Section 1	Recognition	5
Section 2	No Strike	5
Section 3	Payroll Deduction	6
Section 4	Grievance Procedure	6
Section 5	Non-Discrimination	8
Section 6	Employee Rights	8
Section 7	Classification.....	9
Section 8	Bulletin Boards	9
Section 9	Access to Personnel Records	9
ARTICLE III	COMPENSATION	9
Section 1	Wages.....	9
Section 2	Acting Pay.....	10
Section 3	Shift Differential	10
Section 4	Wage Differential.....	10
Section 5	PERS	10
Section 6	Overtime	11
Section 7	Employee Court Subpoena	12
Section 8	Fines.....	12
Section 9	Special Certification Pay.....	13
Section 10	Personal Tool Allowance.....	13
ARTICLE IV	FRINGE BENEFITS	14
Section 1	Health/Life Insurance.....	14
Section 2	Uniforms	15
Section 3	Tuition Reimbursement	15
ARTICLE V	LEAVES.....	17
Section 1	Vacation	17
Section 2	Holidays	18

<u>Article/Section</u>	<u>Title</u>	<u>Page</u>
Section 3	Sick Leave.....	20
Section 4	Payment for Unused Sick Leave.....	22
Section 5	Injury Leave.....	22
Section 6	Leave of Absence Without Pay.....	23
Section 7	Witness Leave.....	24
Section 8	Blood Donations	24
Section 9	Catastrophic Leave.....	24
Section 10	Sick Leave Sell Back	25
Section 11	Post Employment Health Plan (PEHP).....	25
Section 12	Jury Duty.....	25
ARTICLE VI	WORKING CONDITIONS	25
Section 1	Working Conditions.....	25
Section 2	Physical Examinations.....	26
Section 3	Drug and Alcohol Testing.....	26
Section 4	Seniority.....	27
Section 5	Probationary Period	27
ARTICLE VII	GENERAL PROVISIONS	27
Section 1	Waiver Clause.....	27
Section 2	Severability	27
Section 3	Printing of Memorandum of Understanding.....	28
Section 4	Term of Memorandum of Understanding.....	28
Section 5	Notice of Intent to Reopen.....	28
Section 6	New Employee Information.....	28
	SIGNATURE PAGE.....	29
Index	30
EXHIBITS		
Exhibit 1	Side Letter to Agency Personnel Rules	
Exhibit 2	Authorization for Checkoff for Union Dues Form	
Exhibit 3	Resolution 6413, Section Eleven: "Middle-Management Employees"	

**RESOLUTION OF THE CITY OF SAN BERNARDINO IMPLEMENTING A
MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF SAN
BERNARDINO AND EMPLOYEES IN THE MIDDLE MANAGEMENT BARGAINING
UNIT OF THE CITY OF SAN BERNARDINO REPRESENTED BY SAN BERNARDINO
PUBLIC EMPLOYEES' ASSOCIATION.**

WHEREAS, the designated representatives of the Mayor and Common Council met and
conferred in good faith with representatives of San Bernardino Public Employees' Association
(SBPEA) representing the Middle Management Employees of the City of San Bernardino, in
accordance with the provisions of Government Code §3500-3510, to agree upon a new
Memorandum of Understanding (MOU);

WHEREAS, such meetings resulted in agreement on an MOU (Exhibit A, a copy of
which is attached hereto and incorporated herein) effective July 1, 2006 through June 30, 2009.

BE IT RESOLVED BY THE MAYOR AND COMMON COUNCIL OF THE CITY OF
SAN BERNARDINO, AS FOLLOWS:

SECTION 1. Exhibit A to this resolution is hereby adopted establishing wages, hours
and working conditions for employees in the Middle Management bargaining unit of the City of
San Bernardino.

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I HEREBY CERTIFY that the foregoing Resolution was duly adopted by the Mayor and the Common Council of the City of San Bernardino at a joint regular meeting thereof, held on 20th day of August, 2007, by the following vote, to wit:

COUNCILMEMBERS:	AYES	NAYES	ABSTAIN	ABSENT
ESTRADA	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
BAXTER	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
BRINKER	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
DERRY	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
KELLEY	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
JOHNSON	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
MCCAMMACK	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Rachel G. Clark
Rachel G. Clark, City Clerk

The foregoing resolution is hereby approved this 22nd day of August, 2007.

Patrick J. Morris, Mayor
City of San Bernardino

Approved as to form:

JAMES F. PENMAN,
City Attorney

By: James F. Cunniff

DEFINITION OF TERMS

<u>City:</u>	The City of San Bernardino
<u>Classification:</u>	Includes titles listed in Section Eleven of City Resolution No. 6413, as amended.
<u>Day:</u>	As it pertains to a sick leave day or a vacation day, one (1) "day" equals eight (8) hours, unless otherwise specified.
<u>Exclusions:</u>	Excluded from the Middle-Management Unit for purposes of representation are: Classification titles designated as management/confidential, general or safety positions established and created under federal contract and temporary, part-time provisional and probationary individuals.
<u>Middle Management Unit:</u>	Includes titles listed in Section Eleven of City Resolution No. 6413, as amended. Additional titles in the Middle-Management Unit may be established by the Mayor and Common Council. Also reference "Exclusions" above.
<u>Mandatory and Permissive:</u>	"Shall" is mandatory; "may" is permissive.
<u>MOU:</u>	Memorandum of Understanding
<u>Regular Full-Time Employee:</u>	An Employee who has been appointed to a Regular, Full-Time position and has completed his/her probation period.
<u>Union:</u>	The exclusive bargaining representative for the Middle-Management Unit.

ADMINISTRATION

Section 1 - Management Rights

This MOU shall not be deemed to limit or curtail the City in any way in the exercise of the rights, powers and authority which the City has prior to entering into this understanding, except to the extent that the provisions of this MOU specifically curtail or limit such rights, powers and authority. Furthermore, the City retains all its exclusive rights and authority under City Charter, ordinances, resolutions, state and federal law and expressly and exclusively retains its management rights, which include but are not limited to: the exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of selection for employment and promotions; directs its employees; establish and enforce dress and grooming standards; determine the methods and means to relieve its employees from duty because of lack of work or other lawful reasons; maintain the efficiency of governmental operations; determine the methods, means and numbers and kinds of personnel by which government operations are to be conducted; determine the content and intent of job classifications; determine methods of financing; determine style and/or types of City-issued wearing apparel, equipment or technology, means, organizational structure and size and composition of work force and allocate and assign work by which the City operations are to be conducted; determine the change and the number of work 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 subcontract any work or operations of the City; 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 upon reasonable notice, establish and modify productivity and performance programs and standards; discharge, suspend, demote, reprimand, withhold salary increases and benefits, or otherwise discipline employees in accordance with the applicable law; establish employee performance standards including, but not limited to, quality and quantity and standards, and to carry out its mission in emergencies, and to exercise complete control and discretion over its organization and the technology of performing its work.

Section 2 – Agency Personnel Rules

It is understood and agreed that there exists within the City in written or unwritten form, certain personnel rules, policies, practices and benefits generally contained in the Civil Service Rules and Regulations for the Classified Service; Resolution No. 6433, as amended; Resolution No. 10584, Establishing Uniform and Orderly Methods of Communications Between the City and its Employees for the Purpose of Promoting Improved Employer-Employee Relations, as amended; and, Resolution No. 10585, Adopting Rules and Regulations Relating to Employer-Employee Relations, as amended, which documents will continue in effect, except for provisions modified by the City Council in accordance with federal or state laws, orders, regulations, official instructions or policies.

The City may adopt, change or modify work rules. Whenever the City changes work rules or issues new work rules, it will post them on departmental bulletin boards ten (10) working days prior to their effective date, except in emergency situations. A copy will be sent to SBPEA at the beginning of the ten (10) day period, in order that SBPEA may meet and confer regarding such rules with the City before they become effective, if SBPEA so requests. (Reference Side Letter-Exhibit #1)

Section 3 - Labor-Management Committee

The Labor-Management Committee shall be established for the purpose of discussing common problems that are not addressed in other existing procedures. The Union and the City shall each designate up to three (3) representatives to serve on the Committee from different departments. The Committee will select a chairperson who will be responsible for receiving items, establishing agendas and informing participants of the time and place of meetings. The Committee shall normally meet at least quarterly or may meet more often if necessary at a mutually agreed upon time and place. The Union will provide a list of the Committee members to the Director of Human Resources each January and July. Guests and/or speakers will be allowed to attend based on advance notice to the City and mutual agreement.

Section 4 - Contract Services:

It is not the intent of the City to cause employees to lose their jobs because of a decision to contract work. If a decision is made by the City to contract work not now contracted, and that decision will result in change in the work conditions or status of employees in the unit, the City agrees to meet and confer in good faith with the Union prior to making a final recommendation to the Mayor and Common Council.

ARTICLE II – EMPLOYER-EMPLOYEE RELATIONS

Section 1 – Recognition

The City hereby acknowledges that SBPEA has been and is recognized by the City as the exclusive representative for the Mid-Management Unit employees for purposes of meeting and conferring on wages, hours, and other terms and conditions of employment and for all other matters related to employer-employee relations for these purposes.

The granting of “exclusive” recognition shall not preclude employee self-representation in matters where individual rights, protections and concerns are involved; provided however, the representation rights of the Union as exclusive representative shall not be compromised thereby.

Section 2 – No Strike

It is the purpose of this MOU for the parties hereto, to confirm and maintain the spirit of cooperation, which has existed between the City of San Bernardino and the employees of the City. It is recognized that any work disruptions are unproductive to City operations and services provided its citizens. The Union and the City agree that they shall at no time in any way jeopardize the public health, welfare and safety of the City’s business and residential communities. Thus, the Union and the City will strive to promote a harmonious relationship between the parties to this MOU that will result in benefits to the City and will provide continuous and uninterrupted employee services. It is, therefore, further agreed that the Union shall not, on behalf of itself and its members, individually or collectively, engage in any curtailment or restriction of work. Should any curtailment or restriction of work take place, paid leave benefits (sick leave, vacation, etc.) will not be available during such periods of time.

Section 3 – Payroll Deduction

It is agreed that SBPEA membership dues, agency fees, insurance and premiums for plans sponsored by the Union shall be deducted by the City from each employee's payroll check who files a written authorization requesting that such deduction be made.

The City shall not be liable to the Union, employees or any other persons by reason of the requirements of this Article for the remittance of any sum other than that constituting actual deductions made from the employee's earned wages. SBPEA shall hold the City harmless for any and all claims, demands, suits, orders, judgments, or other forms of liability that may arise out of or by reason of action taken by the City under this Article. In addition, SBPEA shall refund to the City any amounts paid to it in error, upon presentation of supporting evidence.

Dues deductions shall be a specified uniform amount for each SBPEA member. Any change in the amount of dues deducted shall be by written authorization from the Union with 30 days' notice to the City Finance Department of any change in the amount of dues to be deducted.

All unit members who were members of SBPEA on July 1, 1999, and those employees who thereafter become members shall remain as SBPEA members in good standing for the duration of this MOU, except as provided herein.

During the first full week of April, members may request in writing to the Finance Department, with a copy to SBPEA, to withdraw their authorization for dues deduction, which shall become effective at the beginning of the first payroll period in June. (Reference: Authorization for Checkoff for Union Dues – Exhibit #2)

Section 4 – Grievance Procedure

Purpose: The City of San Bernardino and the Middle-Management Unit realize the importance of a viable grievance procedure to aid in the resolution of disputes. It is recognized that to maintain high employee morale and harmonious relations, an orderly method of processing grievances is necessary. This procedure is intended to establish a systematic means to process a grievance and to obtain fair and proper answers and decisions regarding employee complaints. The representative of employees and management at all levels will make continuing efforts to secure prompt disposition of grievances. Every effort should be made to resolve grievances in the informal process.

The initiation of a grievance in good faith by an employee shall not cast any adverse reflection on his/her standing with his/her supervisors or his/her loyalty as a City employee nor be a reflection on the employee's supervisor or the department involved.

Definition of a Grievance: A grievance is an alleged violation of the terms of this MOU. If the employee chooses to appeal disciplinary action to the Civil Service Board, he/she shall be precluded from filing a grievance. The remedy selected shall be the exclusive remedy pursued, either through the grievance procedure used under this MOU, or through disciplinary appeals to the Civil Service Board.

Additionally, allegations of discrimination or harassment may be submitted to the Equal Employment Officer.

As used in this procedure, the term "immediate supervisor" means the lowest level of supervisor not within the Middle-Management representation unit.

Representation: The aggrieved employee shall have the right to be represented. This representation may commence at any step in the grievance procedure. Legal counsel or official representatives of the recognized employee organization only can represent the employee. No person hearing a grievance need recognize more than one City employee representative for any employee at any one time, unless he/she so desires. If the employee's legal counsel is not from the formally recognized employee organization, a representative of that formally recognized organization may attend the grievance hearing to insure that the solution reached does not violate the terms of the MOU.

Consolidation of Grievances: In order to avoid the necessity of processing numerous similar grievances at one (1) time, a single grievance may be filed.

Time Limitation: Time limitations are established to settle a grievance quickly. Time limits may be modified by agreement of the parties. If at any stage of this grievance procedure the grievant is dissatisfied with the decision rendered, it shall be the grievant's responsibility to initiate the action, which submits the grievance to the next level of review. The grievant may proceed to the next step if a reviewing official does not respond within the time limits specified. A formal grievance may be entered into or advanced to any step if the parties jointly so agree.

Steps in The Grievance Procedure: The procedures outlined herein constitute the informal and formal steps necessary to resolve an employee's grievance. An attempt to settle the grievance in the informal structure at the employee-supervisor level is required. The grievance must be submitted to the Informal Step within ten (10) working days of the incident or of the grievant's knowledge of the incident's occurrence.

A. Informal:

1. Initially, the grieving employee shall, on a personal face-to-face basis, discuss his/her complaint with his/her immediate supervisor informally. Within ten (10) working days the supervisor shall give his/her decision to the employee orally. The date and the subject of the incident should be provided with the request for the informal meeting. The supervisor will document his/her response to the employee, in the event the grievance proceeds to the Formal level.

B. Formal:

1. If the grievance is not adjusted to the satisfaction of the employee involved, the grievance shall be submitted in writing by the employee or his/her designated representative to the Department Head within the next ten (10) working days. The Department Head shall meet with the employee and/or his/her designated representative within ten (10) working days of receipt of the written grievance and shall deliver his/her answer in writing to the employee within ten (10) working days after the meeting.

2. If the grievance is still not adjusted, the aggrieved party may file a written appeal with the Director of Human Resources or his/her designee shall meet with the employee and if the employee desires, the designated Union representative within ten (10) working days after receipt of the appeal and shall deliver his/her answer in writing to the employee within ten (10) working days after the meeting.

3. If the grievance is still not adjusted, the aggrieved party may file a written appeal with the City Manager within ten (10) working days from the date of delivery of said answer. State in writing the complaint and the desired result. The City Manager may meet with the employee and if the employee desires the designated union representative within ten (10) working days after the receipt of the appeal and shall deliver his/her answer in writing to the employee within ten (10) working days after the meeting. The City Manager's decision is final and binding on all parties, unless reversed by a court decision.

4. Any grievance not answered by the City within the specified time limits listed above shall be deemed settled on the basis of the Union's original demand. Likewise, any grievance not answered by the Union as above shall be deemed settled on the basis of the City's last official answer.

5. Time limits, as stated above in subsections 1-4 may be extended by mutual agreement of the employee, his/her representative (if any) and the City.

Section 5 – Non-Discrimination

The City and the Union agree that there shall be no discrimination against employees within the bargaining unit because of race, color, creed, religion, national origin, sex, age, marital status or Union membership.

Further, there shall be no discrimination against individuals with disabilities, as defined by the Americans with Disabilities Act (ADA) of 1990, when those individuals do not pose a risk to the health or safety of themselves or others. The ADA expressly identifies reassignment to a vacant position as one form of reasonable accommodation.

Section 6 – Employee Rights

A. Employees of the City have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations, including but not limited to: wages, hours and other terms and conditions of employment. Employees of this City shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by employee organizations because of the exercise of these rights.

B. The City, through its representatives, shall meet and confer in good faith with representatives of formally recognized employee organizations regarding matters within the scope of representation, including wages, hours and other terms and conditions of employment.

Section 7 – Classification

Classification review is a management tool to ensure the accurate reflection of tasks and duties in each City position for the purpose of recruitment, compensation and organizational structuring. The City shall notify SBPEA in writing on all classifications and changes to classifications to this unit within ten (10) working days after such changes have been approved by the Mayor and Council. New and revised classification specifications shall be sent to SBPEA within the same time frame. Employees who believe they are performing duties of a higher level outside of their current classification, and who believe they have been unable to resolve the situation satisfactorily, shall have the right to appeal their issue via the current grievance procedure.

Section 8 – Bulletin Boards

The City will furnish a reasonable portion of existing bulletin board space in each department/division for the purpose of SBPEA posting notices of pertinent SBPEA business. SBPEA agrees that nothing libelous, obscene, and defamatory or of a partisan political nature shall be posted. In the event that there is a dispute arising out of the pertinency of any literature posted, the City Manager or designee shall meet with the SBPEA labor relations representative to resolve the problem as soon as possible.

Section 9 – Access to Personnel Records

The City's Human Resources Department shall keep and maintain an official personnel file for each employee. Personnel files are confidential.

Employees or their authorized representatives shall have the right, upon request, to review the contents of their official personnel files. Such review may be made during normal working hours with no loss of pay for time spent, and the employee may be accompanied by his/her authorized representative, if he/she so wishes. Employees desiring to review such records shall make their requests in writing through the Department Head to the Human Resources Department, if it is on City time.

Letters of reference and other matters exempted by law shall be excluded from the right of inspection by the employee.

ARTICLE III – COMPENSATION

Section 1 – Wages

Salaries are per Resolution No. 6413, Section Eleven, as amended by the Mayor and Common Council. Exhibit #3 is a copy of the resolution.

The City, at its expense, agrees to conduct a classification and compensation study of positions in the Middle-Management Unit. The City further agrees that the study will be completed on or about September 1, 2007 and implemented in accordance with the side letter agreement (Resolution No. 2007-343) adopted August 20, 2007. The following cities will be used

for the classification study: Riverside, Moreno Valley, Fontana, Ontario, and Pomona, as outlined in the aforesaid side-letter agreement.

Section 2 – Acting Pay

A Middle-Management employee who is assigned acting (complete) responsibility in the absence of his/her superior by the Department Head and approved by the City Manager shall be paid for same as follows:

The rate of pay shall be a step on the range of the higher position, which allows the “acting” employee at least a five percent (5%) increase. The employee shall be paid from the first day of such assignment. To qualify for such acting pay, the Middle-Management employee must be assigned to same position for at least 30 consecutive working days.

Section 3 – Shift Differential

All employees assigned to shift work, within the bargaining unit assigned to the communications division, shall receive the following pay differential, in addition to their regular base rate of pay for actual “shift work” designated as either the “swing” or “graveyard” shift.

A. An employee assigned to the swing shift (normal start and ending time of 4:00 p.m. to 12 midnight, respectively) shall receive \$85 per month extra for all hours actually worked during such assignment; or,

B. An employee assigned to the graveyard shift (normal start and ending time of 12 midnight to 8:00 a.m., respectively) shall receive \$120 per month extra for all hours actually worked during such assignment.

C. Any employee who is permanently assigned to the swing or graveyard shift will receive the additional monthly pay. The additional pay will only begin and end on the 1st and the 16th of the month. Whenever permanent swing or graveyard shift employees work overtime on another shift, their hourly pay will include the additional monthly pay.

D. Any non-swing/graveyard shift employees who work overtime in a swing or graveyard shift will only be paid at the regular rate of pay (no additional differential pay).

E. The Departments, by memo, will inform Payroll which employees are permanently assigned to swing and graveyard shifts and should receive the additional monthly pay. Permanent is defined as being assigned for 30 calendar days or more.

Section 4 – Wage Differential

All Mid-Managers shall receive payment at the step in the salary range which is not less than five percent (5%) above his or her highest paid subordinate.

Section 5 – PERS

For any unit employee hired on or after January 1, 1998, the City will pay six percent (6%) of the members' contribution to PERS credited to the employee's account as a fringe benefit. Upon

said employees completing five (5) years of service, the City will pay eight percent (8%) of the members' contribution to PERS credited to the employee's account as a fringe benefit on the first pay period of the sixth year of service.

The City agrees to amend the PERS contract to provide 2.7 @ 55 retirement benefit effective 1/1/08, to all unit members. All costs for providing such retirement benefit shall be paid by the City.

The City agrees to amend the PERS contract to provide the 2% @ 55 retirement benefit, effective June 30, 2001, to all unit members. All costs will be covered by the City.

The City will pay the employer contribution (\$3.50/month) for the Fourth Level of 1959 Survivor Benefits.

Section 6 – Overtime

The following three paragraphs (Administrative Leave, Emergency Operations Center and Fluctuating Schedules) apply to all unit employees with the exception of classifications covered under the federal Fair Labor Standards Act (FLSA):

A. Administrative Leave: Unit employees will receive forty (40) hours of administrative leave on July 1 of each year this MOU is in effect. Unused Administrative Leave may not be carried forward from year to year and shall not be paid for at any time. Employees receiving Administrative Leave shall not earn any additional time off or other compensation for overtime work, except as described below.

B. Emergency Operations Center (EOC): The City will pay straight time overtime to unit members assigned to work beyond their regular shifts, when the City's Emergency Operations Center (EOC) is open, when such assignments result from a federal or state-declared disaster declaration and when the overtime worked is expected to be reimbursed to the City by federal, state and/or other funding sources.

C. Fluctuating Schedule: In the event that Unit members must work beyond their regular shift or must work on a regularly scheduled day off to provide support for prescheduled special events, the Department Head or designee has the discretion to implement a fluctuating schedule, whereby the employees will work on the prescheduled special event, in exchange for equivalent time off during the same pay period. Each Department head shall consider any request of an employee as to preference for taking the equivalent time off.

D. FLSA: Article III, Section 6, shall not apply to the following positions covered under the Fair Labor Standards Act (FLSA): Dispatcher Supervisor; Fire Equipment Shop Supervisor; Maintenance Supervisor (Sewer); Traffic Signals & Lighting Supervisor; Police Records Supervisors; Supervising Equipment Mechanic; Fire Communications Manager; Athletic Field Maintenance Specialist; and Sanitation Route Supervisor.

E. Only hours actually worked shall be counted for purposes of calculating eligibility for overtime compensation, as appropriate. Approved witness leave and jury duty, as set forth in the MOU will be counted as actual hours worked.

F. Classifications covered by the FLSA shall have the option to participate in a compensatory time bank.

G. Compensatory Time Bank: When an employee works overtime, he or she shall earn overtime at the FLSA rate. Following prior approval of overtime as described above, the employee will either be paid for the overtime worked, or the number of overtime hours worked will be placed in a compensatory time bank based on the employee's request. The Finance Department (Payroll) will track the compensatory time accrued and used and the compensatory time balance will appear on the employee's paycheck. Department Head approval will be required in order for employees to use time from the compensatory time bank.

H. Once an employee's compensatory time bank reaches eighty (80) hours, the employee will be paid for all subsequent overtime worked. By the end of each calendar year, an employee's compensatory time bank must be reduced to forty (40) hours. Any hours in the compensatory time bank in excess of forty (40) hours as of January 1 of each year will be paid at the employee's regular rate of pay and will be included on the second paycheck in March.

I. If the employee terminates employment or if the employee is promoted to another position in the City, the compensatory time bank will be paid off at the then current rate of pay.

Section 7 - Employee Court Subpoena Time

A. Effective February 1, 2005, all City employees appearing in court on their day off for a work-related court subpoena will receive compensation for the actual time spent in court, with a three (3) hour minimum. Additionally, employees will receive one-half (1/2) hour travel time for going to court. Employees will be reimbursed for all parking fees associated with the court appearance.

B. In the event an employee is placed on standby on their day off for a work-related court subpoena, the employee will receive three (3) hours standby pay for each day on a standby status.

C. For morning standby subpoenas where employees are called to court and do not go beyond 12:00 p.m. on that day, total compensation will consist of the three (3) hours standby along with one-half (1/2) hour of travel time. If employees have to appear in court after the noon recess, the actual additional time along with one-half (1/2) hour of travel time will be added to the three (3) hours standby. In cases where the subpoena is for 1:30 p.m. or another time, the standby will start with the time stated on the subpoena.

D. All court-related compensation will be paid as time worked and at the appropriate straight time, or where applicable, at the FLSA overtime rate. Such compensation is in addition to compensation for any prior time actually worked pursuant to such subpoena.

Section 8 - Fines

The City shall pay for court fines imposed upon each regular Middle-Management employee within the unit of representation as a result of his/her conviction of a traffic violation when such employee was directed to operate any faulty vehicle or vehicular equipment, which was the

proximate cause of a mechanical or other traffic violation provided that such violation did not result from improper or negligent operation of the vehicle on the part of the employee.

Section 9 - Special Certification Pay

Effective January 1, 2003, employees in the following classifications:

A. Senior Code Compliance Officers; Supervising Equipment Mechanics; Fire Equipment Supervisor, Equipment Maintenance Supervisors; Forensic Specialist III; Parks Maintenance Supervisor; and, Survey Party Chief shall receive, in addition to their regular compensation, \$50 a month payment (\$25 paid each pay period) for obtaining and maintaining the following certifications:

- ICBO or AACE Certificate
- ASE designation of Master Certified Mechanic
- Fire Mechanic Level III
- ✓ Certified Pesticide Applicators Permit/License
- ✓ Certified Playground Safety Inspector
- IAI – Certified Latent Print Examiner
- IAI – Certified Crime Scene Investigator
- Professional Land Surveyor's License

It shall be the responsibility of the department and the employee to provide Payroll with a copy of their certifications and or renewal.

Certificate pay is limited to \$50 per month per eligible employee.

Section 10 - Personal Tool Replacement Allowance

The City shall provide a tool replacement allowance for damaged, lost or stolen personal tools in an amount not to exceed \$350 per year, per employee. The City will provide insurance coverage for Fleet and Fire Equipment Mechanic Supervisors' tools, if the entire toolbox is stolen from the City property.

Claims against the above tool replacement allowance shall be honored provided when: 1) the personal tools had been required by the City; (2) the tool had been marked and inventoried by the employee; (3) a report of such inventory had been filed with the Department Head; and, (4) said tools had been properly maintained. Tools stolen or damaged through no fault of the employee will be replaced by the employee and reimbursement thereof will be made by the City after submission of an appropriate City form accompanied by an approved invoice or receipt. Requests shall be submitted semi-annually, in June and December, or upon termination of the employee from City service for any reason. Damaged tools, which are replaced through reimbursement by the City as above, shall be turned into the Department Head and shall become the property of the City.

During the term of this MOU, all new employees to the City hired as Fire Equipment Supervisors or Supervising Equipment mechanics, who may be required by their Department Head to purchase personal metric tools in order to effectively accomplish work assignments,

shall be eligible to receive a one-time tool purchase allowance not to exceed \$100 to assist in making such purchase.

ARTICLE IV – FRINGE BENEFITS

Section 1 – Health/Life Insurance

A. Effective January 1, 2008, the City will contribute:

- \$419.25 per month towards the purchase of health care premiums for “Employee With No Dependents.”
- \$742.15 per month towards the purchase of health care premiums for “Employee Plus One or More Dependents.”

Effective January 1, 2009, the City will contribute:

- \$469.25 per month towards the purchase of health care premiums for “Employee With No Dependents.”
- \$792.15 per month towards the purchase of health care premiums for “Employee Plus One or More Dependents.”

Insurance benefits available for purchase by employees includes medical, dental, vision, life, long-term disability and accidental death and dismemberment, as made available through the City. Any contributions not utilized by an employee shall revert to the City.

B. A full-time, regular employee must purchase medical insurance offered by the City in order to utilize any of the contributions described in Article IV, Subsection A.

C. The City shall contribute the PERS adopted schedule amount per month per retiree to be used exclusively for the purpose of medical insurance benefits.

D. The City shall provide each employee with \$25,000 Accidental Death and Dismemberment (AD&D) plan insurance coverage at no cost to the employee. The City shall provide each employee with \$10,000 Life Insurance coverage at no cost to the employee.

E. Cafeteria monies may be redesignated or a change of plans may be made only during the open enrollment period, in accordance with the rules established by the insurance plan selected by the employee. Plan additions and drops shall be made in accordance with the rules established by the insurance plan selected by the employee.

F. All full-time, regular employees shall participate in the City-sponsored long-term disability (LTD) insurance plan. The City will pay 100% of the LTD insurance plan premium for full-time, regular employees during the length of this contract.

G. The City will change the elimination period for short-term disability (STD) from 30 to 60 days for disability coverage for all Unit members.

Section 2 – Uniforms

If an employee is required to wear uniforms or any type of safety or protective devices as a condition of employment, such uniforms or protective devices shall be furnished to the employee at no cost to the employee. The City will maintain work clothes that are laundered.

The City reserves the right to determine the manner in which the work uniforms and protective devices are provided, to select the uniform rental service (as applicable) and to select the style and color of the uniforms/protective devices.

Section 3 – Tuition Reimbursement

A. Purpose

1. To encourage the employees of the City of San Bernardino to take college courses and special training courses that will better enable them to perform their present duties and prepare them for increased responsibilities.
2. To provide financial assistance to eligible employees for education and training.
3. To establish eligibility requirements, conditions and procedures whereby such assistance may be provided.

B. Eligibility

1. Applications for tuition reimbursement will be considered only from unit members/employees who have completed probation.
2. Reimbursement is not authorized for courses for which the employee is receiving financial assistance from other sources such as the GI Bill, scholarships and similar sources.
3. Applications will be approved only for courses directly related to the employee's job or directly related to a promotional position in the employee's occupational specialty.
4. Courses not ostensibly related to the employee's job, but which are required to qualify for a degree that is directly related to his/her job, may be reimbursable only after all required occupationally related courses have been completed.
5. Prior to receiving tuition reimbursement, employees must submit documentary proof of having received a grade, which is consistent with the City's affirmative action policy. Currently, this is a "C" grade. If objective ratings are not rendered for a specific course, then a certificate of successful completion must be submitted.
6. Approval will be limited to courses given by accredited colleges and universities, city colleges or adult education under the sponsorship of the Board of Education. Workshops, seminars, conferences and similar activities not identifiable as a formal course of instruction

within the curriculum of a recognized educational institution do not fall within the purview of this program, but may be authorized and funded by the tuition reimbursement funds with the approval of the Department Head and the City Manager. No mail-order courses will be offered.

7. When an employee is required by his or her Department Head to attend a particular course or seminar, the expense shall be borne entirely by the department, outside of this Subsection.

C. Reimbursement

1. The amount of reimbursement shall be equivalent to tuition costs for up to six (6) units per quarter as charged by the California State University, San Bernardino, or up to one-and-a-half (1-1/2) times that amount if based on a semester system. Additional expenses such as meals and parking fees are not reimbursable.

2. Costs for required texts are eligible for one-hundred percent (100%) reimbursement and the employee may retain the book(s).

D. Procedures

1. An employee who desires to seek tuition reimbursement under the provisions of this Article must complete, in triplicate, a City Education Reimbursement form and submit it to his/her Department Head for advance approval.

2. The Department Head will recommend approval or disapproval based on job relatedness and forward the Educational Reimbursement form to the Director of Human Resources.

3. The Director of Human Resources will recommend approval or disapproval based on availability of budgeted funds for education tuition assistance and forward to the City Manager for final action. One (1) copy will be returned to the employee; a copy will be returned to the department. It is necessary that the applicant accomplish the procedures so far described in order to ascertain the eligibility of the intended course of instruction for reimbursement under the provisions of this Section prior to the inception of the course.

4. The employee will submit his or her copy of the approved application for reimbursement within sixty (60) calendar days after the completion of the course and final grade has been received. The employee must include official verification of his/her final grade with appropriate receipts for tuition and textbook costs. These will be returned to the employee upon request. Applications not submitted to the Human Resources Department within the established time frame following completion of the course become void.

5. Upon receipt of the application and required documentation, the Human Resources Department will determine whether the completed course of instruction is compatible with the provisions of Subsections B and C of this Section. If found to be compatible and funding available as described in this Section, the Human Resources Department will compute the amount of reimbursement, authenticate the application and forward it to the Finance Department with authorization to reimburse the employee the approved amount.

6. All approved reimbursement forms must be returned to Human Resources, if the employee/student does not complete the course.

ARTICLE V – LEAVES

Section 1 – Vacation

A. All employees covered by this MOU shall be entitled to paid vacations as follows:

Completed Years of Continuous Service*	Rate of Accrual Per Pay Period	Equivalent Hours Per Year
1 Year**	3.333 hours	80 hours
5 Years	5.0 hours	120 hours
15 Years	6.667 hours	160 hours
20 Years	8.33 hours	200 hours

2 wks
3 wks
4 wks
5 wks

*Service year begins on initial date of employment in a full-time regular status.

**No vacation granted or accrued if service is less than one year.

B. The amount of accrual shall not exceed the specified number of hours granted each year.

C. Employees shall not be permitted to work in their City position in lieu of taking vacation in order to receive additional compensation.

D. Except as provided herein, vacation time shall not accumulate or be allowable or payable beyond the calendar year when due. Vacation credits may be accrued and accumulated up to a maximum of two (2) years total accumulated vacation credits, upon approval of the Department Head. Vacations or portions thereof from a prior year may be taken consecutively with vacations or portions thereof of a succeeding year, subject to the approval of the Department Head. Except as approved by the Department Head, no vacation or portion thereof from a prior year shall run consecutively with the vacation of a succeeding year; and, a period of three (3) or more months should normally elapse between the expiration of one (1) year's vacation and the commencement of the next year's vacation.

The vacation period to which any employee shall be entitled shall be assigned by the Department Head in the calendar year when due, except with the Department Head, with the approval of the Mayor, determines that an emergency or other valid factors prevent the employee from utilizing his/her vacation during the calendar year when due. Should this occur, the employee's vacation should be rescheduled at the very earliest mutually acceptable date. Vacation requests will not be unreasonably denied.

E. Upon termination, payment for unearned, but unused vacation, or deduction for used, but unearned vacation, shall be made on the basis of the hourly rate of pay being received by the employee on the date of separation.

F. When an employee returns to work after a break in "continuous service" as defined in Resolution No. 6433 as amended, and when such break in continuous service shall have been by leave of absence with the approval of the Mayor and Common Council, vacation time shall not accrue during a break in continuous service, but shall accrue from the date of return to service from such approved leave of absence, based upon the total length of service of the employee.

G. Whenever the terms "year or years of employment" appear herein, it shall be deemed to include all services for the City of San Bernardino. Years of employment do not refer to participants in federally funded, temporary programs, e.g., Job Training Partnership Act (JTPA).

H. The employee shall not lose any vacation time off due to action by the City.

I. Vacation credits may be taken off in increments of four (4) hours, with prior Department Head approval, unless Department work rules permit use in lesser increments.

J. In the event an employee is compensated for less than fifty percent (50%) of the payroll period, he/she shall not be credited with any vacation accrual for that pay period.

K. Employees may sell back up to forty (40) hours of vacation time per year provided the following conditions have been met:

1. Employees must have a minimum of one hundred twenty (120) hours in their vacation balance before sell back occurs.
2. Employees must have taken a consecutive one (1) week vacation during the past year prior to the sell back of hours.
3. Employees must complete a vacation sell back form, which must include a Department Head signature.
4. Forms must be submitted to the Finance Department on or before April 1st of each year.
5. Payment for vacation sell back hours will be paid (using the current Council approved salary rates in the salary resolution) on the employee's May 15th paycheck each year.

Section 2 – Holidays

A. City-Designated Holidays: All full-time employees within the bargaining unit, with the exception of those employees mentioned in the following paragraphs shall be entitled to twelve (12) City-designated holidays, the equivalent of ninety-six (96) holiday hours each year. The following days will be holidays for the purpose of this MOU:

New Year's Day
 President's Day
 Martin Luther King, Jr. Day
 Memorial Day

Independence Day
 Labor Day
 Traditional Veteran's Day
 Thanksgiving Day
 Day after Thanksgiving
 Christmas Eve Day
 Christmas Day
 New Year's Eve Day

Plus eighteen (18) hours of Holiday Account time per year (See Subsection B).

Effective January 1, 2006, all full-time employees within the bargaining unit, with the exception of those employees mentioned in the following paragraphs, shall be entitled to twelve (12) City-designated holidays, the equivalent of one hundred eight (108) holiday hours each year.

A. All full-time employees within the bargaining unit, with the exception of those employees shown in the following paragraph, shall be allowed the above holidays at full pay when such holidays occur within the regularly assigned working periods provided they are in a paid status during any portion of the working day immediately preceding or succeeding the holiday.

B. Effective January 1, 2006, unit employees will receive eighteen (18) hours in their Holiday Account (formerly known as Floating Holidays). Employees may maintain a balance of more than eighteen (18) hours in their holiday account during the fiscal year; at June 30th of each year thereafter, only eighteen (18) hours will be carried over to the new fiscal year which begins on July 1st. Any Holiday Account hours over eighteen (18) hours at June 30th will be lost.

C. Employees who, due to scheduling, must work on a recognized City holiday will be compensated on the basis of the number of hours worked on said holiday, excluding lunch/dinner break. The hours accruing to the employee's holiday account for that day shall not exceed eight (8) hours.

Effective January 1, 2006, employees who, due to scheduling, must work on a recognized City holiday, will be compensated on the basis of the number of hours worked on said holiday, excluding lunch/dinner break. The hours accruing to the employee's holiday account for that day shall not exceed nine (9) hours.

If a holiday occurs on a normal day off for an employee, the employee shall receive no additional pay.

The decision as to whether in-lieu time off or pay is to be received shall be based on the availability of funds and needs of the department, as determined by the Department Head. If in-lieu time off is directed by the Department Head, it may be added to the regular annual vacation period, but must be taken within one (1) year of the date said in-lieu time was earned. Employees of the Public Services (Refuse) Division, except clerical employees and certain designated employees of the City Garage needed to support the Public Services (Refuse) Division operations, shall enjoy all the holidays listed above as they occur except November 11, the

Friday after Thanksgiving Day and the holidays observed the day before Christmas and the day before New Year's Day. Said employees shall receive an additional day's pay for each such holiday on which they are required to work. If such holidays occur on a normal day off for said employees, they shall receive no additional pay.

D. Holidays as listed above shall be allowed on a Monday, if any such holiday falls on Sunday, and shall be allowed on the preceding Friday, if such holiday falls on a Saturday for all employees except those covered by other provisions therein.

At the beginning of each calendar year, the City will determine how many of the above holidays fall on a regularly scheduled day off. An employee working on a 9/80 or a 4/10 schedule will accrue the equivalent number of hours of holiday time (holiday account) with one (1) holiday equivalent to eight (8) hours.

Effective January 1, 2006, an employee working on a 9/80 or a 4/10 schedule will accrue the equivalent number of hours of holiday time (holiday account) with one (1) holiday equivalent to nine (9) hours.

E. Holidays earned in any twelve (12) month period may not be accumulated beyond the total number of holidays allowed each year by this MOU.

F. Effective January 1, 2006, upon separation from the City, employees shall be paid for ninety percent (90%) of his/her current holiday account.

Section 3 - Sick Leave

A. Definition: Sick leave means the absence from duty of an employee because of illness or injury, exposure to contagious disease, attendance upon a member of his/her immediate family who is seriously ill and requires the care of or attendance of an employee or death in the immediate family of the employee. Immediate family means: husband; wife; grandmother; grandfather; mother; father; sister; brother; son or daughter or mother-in-law; father-in-law; sister-in-law; brother-in-law; son-in-law or daughter-in-law.

Sick Leave Usage for Family Members: Not more than forty (40) hours of sick leave within any calendar year may accrue to an employee for the care of or attendance upon members of their immediate family. Not more than forty (40) hours of sick leave within a calendar year may be granted to an employee for each absence due to death of a member of his/her immediate family as defined above.

Sick Leave Usage for Employees: Upon the department's request, an employee must provide a physician's statement to justify a sick leave of forty (40) consecutive hours or longer. If the Department Head finds with just cause that sick leave is being abused, the employee may be required to submit a physician's statement after any absence.

No absence due to illness or injury in excess of forty (40) hours shall be approved, except after the presentation of satisfactory evidence of illness or injury. A certificate from a practicing physician or an authorized practicing chiropractor may be required by the Department or Division Head and shall be subject to his/her approval concerning such absence. The Mayor and

Common Council shall have the power to require that any person claiming the sick leave benefits of this MOU be examined at any reasonable time or intervals by a designated physician, and in the event of an adverse report, to reject such claim for sick leave in whole or in part, and to terminate sick leave compensation. In the event of the refusal of any person to submit to such examination after notification, the Mayor and Common Council may terminate sick leave compensation and reject any claim therefore. The Mayor and Common Council shall have the right to require the presentation of a certificate from a practicing physician or the designated physician stating that an employee is physically or psychologically able to perform his/her work and duties satisfactorily before permitting an employee who has been on sick leave to return to work.

In order to receive compensation while absent on sick leave, employees shall notify their immediate supervisor or designee prior to or within thirty (30) minutes of the time set for beginning their daily duties or as may be specified in department/division work rules. When absence is for more than one (1) work day, the employee may be required to file a physician's certificate or a personal affidavit with the Director of Human Resources stating the cause of the absence. Sick leave with pay shall be granted to all regular employees and to all temporary full-time employees whose positions are funded under federal law who are regularly employed in permanent or federally funded positions if such benefit is required by said federal law. Sick leave shall not be considered as a right which an employee may use at his/her discretion, but shall be allowed only in case of necessity and actual personal sickness or disability, except as otherwise provided herein.

Whenever an employee is compensated hereunder for sick leave or injury and has not had a vacation at the end of the current calendar year, he/she shall be allowed to take his/her vacation in the next calendar year, but must take said vacation prior to the time he/she returns to work after his/her illness or injury.

Whenever the term "service to the City" appears herein, it shall be deemed to include all service of the City of San Bernardino.

B. All full-time regular employees who have completed the first six (6) calendar months of continuous service with the City shall be granted a sick leave accumulation of forty-eight (48) hours. After six (6) months or more of continuous service, employees who are compelled to be absent from work on account of illness or injury other than that which is compensable under Article V, Section 5, shall be compensated for sick leave, provided that such compensation shall cease upon the exhaustion of all accumulated sick leave. Employees shall not accumulate sick leave while compensated under the provisions of Article V, Section 5.

In the event an employee is compensated for less than fifty percent (50%) of the total normal work hours in the pay period, he/she shall accrue no sick leave for such pay period and shall not be credited for the 4.0 hours of sick leave.

Whenever the employee uses all allowable sick leave, further absences may be charged against accrued vacation or administrative leave (if eligible), upon approval of the Department Head. If all allowable sick leave has been used and use of accrued vacation and/or administrative leave is disapproved, the employee will take loss of pay for the time not covered by allowable sick leave.

Section 4 – Payment for Unused Sick Leave

Unused sick leave is payable at any resignation without prejudice (including death and retirement) up to a maximum of fifty percent (50%) of a 1,200-hour cap.

For employees with over twenty (20) years of service, one-hundred percent (100%) of all unused sick leave, up to a 1,200-hour cap, will be paid at any resignation without prejudice.

Section 5 - Injury Leave

Effective with the first day of necessary absence for industrial accident or illness leave, eligible employees will be approved to receive Workers' Compensation benefits. Each employee shall be authorized upon their written request to utilize any balance of their accumulated sick leave, vacation, holiday and compensatory time credit to augment the amount of temporary disability they receive, to the extent the total sum received will result in a payment equal to their normal compensation. The utilization of sick leave for this purpose shall end with the termination of the temporary disability or when the accumulated sick leave credits have been exhausted, whichever occurs first.

When employees sustain what they believe to be an industrial injury or illness, they shall request an "Employee Claim for Workers' Compensation Benefits" form from the supervisor. The supervisor is required to give the employees this form within one (1) working day of the City being notified of the injury. Supervisors will log date and time employees were given form on Supervisor's Report of Injury. Employees must return Employees' Claim form to supervisor to begin the process for filing an industrial injury. In the event the employee is unable to prepare the form due to hospitalization, serious illness or injury, the supervisor or a member of the department/division staff shall prepare the required report.

The employee has the right to be examined and treated by a physician of his/her choice, within the required time, of the alleged injury or illness, as required by the California Labor Code.

The City shall have the right to require the employee be examined by a physician designated by the City to assist in determining the length of time during which the employee will be unable to perform the assigned duties, and if the disability is attributable to the "injury involved."

Should there be a dispute between the physician selected by the employee and the physician selected by the City, a third physician shall be mutually agreed upon between the employee and the City to examine the employee, to assist in making necessary medical determinations.

If an employee is receiving disability payments, the person shall be entitled to use only as much sick leave or vacation as when added to the disability payments will provide for a full day's pay.

Section 6 – Leave of Absence Without Pay

Leave of absence without pay is a temporary, nonpay status and absence from duty granted at the request of the employee. Leave of absence without pay may be granted by the City Manager for a period not to exceed six (6) months, upon the positive recommendation of the Department Head. Under justifiable conditions, said leave may be extended by the City Manager for additional periods. Leave of absence without pay will be considered favorably if it is expected that the employee will return to duty and that at least one (1) of the following benefits will result: increased job ability, protection or improvement of the employee's health, retention of a desirable employee or furtherance of a program of interest to the City. Examples or conditions for which leave of absence without pay may be granted are:

- A. For an employee who is a disabled veteran requiring medical treatment.
- B. For an employee who is temporarily mentally or physically unable to perform his/her duties.
- C. For an employee who files for or assumes elected office.
- D. For maternity or paternity leave, upon the recommendation of the attending physician.
- E. For military leave when the employee has less than one (1) year of service to qualify for leave with pay.

An approved leave of absence without pay for less than sixty (60) days in any calendar year will not be considered a break in service. Leave in excess of sixty (60) days shall result in the advancement of the employee's anniversary date and compensation advancement date to such date as will account for the total period of uncompensated time off. Failure to return to duty at the expiration of the approved leave of absence without pay shall constitute an automatic resignation.

The City's contribution towards an employee's health and life insurance premiums will not be extended beyond the last day of the month in which a leave of absence without pay begins if the leave of absence without pay becomes effective during the first fifteen (15) days of the month, nor beyond the last day of the next succeeding month if the leave of absence without pay becomes effective after the fifteenth day of the month, unless the employee is returned to work from leave of absence without pay status prior to the date the City's contribution would be discontinued. In the event the employee desires to maintain full health and life insurance coverage while on leave of absence without pay status, he/she may arrange to pay the insurance premiums for the coverage desired (both employee and the employer portions). It is the responsibility of the employee to contact the Human Resources Department in this regard. The payment of the amount of the premiums must be made to the City prior to the date, which the City's participation will terminate. Payments must be made directly monthly thereafter to the insurance carrier until the employee either returns to work or his/her employment with the City is terminated.

Upon an employee's return to work, the City's contribution towards the employee's health and life insurance premiums will begin on the first day of the month following the end of the

leave of absence without pay if that leave of absence without pay terminates between the first and the fifteenth days of the month, or on the first day of the next succeeding month if the leave of absence without pay terminates after the fifteenth day of the month.

Notwithstanding any other provisions of this Section to the contrary, the City will continue its contribution for health and life insurance premiums of an employee on leave of absence due to any injury or illness out of and in the course of his/her employment with the City.

In circumstances in which either the Federal Family Leave Act or the State Medical and Family Leave Act apply, the City shall adhere to the requirements of the Acts.

Section 7 – Witness Leave

Whenever a unit employee is duly summoned to appear as a witness, except where the employee is a litigant or defendant in a criminal case or any action brought about as a result of his or her own misconduct, he or she shall receive regular compensation for any regularly scheduled working hours spent in actual performance of such service for non-work-related matter.

Section 8 - Blood Donations

Employees in regular positions, who donate blood in the interest of the City without receiving compensation for such donation, may have the required time off with pay with the prior approval of the immediate supervisor for each such donation. This benefit shall not be charged to any accumulated leave; provided, however, if the employee is unable to work after such donation, time may be charged to accumulated sick leave or be taken as leave without pay. Evidence of each donation must be presented to the appointing authority to receive this benefit.

Section 9 – Catastrophic Leave

Upon request of an employee who is experiencing catastrophic illness, and upon approval of the Department Head, leave credits (vacation or floating holidays) may be transferred from one or more employees to the affected employee, under the following conditions:

- A. Sick leave accruals cannot be transferred among employees.
- B. The employee with a catastrophic illness or injury has exhausted all other leave accruals and has completed at least one year of continuous service with the City.
- C. The donation must be in four (4) hour increments of vacation, compensatory time or floating holidays by employees who have completed at least one (1) year of continuous service with the City.
- D. Employees may not donate leave they would otherwise forfeit. For example, employees who are separating from City employment may donate leave only up to the amount of the payment they would receive upon separation.

E. Donations shall be on a form developed by the Human Resources Department, signed by the donating employee, approved by the Department Head and verified by the Finance Department. Procedures shall be as approved by the City Manager.

F. An appeal will be considered on a separate basis, if denied.

Section 10 – Sick Leave Sell Back

Sick Leave Sell Back: Effective January 1, 2003, employees with perfect attendance in the previous calendar year will be allowed to cash out up to five (5) days (40 hours) of sick leave per year, providing the employee has at least one hundred sixty (160) hours in his/her leave account after the sell back to be eligible.

Employees must complete a sell back form, which must include the Department Head's signature. Forms must be submitted to the Finance Department on or before February 15th each year.

Payment for sick leave sell back will be paid (using current Council approved salary rates in the salary resolution) on the employees March 31st payroll check.

Section 11 – Post Employment Health Plan (PEHP)

The City agrees to participate in the Post Employment Health Plan (PEHP) in accordance with the terms and conditions of the Plan's Participation Agreement.

Section 12 – Jury Duty

Every unit employee and every employee, whose position is funded under federal law or is employed in a federally-funded position, if such benefit is required by said federal law, are covered by this section. The City will pay for up to fifteen (15) working days in a calendar year of a covered employee who is required to serve jury duty.

ARTICLE VI – WORKING CONDITIONS

Section 1 – Working Conditions

A. **City Work Schedules:** City work schedules shall be as herein defined, except as otherwise provided for:

1. **5/40 Work Schedule:** The 5/40 work schedule shall consist of a forty (40) hour work week consisting of five (5) eight (8) hour work days, exclusive of any meal periods assigned by management.

2. **9/80 Work Schedule:** The 9/80 work schedule shall consist of eighty (80) work hours in a two (2) week period consisting of eight (8) nine (9) hour work days, and one (1) eight (8) hour work day, exclusive of any meal periods assigned by management.

3. 4/10 Work Schedule: The 4/10 work schedule shall consist of a forty (40) hour work week consisting of four (4) ten (10) hour work days, exclusive of any meal periods assigned by management.

The primary work schedule will continue to be the 9/80 work schedule, as defined above, unless changed by action of the Mayor and Common Council when it reconsiders extension of the 9/80 schedule.

Work schedules shall be posted on all department bulletin boards showing the employee's shift, work days and where known, hours.

B. Work Schedule Adjustments: It is understood and agreed that Department Heads shall establish such work schedules as may be necessary for the efficient and economical provision of services for the public, and to make such adjustment in work shifts as are from time to time required. The City shall give the employees and the Union a two (2) week notice of any proposed changes in scheduled work shifts prior to implementation. If the Union wishes to consult with management regarding the proposed changes, it shall notify the City within seven (7) calendar days from receipt of notice. Upon notification by the Union, both parties shall meet promptly in an earnest effort to reach a mutually satisfactory resolution of any problems arising as a result of the proposed changes. Work schedule changes resulting from an emergency situation or circumstances which disrupt normal City operations as determined by the Department Head are not bound by the two (2) week notice requirement.

Section 2 – Physical Examinations

The City shall pay medical fees for the physical examination of any permanent member when such examination is required and directed by the City after employment. The City may arrange with a physician or medical group for such examination; or, if the situation warrants, the City may authorize an employee to be examined by a doctor of his/her choice. In the event an employee is authorized to be examined by a doctor of his/her choice, reimbursement shall be made by the City for the cost thereof provided, however, that the amount of the reimbursement shall not exceed the cost the City would have paid to its contract physician or medical group. Physical exams taken by a Middle-Management employee on a voluntary basis are not reimbursable by the City. However, if a Department Head requires a Middle-Management employee to maintain a Class A or Class B driver's license, such license exams as required will be scheduled with the City's contracting physician at no cost to the Middle-Management employee.

Section 3 – Drug and Alcohol Testing

In addition to employees already covered under the Department of Transportation (DOT) for drug and alcohol testing, all Middle-Management employees will participate in drug and alcohol testing, following the reasonable suspicion Drug/Alcohol Testing procedure described in the City of San Bernardino's Policy on Drug and Alcohol Testing of Employees with Commercial Drivers' Licenses.

If a supervisor has a reasonable suspicion that an employee has been abusing drugs or alcohol, that supervisor will immediately notify his/her immediate supervisor of these suspicions and document the observations on a reasonable suspicion checklist.

The conduct of the employee must be witnessed by a supervisor who has received training consisting of at least 1-1/2 hours on identification of actions, appearance or conduct which are indicative of the use of drugs or alcohol. A supervisor must directly observe and document the behavior. Reasonable suspicion may not be based upon hearsay.

Section 4 – Seniority

Department Heads will consider seniority in authorizing vacations and scheduling shift assignments and transfers. Seniority shall prevail when all the factors are not significantly different. "All factors" is defined as special qualifications, skills, work performance as well as attendance and safety. An employee shall not attain seniority until the completion of a probationary period.

Section 5 – Probationary Period

Employees in the Middle-Management unit shall have a probationary period of one (1) year. After successfully completing same, the seniority date shall be from the last date of hire within the department, division or section. All employees shall serve twelve (12) months in the step in which they were first hired, before becoming eligible for a step increase to the next step.

ARTICLE VII, GENERAL PROVISIONS

Section 1 – Waiver Clause

The parties acknowledge that during the meet and confer process which resulted in this MOU each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law, City Charter, Ordinance, Resolution, Personnel and departmental rules and regulations from the scope of negotiable issues and that the understanding arrived at by the parties after the exercise of that right and opportunity are set forth herein. Therefore, the City and the Union, for the life of this MOU, each voluntarily and without qualification waives the right, each agrees that the other shall not be obligated to meet and confer with respect to any subject or matter referred to or covered in this MOU.

Section 2 – Severability

It is understood and agreed that this MOU is subject to all current and future applicable federal and state laws and regulations and the current provisions of the Charter, Ordinances, Resolutions and other rules and regulations of the City of San Bernardino. If any part or provision of this MOU is in conflict or inconsistent with such applicable provisions of those federal, state or City enactments, or it is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of this MOU shall not be affected thereby.

The parties hereto agree to refrain from initiating any action that would invalidate any part of the MOU.

Section 3 – Printing of Memorandum of Understanding

The City and the Union will share the cost of the printing of the MOU as follows: The Union agrees to pay for the cost of the copies to be distributed to its unit members.

Section 4 – Term of Memorandum of Understanding

This MOU will run for the period starting July 1, 2006 through June 30, 2009.

If negotiations regarding an MOU are in progress at the time the current MOU expires, or if the parties are at impasse, the current MOU shall remain in effect until a successor MOU is adopted by the Mayor and Common Council.

Section 5 – Notice of Intent to Reopen


The parties agree that if either party desires to propose changes in the terms or conditions of this MOU for the period following expiration of this MOU, notice shall be given to the other not later than the last working day of February 2009, that such discussions are desired. Such notice shall request a meeting to begin negotiations and establish ground rules which shall include, at a minimum, the date beyond which no further proposals may be submitted by either party.

Section 6 – New Employee Information


Once per month, the Human Resources Department will furnish the Union with information on new Middle-Management Unit employees, excluding their home addresses. Data will include employee name, title, department, department phone number and date of hire. Data will not be provided until at least ten (10) working days following approval of the appointment by the Mayor and Common Council.

**MIDDLE-MANAGEMENT EMPLOYEES'
MEMORANDUM OF UNDERSTANDING
2006-2009**

Executed this 22nd day of August, 2007.



Mayor
City of San Bernardino



San Bernardino Public
Employees' Association (SBPEA)





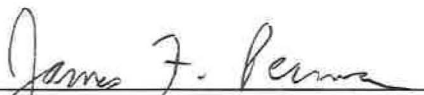


ATTEST:



City Clerk

Approved as to form:



James F. Penman
City Attorney

INDEX

Subject	Page
Access to Personnel Records	9
Acting Pay.....	10
Agency Personnel Rules	4
Blood Donations	24
Bulletin Boards	9
Catastrophic Leave.....	24
Classification.....	9
Contract Services	5
Definition of Terms.....	3
Drug and Alcohol Testing.....	26
Employee Court Subpoena	12
Employee Rights.....	8
Fines	12
Grievance Procedure	6
Health/Life Insurance.....	14
Holidays	18
Injury Leave	22
Jury Duty.....	25
Labor-Management Committee.....	5
Leave of Absence Without Pay.....	23
Management Rights	4
New Employee Information.....	28
No Strike	5
Non-Discrimination	8
Notice of Intent to Reopen	28
Overtime	11
Payment for Unused Sick Leave.....	22
Payroll Deduction	6
Personal Tool Allowance.....	13
PERS	10
Physical Examinations	26
Post Employment Health Plan	25
Printing of Memorandum of Understanding.....	28
Probationary Period	27
Recognition	5
Seniority	27
Severability	27
Shift Differential	10
Sick Leave Sell Back	25
Sick Leave.....	20
Special Certification Pay.....	13
Term of Memorandum of Understanding	28
Tuition Reimbursement	15

Subject	Page
Uniforms	15
Vacation	17
Wage Differential.....	10
Wages.....	9
Waiver Clause.....	27
Witness Leave.....	24
Working Conditions.....	25