

**MEMORANDUM OF UNDERSTANDING
FOR JOINT SUBMISSION TO THE CITY COUNCIL
REGARDING THE
CITY ATTORNEYS REPRESENTATION UNIT
(MOU #29)**

**THIS MEMORANDUM OF UNDERSTANDING made and entered into
this _____ day of _____, 2002.**

BY AND BETWEEN

**THE CITY ATTORNEY AND THE CITY ADMINISTRATIVE OFFICER
(hereinafter referred to as "Management")**

AND

THE LOS ANGELES CITY ATTORNEYS ASSOCIATION

(hereinafter referred to as "Association")

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ARTICLE 1 **RECOGNITION**

Pursuant to the provisions of the Employee Relations Ordinance of The City of Los Angeles and applicable State law, the Los Angeles City Attorneys Association, (hereinafter referred to as "Association") was certified on November 8, 1990, by the Employee Relations Board as the majority representative of City employees in the City Attorney's Unit (hereinafter referred to as "Unit"). Management hereby recognizes the Association as the exclusive representative of the employees in said Unit.

The term "employee" or "employees", as used herein, shall refer only to employees employed by the City in the classifications listed in Appendices A-F, Salaries. Such terms shall also apply to all such classes as may be added hereafter to the Unit by the Employee Relations Board. The terms "Office" or "City Attorney" shall refer to Management.

ARTICLE 2 **IMPLEMENTATION OF MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding constitutes a joint recommendation of Management and the Association. It shall not be binding in whole or in part on the parties listed below unless and until:

- a. The Association has notified the City Administrative Officer in writing that it has approved this Memorandum of Understanding in its entirety.
- b. The determining bodies and heads of those departments, offices or bureaus represented herein have approved this Memorandum of Understanding in its entirety in the manner required by law, and they have taken such other actions as might be required to implement fully the provisions of this Memorandum of Understanding.
- c. The City Council has: (1) approved this Memorandum of Understanding in its entirety; (2) amended applicable provisions of the Los Angeles Administrative Code; (3) amended the departmental personnel ordinance and applicable codes; and (4) appropriated the funds necessary to implement those provisions which require funding.

ARTICLE 3 **NON-DISCRIMINATION**

The parties mutually recognize and agree fully to protect the rights of all employees hereby to join and participate in the activities of the Association.

The parties mutually reaffirm their respective policies of non-discrimination in the treatment of any employee because of race, religion, creed, color, sex, age, disability, marital status, Association activity, national origin, ancestry, sexual orientation or political beliefs.

ARTICLE 4 **TERM**

The term of this Memorandum of Understanding shall commence on the date when the terms and conditions for its effectiveness, as set forth in Article 2, Implementation of Memorandum of Understanding, are fully met, but in no event shall said Memorandum of Understanding become effective prior to 12:01 a.m. on July 1, 2001. This Memorandum of Understanding shall expire and otherwise be fully terminated at midnight on June 30, 2004.

Notwithstanding the above, the provisions of this Memorandum of Understanding shall remain in effect until a successor Memorandum of Understanding is implemented or impasse proceedings are completed as long as the parties have met their obligations under the provisions of Article 5 "Calendar For Successor Memorandum of Understanding" and are continuing to meet and confer in good faith.

ARTICLE 5 **CALENDAR FOR SUCCESSOR MEMORANDUM OF UNDERSTANDING**

In the event that the Association or Management desires a successor Memorandum of Understanding, said party shall serve upon the other its written proposals during the period of March 15 through March 31, 2004.

ARTICLE 6 **UNIT MEMBERSHIP LIST**

Management shall provide the Association, within thirty (30) calendar days from the effective date of this Memorandum of Understanding and each thirty (30) calendar days thereafter, an alphabetized list of employees subject to this Memorandum of Understanding, including each employee's name, home address, employee number, class title, class code and work location.

ARTICLE 7 **NEW EMPLOYEE INFORMATION**

Management will provide each new employee a printed card, supplied by the Association to the City Attorney's Office, containing only the following information:

- a. Your classification is represented by the Los Angeles City Attorneys Association.
- b. The Association has been certified to meet and confer in good faith with Management on all matters pertaining to your wages, hours of work, employee benefits, and conditions of employment.

ARTICLE 8 **SALARIES**

- a. The parties to this MOU jointly recommend to the City Council and the Mayor approval of the salary ranges set forth in Appendices A-F.

- b. The salary ranges set forth in Appendix A will become effective July 1, 2001.
- c. The salary ranges set forth in Appendix B will become effective January 1, 2002.
- d. The salary ranges set forth in Appendix C will become effective July 1, 2002.
- e. The salary ranges set forth in Appendix D will become effective January 1, 2003.
- f. The salary ranges set forth in Appendix E will become effective July 1, 2003.
- g. The salary ranges set forth in Appendix F will become effective January 1, 2004.

ARTICLE 9 **SALARY STEP ADVANCEMENT**

- A. Employees classified as Deputy City Attorney I shall, upon completion of one year in a step of the range prescribed for that class, be advanced to the next higher step unless there is a finding by the City Attorney that an employee has rendered less than satisfactory service. Such employee shall not be advanced to the next higher step unless and until the City Attorney finds that the employee is rendering satisfactory service.
 - 1. Upon completion of two years of service in the class, the City Attorney may advance any employee within the range upon a finding, as reported to the Controller, that such action is warranted.
 - 2. Employees in the classification of Deputy City Attorney I, upon completion of one year at Salary Step D, shall be placed in the classification of Deputy City Attorney II, at Salary Step A, unless there is a finding by the City Attorney that an employee has rendered less than satisfactory service. Such employee shall not be placed in the classification of Deputy City Attorney II unless and until the City Attorney finds that the employee is rendering satisfactory service.
- B. Employees classified as Deputy City Attorney II shall, upon completion of one year in a step of the range established for the class, be advanced to the next higher step unless there is a finding by the City Attorney that an employee has rendered less than satisfactory service. Such employee shall not be advanced to the next higher step unless and until the City Attorney finds that the employee is rendering satisfactory service. In addition, the City Attorney may advance any employee within the range upon finding, as reported to the Controller, that such action is warranted.
- C. Employees classified as Deputy City Attorney III shall, upon completion of one year in a step of the range established for the class, be advanced to the next higher step unless there is a finding by the City Attorney that an employee has rendered less than satisfactory service. Such employee shall not be advanced to the next higher step

unless and until the City Attorney finds that the employee is rendering satisfactory service. In addition, the City Attorney may advance any employee within the range upon finding, as reported to the Controller, that such action is warranted.

1. No employee shall advance beyond Step E of the range except on the basis of ascertained merit as determined by the City Attorney.
- D. Employees classified as Deputy City Attorney IV shall, upon completion of one year in a step of the range established for the class, be advanced to the next higher step unless there is a finding by the City Attorney that an employee has rendered less than satisfactory service. Such employee shall not be advanced to the next higher step unless and until the City Attorney finds that the employee is rendering satisfactory service. In addition, the City Attorney may advance any employee within the range upon finding, as reported to the Controller, that such action is warranted.
1. No employee shall advance beyond Step E of the range except on the basis of ascertained merit as determined by the City Attorney.
- E. Employees classified as Assistant City Attorney shall, upon completion of one year in a step of the range established for the class, be advanced to the next higher step unless there is a finding by the City Attorney that an employee has rendered less than satisfactory service. Such employee shall not be advanced to the next higher step unless and until the City Attorney finds that the employee is rendering satisfactory service. In addition, the City Attorney may advance any employee within the range upon finding, as reported to the Controller, that such action is warranted.
1. No employee shall advance beyond Step E of the range except on the basis of ascertained merit as determined by the City Attorney.
- F. The City Attorney has, subject to budgetary constraints and position authorities, the authority to promote attorneys or to advance them to higher pay steps. The City Attorney will send to the CAO written findings of good cause justifying deviation from restrictions in this MOU or elsewhere upon promotions or step advancement.

ARTICLE 10 **WORKING HOURS**

Fair Labor Standards Act - Exempt Employees

Employees in this Unit qualify for exemption from the Fair Labor Standards Act (FLSA) overtime provisions based upon a special exception for lawyers, and therefore shall be treated as exempt employees as defined by the FLSA (29 CFR 541.314). Although said employees shall not receive paid overtime compensation, compensatory time off may be accrued in a manner described below.

- A. Each employee is required to work 80 hours in any biweekly pay period, usually

consisting of ten eight-hour days, Monday through Friday. Within any biweekly pay period, an employee who does not work eight (8) hours on a particular day shall make up the deficiency in the same pay period by: (1) working more than eight (8) hours on another work day, (2) working on a weekend day or on a holiday, or (3) using vacation time or accrued compensatory time off. Management reserves the right to schedule or alter working hours.

- B. Whenever an employee is required to **work** in excess of 80 hours in any biweekly pay period, including any holiday time, such excess hours shall be recorded, and the record thereof maintained in the Office of the City Attorney; provided, however, that the number of hours which may be accrued for any employee during the calendar year shall be limited to 160 hours at any given time during the calendar year; further provided that no period of less than one-half hour shall be accrued and recorded on any particular day. In no event shall vacation time or sick leave count towards an employee's 80-hour pay period for purposes of calculating excess hours worked under the provisions of this Article.
- C. Subject to the transitional provision described in the next paragraph of this subsection, any balance of accrued but unused hours, up to the amount of 200 hours, remaining at the end of a calendar year will be carried over to the next calendar year. However, any hours in excess of 200 remaining unused at the end of a calendar year shall be deemed waived and lost.

Transitional Provision: Notwithstanding other provisions and to provide a transition between the prior "fiscal year" method of computing accrued overtime (1997-2001 MOU) and the new "calendar year" method (2001-2004 MOU), for the period July 1, 2001 through December 31, 2002, any balance of accrued but unused hours, up to the amount of 200 hours remaining at the end of the 18-month period will be carried over to the next calendar year. However, any hours in excess of 200 remaining unused as of December 31, 2002 shall be deemed waived and lost.

- D. With the consent of the City Attorney, any employee having excess hours accrued may take compensatory time off in an amount equal to the number of hours so recorded; but in no event shall an employee be permitted to take more than 200 hours of compensatory time off in a calendar year.

The request for such time off will be promptly approved by Management subject to the operating needs of the office if the request is made at least 24 hours prior to the requested date. If an unforeseen operating requirement prevents the employee from taking such previously approved time off, Management shall reschedule the time off so that it can be taken on some other mutually satisfactory date.

- E. No employee shall be paid in cash for any accumulated excess hours, either during the period of employment or at the time of separation from City service.

ARTICLE 11 **HEALTH AND DENTAL PLANS**

During the term of this MOU, the City will provide benefits in accordance with the Civilian Modified Flexible Benefits Program (hereinafter Flex Program) and any modifications thereto as recommended by the Joint Labor-Management Benefits Committee and approved by the City Council.

The sections below are intended to reflect the Flex Program approved on July 17, 1996. If there are any discrepancies between the benefits described herein and the Flex Program approved by the Joint Labor-Management Benefits Committee, the Flex Program benefits will take precedence.

Section I - Health Plans

The health plans offered and benefits provided by those plans shall be determined by the Personnel Department, in accordance with Los Angeles Administrative Code Section 4.303, upon the recommendation of the City's Joint Labor-Management Benefits Committee.

Through December 31, 1997, Management agrees to contribute a monthly sum not to exceed \$472.00 per month per full-time employee, toward the cost of a City-sponsored health plan for employees who are members of the Los Angeles City Employees' Retirement System (LACERS).

Effective January 1, 1998, Management agrees to contribute for each full-time employee who is a member of LACERS a subsidy equal to the cost of his/her medical plan, not to exceed \$349.72.

During the term of this MOU, Management's monthly subsidy for full-time employees shall increase by the increase in the Kaiser family rate. Increases in this monthly subsidy shall be effective at the beginning of the pay period in which the Kaiser yearly premium rate change is implemented.

For each half-time employee, as defined by Section 4.110 of the Los Angeles Administrative Code (LAAC) who becomes a member of LACERS following July 1, 1990, and for each employee who transfers from full-time to half-time status following July 1, 1990, Management agrees to contribute a monthly sum not to exceed \$170.00 per month per employee. Half-time employees who, prior to July 1, 1990, were receiving the same subsidy as full-time employees shall continue to receive that subsidy and shall be eligible to receive any increases applied to that subsidy as provided in this Article.

Effective January 1, 1998, Management agrees to contribute for each half-time employee, as defined by Section 4.110 of the Los Angeles Administrative Code (LAAC) who became a member of LACERS following July 1, 1990, and for each employee who transfers from full-time to half-time status following July 1, 1990, a monthly subsidy not to exceed \$134.52. Half-time employees who, prior to July 1, 1990, were receiving the same

subsidy as full-time employees shall continue to receive that subsidy and shall be eligible to receive any increases applied to that subsidy as provided in this Article.

During the term of this MOU, Management's monthly subsidy for half-time employees shall increase by the increase in the Kaiser single-party rate. Increases in this monthly subsidy shall be effective at the beginning of the pay period in which the Kaiser yearly premium rate change is implemented.

Management will apply the subsidy first to the employee's coverage. Any remaining balance will be applied toward the coverage of the employee's dependents under the plan.

Employees who transfer from full-time to half-time under the provisions of Article 12, Family and Medical Leave, shall continue to receive the same subsidy as full-time employees and shall be subject to any adjustments applied to that subsidy as provided in this Article.

During the term of this MOU, the Joint Labor-Management Benefits Committee will review all rate changes and their impact on the Health Plans.

Section II - Dental Plans

The dental plans offered and benefits provided by those plans shall be determined by the Personnel Department, in accordance with Los Angeles Administrative Code Section 4.303, upon the recommendation of the City's Joint Labor-Management Benefits Committee.

Management will expend for full-time employees in the classifications listed in this Unit, who are members of LACERS, the monthly sum necessary to cover the cost of employee only coverage under the City-sponsored Dental Plan Program. Coverage for dependents of eligible employees may be obtained in a City-sponsored plan at the employee's expense, provided that such sufficient enrollment is maintained to continue to make such coverage available.

For each half-time employee, as defined by Section 4.110 of the LAAC, who becomes a member of LACERS and for each employee who transfers from full-time to half-time status following July 1, 1990, Management will expend an amount equivalent to one-half of the cost of the employee-only coverage of the most expensive plan under the City-sponsored Dental Program. Half-time employee who, prior to July 1, 1990, were receiving the full employee-only subsidy shall continue to receive the full employee-only subsidy. During the term of this MOU, the Joint Labor-Management Benefits Committee will review all rate changes and their impact on the Dental Plans.

Section III - Definition of Dependent

The definition of a dependent shall include the domestic partner of an employee and the

dependents of such domestic partner. Any employee claiming a domestic partner and/or the dependents of such domestic partner for purposes of this Article shall complete a confidential affidavit to be filed in the Employee Benefits Office, Personnel Department, which shall be signed by the City employee and the domestic partner, declaring the existence of a domestic partnership.

By extending to an employee the specific benefits defined by this Article, the City does not intend to confer or imply any other unspecified benefits to such employee, or to the employee's domestic partner, or the dependents of such domestic partner.

Section IV - General Provisions

An open enrollment period of at least 30 days shall be declared by the Personnel Department each year. During this open period, employees may enroll themselves and, at their option, their dependents in the City-sponsored plan. Employees who fail to enroll during this open period will be ineligible to participate in City-sponsored plan unless another open enrollment period is subsequently declared by the Personnel Department. The parties mutually understand that the City will expend the above noted funds only for those employees who enroll in these plans and remain on active payroll status with the City, and that the City retains all rights to any unused funds which may be allocated for the purpose of implementing this Article.

Management will retain all duties and responsibilities it has had for the administration of the City's Health and Dental Plans.

Section V - Subsidy During Family and Medical Leave

For an employee who is on family or medical leave, under the provisions of Article 12 of this MOU, Management shall continue the City's medical and dental plan subsidies. Employees shall be eligible for such continued subsidy for a maximum of nine (9) pay periods from the qualifying date of the family or medical leave, including the paid and the unpaid portions of the leave. The continuation of the subsidy will be provided only under the following conditions:

- a. The employee shall have been employed continuously by the City for a one year period prior to the beginning of the leave.
- b. The employee shall have been enrolled in a City health plan prior to the beginning of the leave to continue the health plan subsidy. The employee shall have been enrolled in a City dental plan prior to the beginning of the leave to continue the dental plan subsidy.
- c. The City will not continue the subsidy if the employee is covered under a non-City health or dental plan.

- d. The continuance of the health plan subsidy shall include coverage of any new dependent. Employees are responsible for notifying the Employee Benefits Office of any additional dependent(s). Dependents may be added only within 30 days of becoming dependents or during the City's annual open enrollment period.
- e. In accordance with the Family and Medical Leave Act of 1993 (FMLA), employees on unpaid family or medical leave shall not be required to repay the City subsidy (1) upon return to work, or (2) if they terminate City employment following the leave due to a continuing serious health problem or other extenuating circumstances beyond the control of the employee. Should an employee fail to return to work for any other reason, then they shall be required to reimburse the City for the subsidy provided during the unpaid portion of their leave. Such reimbursement shall be deducted from any compensation owed to the employee upon termination of City employment.

ARTICLE 12 FAMILY AND MEDICAL LEAVE

I. Authorization for Leave

During the term of this MOU, up to four (4) months (nine (9) pay periods) of family or medical leave shall be provided for the purpose of childbirth, adoption, foster care of a child, or serious health condition of an immediate family member (as defined in Article 18), upon the request of the employee, or designation by Management in accordance with applicable Federal or State law, notwithstanding any other provisions of this MOU or the Los Angeles Administrative Code to the contrary.

An employee may take leave under the provisions of this Article if he/she has a serious health condition that makes him/her unable to perform the functions of his/her position.

Leave under the provisions of this Article shall be limited to four (4) months (nine (9) pay periods) during a twelve (12) month period, regardless of the number of incidents. A 12-month period shall begin on the first day of leave for each individual taking such leave. The succeeding 12-month period will begin the first day of leave taken under the provisions of this Article after completion of the previous 12-month period.

II. Definitions

- A. Spouse means a husband or wife as defined or recognized under State law for purposes of marriage in this State.
- B. Domestic partner means a named domestic partner in a confidential affidavit declaring the existence of said domestic partner and signed by the City employee, which is on file in the Employee Benefits Office, Personnel Department.

- C. Parent means a biological, step, adoptive or foster parent, an individual who stands or stood *in loco parentis* to an employee, or a legal guardian. This term does not mean parents-in-law.
- D. Son or daughter means a biological, adopted, or foster child, a stepchild, a legal ward or child of a person standing *in loco parentis*, who is either under age 18 or age 18 or older and incapable of self-care because of a mental or physical disability.
- E. Persons who are *in loco parentis* include those with day-to-day responsibilities to care for and financially support a child, or in the case of an employee who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

III. Eligibility

- A. The provisions of this Article shall apply to all employees in this Unit in all City departments who have been employed by the City for at least 12 months and who have worked at least 1,040 hours during the 12 months immediately preceding the beginning of the leave.

Exception: In accordance with Pregnancy Disability Leave under the California Fair Employment and Housing Act (FEHA), on the first day of employment with the City, pregnant employees are eligible for six (6) weeks (three (3) pay periods) of leave if not disabled due to pregnancy and up to four (4) months (nine (9) pay periods) of leave if disabled due to pregnancy, inclusive of the aforementioned six-week, non-disability leave.

- B. Parents (including those who are domestic partners) who both work for the City may take leave under the provisions of this Article at the same time to care for a new child by birth or adoption, or foster care of a child. However, the aggregate period of time to which both are entitled is limited to the time allowed for only one employee. Spouses or domestic partners who both work for the City may take leave under the provisions of this Article at the same time to take care of a sick parent. However, the aggregate period of time to which both are entitled is limited to the time allowed for only one employee.

Each employee must notify his/her employing department at the time the leave is requested of the name and department of the second family member who is requesting leave for the same incident. Such notification must include the starting and ending dates of the time period for which each employee is requesting leave.

The time limitations described above does not apply to leave taken by one

spouse or one domestic partner to care for the other who is seriously ill, or to care for a child with a serious health condition.

IV. Conditions

A. The start of leave for a pregnant employee shall be:

1. During or after the employee's pregnancy where there is no disability, at the employee's discretion; or
2. At the beginning of the employee's pregnancy-related disability that a doctor certifies as necessary.

B. The start of a family leave for adoption shall begin on a date reasonably close to the date the child is placed in the custody of the employee. Leave for adoption or foster care of a child may also be granted prior to placement if an absence from work is required.

C. The start of a family leave for a serious health condition of a family member shall begin on the date requested by the employee.

D. The start of a leave for the employee's own serious health condition shall begin on the date requested by the employee.

E. A serious health condition is defined as an illness, injury, impairment, or physical or mental condition that involves:

1. Any period of incapacity or treatment connected with inpatient care in a hospital, hospice, or residential medical care facility; or
2. A period of incapacity requiring an absence of greater than three calendar days involving continuing treatment by or under the supervision of a health care provider; or
3. Any period of incapacity (or treatment therefore) due to a chronic serious health condition; or
4. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective; or
5. Any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity or more than three consecutive days if left untreated; or
6. Any period of incapacity due to pregnancy or for prenatal care.

- F. All leave granted under this Article shall normally be for a continuous period of time for each incident.

An employee shall be permitted to take intermittent leave or work on a reduced schedule to take care of a family member with a serious health condition or for his/her own serious health condition when it is medically necessary. Management may require the employee to transfer temporarily to an available alternative position with equivalent compensation for which the employee is qualified that accommodates recurring periods of leave better than the employee's regular position. Employees who elect a part-time schedule shall receive prorated compensated time off benefits in accordance with Section 4.110 of the Los Angeles Administrative Code during the duration of their part-time schedule.

Intermittent leave or work on a reduced schedule for the birth, adoption or foster care of a child shall only be permitted at the discretion of Management.

- G. If any employee requires another leave for a separate incident under the provisions of this Article during the same 12-month period, a new request must be submitted.
- H. In accordance with Pregnancy Disability Leave under the California FEHA, pregnant employees not disabled by pregnancy are entitled to six (6) weeks (three (3) pay periods) of leave. Employees who are disabled due to pregnancy, child birth, or related medical conditions are eligible for up to four (4) months (nine (9) pay periods) of leave, inclusive of the aforementioned six-week, non-disability leave, with medical certification certifying the employee as unable to work due to a pregnancy-related condition. Pregnancy Disability Leave under the FEHA may be taken before or after the birth of the child. Pregnancy leave under the federal Family and Medical Leave Act shall run concurrently with Pregnancy Disability Leave under the FEHA, and must be concluded within one year of the child's birth.

Employees (either parent) are also eligible for family leave ("bonding") under the California Family Rights Act, which shall be limited to four months (nine (9) pay periods) and must be concluded within one year of the child's birth. (The administration of such leave shall be in accordance with Section III.B. of this Article.)

- I. A personal leave beyond the four (4) month (nine (9) pay periods) leave provided in this Article may be requested, subject to the approval of the appointing authority and, if required, the Personnel Department, as provided under other City leave provisions.

- J. An employee receiving temporary workers' compensation benefits (either IOD or the rate provided in Division IV of the California Labor Code) who meets the eligibility requirements in III.A. of this Article shall automatically be considered to be on family or medical leave, effective the first day of the employee's absence.
- K. Management has the right to verify the certification of a serious health condition by a health care provider for a leave under the provisions of this Article. Management shall allow the employee at least 15 calendar days to obtain the medical certification.
- L. Upon return from family or medical leave, an employee shall be returned to his/her original job or to an equivalent job.

V. Notice Requirements

A. Employee

When an employee requests family or medical leave, he/she must state the reason for the requested leave (e.g., childbirth, to care for an immediate family member with a serious health condition, etc.). When the necessity for a leave is foreseeable, the employee must provide at least 30 days notice. However, if the leave must begin in less than 30 days, the employee must provide as much advance notice as is practicable.

B. Management

In response to employee's request for family or medical leave, Management shall indicate whether or not the employee is eligible for such leave, if such leave will be counted against the employee's annual family or medical leave entitlement, and any requirement for the employee to furnish medical certification. Management may designate leave, paid or unpaid, taken by an employee as family or medical leave-qualifying, regardless of whether or not the employee initiates a request to take family or medical leave.

VI. Applicable Time Off

Employees who are granted leave in accordance with this Article shall take time off in the following order:

A. Childbirth (Mother)

1. Accrued sick leave (100% and 75%) or vacation for the entire period of disability that a health care provider certifies is necessary (including prenatal care or the mother's inability to work prior to the birth), may be taken at the employee's discretion.

2. For the non-disability portion of childbirth leave (before delivery or after (“bonding”)), accrued vacation available at the start of the leave shall be used prior to the use of time under 3 , 4, 5 and 6 below.
3. Accrued 100% sick leave. The use of sick leave under this subsection is at the employee's discretion.
4. Accrued 75% sick leave, following use of all 100% sick leave. The use of sick leave under this subsection is at the employee's discretion.
5. Unpaid leave.
6. Accrued compensatory time off may be used at the employee’s discretion, with management approval, after exhaustion of 100% sick leave (No. 3 above). However, compensatory time off shall not be counted against the employee’s four-month (nine (9) pay period) family or medical leave entitlement. Therefore, any use of compensatory time off under this Section shall extend the employee’s family or medical leave by the total amount of compensatory time off used.

B. Childbirth (Father), Adoption, Foster Care, or Family Illness

1. Annual family illness sick leave up to twelve (12) days may be used at the employee's discretion. Such leave may be taken before or after the vacation described in 2 below.
2. Accrued vacation available at the start of the leave shall be taken. Such time must be used prior to the use of time under 3, 4, 5 and 6 below.
3. Accrued 100% sick leave. The use of sick leave under this subsection is at the employee's discretion.
4. Accrued 75% sick leave, following use of all 100% sick leave. The use of sick leave under this subsection is at the employee's discretion.
5. Unpaid leave.
6. Accrued compensatory time off may be used at the employee’s discretion, with management approval, after exhaustion of 100% sick leave (No. 3 above). However, compensatory time off shall not be counted against the employee’s four-month (nine (9) pay period) family or medical leave entitlement. Therefore, any use of compensatory time off under this Section shall extend the employee’s family or medical leave by the total amount of compensatory time off used.

C. Personal Medical Leave

1. Accrued 100% sick leave may be used at the employee's discretion. Such leave may be taken before or after the vacation described in No. 3 below.
2. Accrued 75% sick leave may be used following use of all 100% sick leave at the employee's discretion. Such leave may be taken before or after the vacation described in No. 3 below.
3. Accrued vacation time.
4. Unpaid leave.
5. Accrued compensatory time off may be used at the employee's discretion, with management approval, after exhaustion of 100% sick leave (No. 1 above). However, compensatory time off shall not be counted against the employee's four-month (nine (9) pay period) family or medical leave entitlement. Therefore, any use of compensatory time off under this Section shall extend the employee's family or medical leave by the total amount of compensatory time off used.

VII. Sick Leave Rate of Pay

Payment for sick leave usage under VI.A, B, and C shall be at the regular accrued rate of 100% or 75% as appropriate.

VIII. Monitoring

Management shall maintain such records as are required to monitor the usage of leave as defined in this Article. Such records are to be made available to the Association upon request.

It is the intent of the parties that the provisions and administration of this Article be in compliance with the Family and Medical Leave Act of 1993, the California Family Rights Act of 1993, and the Pregnancy Disability Leave provisions of the California Fair Employment and Housing Act.

ARTICLE 13 RETIREMENT BENEFITS

A. Benefits

For employees hired prior to January 1, 1983, retirement benefits including the Beta Retirement Formula and subsidies of: 1) one-half the employees' retirement contribution rates, and, 2) an additional two percent (2%) of compensation earnable after the one-half subsidy, shall be continued during the term of this MOU. For

employees hired January 1, 1983, and thereafter, the Beta Retirement Formula and a flat-rated employee retirement contribution of six percent (6%) shall be continued.

B. Procedure for Benefits Modifications

Proposals for major retirement benefit modifications will be negotiated in joint meetings with the certified employee organizations whose memberships will be directly affected. Agreements reached between Management and organizations whereby a majority of the members in the Los Angeles City Employees' Retirement System are affected shall be recommended to the City Council by the City Administrative Officer as affecting the membership of all employees in the City Employees' Retirement System. Such modifications need not be included in the MOU in order to be considered appropriately negotiated.

Proposals for minor benefit modifications and technical changes will be considered and reported on as appropriate, but no more than once a year, in a report from the City Administrative Officer to the City Council. Affected organizations shall be given the opportunity to review the proposed minor changes prior to the release of the report, and their views shall be included in the report.

If agreement is not reached between Management and the organizations representing a majority of the members in the Los Angeles City Employees' Retirement System as to whether a particular proposal constitutes either a major or a minor modification, the proposal shall be treated as a major modification.

ARTICLE 14 **SICK LEAVE BENEFITS**

Management's practices with regard to allowances for sick leave will be continued during the term of the Memorandum of Understanding. Such practices shall be in accordance with Sections 4.126, 4.126.1, 4.126.2, 4.127 and 4.128 of the Los Angeles Administrative Code.

Any employee claiming a domestic partner for purposes of this Article shall complete a confidential affidavit to be filed in the Employee Benefits Office, Personnel Department, which shall be signed by the City employee and the domestic partner, declaring the existence of a domestic partnership with a named domestic partner. No affidavit is required to secure family illness benefits arising from the illness or injury of a household member (any person residing in the immediate household of the employee at the time of the illness or injury).

By extending to an employee the specific benefits defined by this Article, the City does not intend to confer or imply any other unspecified benefits to such employee, or to the employee's domestic partner, or to any other person.

ARTICLE 15 **PERSONNEL FOLDERS**

An employee shall be entitled to review the contents of his/her official departmental personnel folder at reasonable intervals, upon request, during the hours when his/her personnel office is normally open for business. Management will continue its present practice with regard to providing employees with a copy of materials in the departmental personnel folder.

The employee may authorize an Association staff representative to inspect the departmental folder, upon written consent of the employee. The written consent must be presented in person by the employee to the personnel office. The time to review the folder must be arranged by the staff representative. The staff representative may not remove or have a copy of any document in the folder. The employee or staff representative's review of the personnel folder shall not interfere with the normal business of the department.

No evaluatory or disciplinary document may be placed in an employee's personnel folder without his/her review and a copy of the document presented to the employee for his/her records. The employee shall acknowledge that he/she has reviewed and received a copy of the document by signing it, with the understanding that such signature does not necessarily indicate agreement with its contents. The employee shall have the right to respond in writing to any material placed in his/her personnel folder. This provision shall not apply to documents placed in said folder prior to July 1, 1980.

A written reprimand or "Notice to Correct Deficiencies" will be sealed upon the written request of an affected employee if he/she has not been involved in any subsequent related incidents that resulted in written corrective counseling or other management action for a period of five (5) years from the date the most recent notice was issued or management action taken.

Pursuant to the above paragraph, those documents, either removed from the personnel file or sealed, shall be available upon subpoena or other appropriate legal request.

ARTICLE 16 **HOLIDAYS**

A. The following days shall be treated as holidays:

1. New Year's Day
2. Martin Luther King's Birthday (the third Monday in January)
3. Washington's Birthday (the third Monday in February)
4. Cesar E. Chavez' Birthday (the last Monday in March) - effective 2002
5. Memorial Day (the last Monday in May)
6. Independence Day (July 4)
7. Labor Day (the first Monday in September)
8. Columbus Day (the second Monday in October) - eliminated in 2002 only; reinstated effective 2003
9. Veteran's Day
10. Thanksgiving Day (the fourth Thursday in November)

11. The Friday after Thanksgiving Day
12. Christmas Day
13. The last four hours of any employee's scheduled work shift on the last working day preceding Christmas Day (eliminated effective 2003)
14. Any day or portion thereof declared to be a holiday by proclamation of the Mayor, and the concurrence of the City Council by resolution.
15. One unspecified holiday.

Note: The above holidays and effective dates are subject to employee organizations representing a majority of civilian (non-DWP) employees accepting the same holiday schedule by December 31, 2002. If a majority of represented civilian employees has not accepted this schedule by the deadline, the parties agree to reopen the MOU on this holiday issue only.

- B. When any holiday from 1 through 12 above falls on a Sunday, it shall be observed on the following Monday.
- C. When any holiday from 1 through 12 above falls on a Saturday, it shall be observed on the preceding Friday.
- D. Any holiday declared by proclamation of the Mayor shall not be deemed to advance the last scheduled working day before a holiday for purposes of computing any additional time off.
- E. The unspecified holiday shall be taken in accordance with the following requirements:
 1. The holiday must be taken in one full normal working day increment of eight (8) hours during the calendar year in which it is credited or it will be forfeited. The request for such time off, if timely submitted by the employee, will be promptly approved by Management subject to the operating needs of the office. If an unforeseen operating requirement prevents the employee from taking such previously-approved holiday, Management shall reschedule the holiday so that it can be taken on some other mutually satisfactory date within the calendar year.
 2. Any break in service (i.e., resignation, discharge, retirement, suspension) prior to taking the holiday shall forfeit any right thereto.
 3. The holiday shall not be utilized to extend the date of any layoff.
 4. No employee shall be entitled to an unspecified holiday until he/she has completed six months of satisfactory service.
 5. Only full-time employees shall be entitled to the unspecified holiday.
 6. No employee shall receive more than one unspecified holiday each calendar

year. Thus, (a) an employee transferring from the Department of Water and Power (DWP) to any other City department, office, or bureau will not receive an unspecified holiday after taking such holiday prior to leaving DWP, and (b) employees who resign or are terminated and then rehired during the same calendar year, will not receive an additional unspecified holiday when rehired.

ARTICLE 17 **VACATIONS**

Notwithstanding the provisions of Section 4.245 of the Los Angeles Administrative Code (LAAC), effective upon the operative date of the implementing Ordinance, each employee in this unit who has completed his/her qualifying year on or after that date shall be entitled to the following number of vacation days with full pay, based on the number of years of City service completed, accrued and credited at the rates indicated, subject to deductions for absences as provided in Section 4.246 of the LAAC:

Years of Service Completed	Number of Vacation Days	Monthly Accrual Rate In Hours/Minutes
1	11	7.20
5	17	11.20
13	18	11.20
14	19	11.20
15	20	11.20
16	21	11.20
17	22	14.40
18	23	14.40
19	24	16.00
25	25	16.40

ARTICLE 18 **BEREAVEMENT LEAVE**

An employee who is absent from work by reason of the death of a member of his/her immediate family shall, upon the approval of the appointing authority or the agent thereof designated to determine such matters, be allowed a leave of absence with full pay for a maximum of three working days for each occurrence of a death in the employee's immediate family. Such employees shall furnish a death certificate or other satisfactory

proof of the death to justify the absence. "Immediate family" shall include, father, father-in-law, mother, mother-in-law, brother, sister, spouse, child, grandfather, grandmother, stepparents, stepchildren, grandchildren, any relative who resided in the employee's household, the domestic partner of an employee, and the following relatives of the domestic partner: mother, father, child, grandchild. For the purpose of this Article, simultaneous, multiple family deaths will be considered as one occurrence.

Any employee claiming a domestic partner for purposes of this Article shall complete a confidential affidavit to be filed in the Employee Benefits Office, Personnel Department, which shall be signed by the City employee only, declaring the existence of a domestic partnership with a named domestic partner. By extending to an employee the specific benefits defined by this Article, the City does not intend to confer or imply any other unspecified benefits to such employee, or to the employee's domestic partner, or to any other person.

ARTICLE 19 **LEAVES OF ABSENCE**

A. Military Leave

Every employee who qualifies for and is granted military leave, whether temporary or otherwise, pursuant to the provisions of the Military and Veterans Code of the State of California shall, before being paid salary or compensation during such leave, or any part thereof, as provided in said Code, furnish to the City Attorney two certified copies of his/her orders, or in lieu thereof, shall furnish to the City Attorney upon forms provided by the Controller certified evidence of entry into active service in the armed forces of the United States and the date thereof. Any certification required by this section may be made by any commissioned officer of such armed forces. The Controller shall have power at any time to require such additional evidence as is satisfactory to him/her of the entry of such employee into active service in such armed forces and of the actual performance by such employee of ordered military duty during all or any part of such leave.

In determining whether an employee has been in the service of the City for a period of not less than one year immediately prior to the date on which the absence begins, continuous service as that term is defined in Section 4.42(t) of the Administrative Code shall be required, provided, however, that service in any department having control of its own funds shall be counted in making such determination.

B. Religious Observance

An employee shall be allowed time off for observance of religious holidays unless the employee's absence substantially interferes with the performance of essential City services, such time off to be charged to accrued vacation, accumulated overtime or a floating holiday, if available, or to time off without pay; providing, however, that the City Attorney may allow such time to be made up by rescheduling of the employee's hours

of work during the pay period in which the absence occurs. Management will accept requests for time off for these purposes at any time in advance of the date.

C. Jury Service

Any employee who is duly summoned to attend any court for the purpose of performing jury service or has been nominated and selected to serve on the Grand Jury of Los Angeles County shall, for those days during his or her scheduled working period during which jury service is actually performed and those days necessary to qualify for jury service, receive his or her regular salary. Provided, however, that any jury attendance fees received by the employee who receives regular salary pursuant to this provision, except those fees received for jury service performed on a regular day off or a holiday, shall be paid to the City and deposited in the General Fund. The absence of any employee for the purpose of performing jury service during his or her scheduled work period shall be deemed to be an authorized absence with pay. Any money received as compensation for mileage is not to be considered as a part of the employee's pay for these purposes.

D. Civic Duty

Any employee who is served with a subpoena by a court of competent jurisdiction or an administrative body to appear as a witness during his or her scheduled working period, unless he or she is a party to the litigation or a expert witness, shall receive his or her regular salary. Provided, however, that any witness fees received by the employee who receives regular salary pursuant to these provisions, except those fees received for services performed on a regular day off or holiday, shall be paid to the City and deposited in the General Fund. The absence of any employee for the purpose of serving as a witness during his or her scheduled working period shall be deemed an authorized absence with pay. Any money received as compensation for mileage is not to be considered as a part of the employee's pay for these purposes.

A court of competent jurisdiction is defined as a court within the county in which the employee resides or if outside the county of residence, the place of appearance must be within 150 miles of the employee's residence.

E. Other Leaves of Absence

The granting of a leave of absence for personal reasons is an exclusive right of Management. A leave is a privilege, not a right.

Employees may submit a request for a leave of absence to the City Attorney. Leaves will not be approved which exceed six months. A six-month leave of absence can be extended, however, in increments of up to six months at a time at the sole discretion of the City Attorney.

A leave except where required by law must not interfere or conflict with the work of the department. The length of service and quality of performance of the employee must merit such leave. All requests for "Personal Reasons" must be explained.

The final decision to grant or deny a leave rests with the City Attorney. All such leaves are without pay.

Management's present practices with regard to this leave will be continued during the term of this Memorandum of Understanding.

For Family and Medical Leave, see Article 12.

ARTICLE 20 GRIEVANCE PROCEDURES

Section I - Definition

A grievance is defined as any dispute concerning the interpretation or application of a written Memorandum of Understanding or departmental rules and regulations governing personnel practices or working conditions applicable to employees covered by this Memorandum of Understanding. An impasse in meeting and conferring upon the terms of a proposed Memorandum of Understanding is not a grievance.

Section II - Responsibilities and Rights

- a. Nothing in this grievance procedure shall be construed to apply to matters for which an administrative remedy is provided by the City Charter. Where a matter within the scope of this grievance procedure is alleged to be both a grievance and an unfair labor practice under the jurisdiction of the Employee Relations Board, the employee may elect to pursue the matter under either the grievance procedure herein provided, or by action before the Employee Relations Board. The employee's election of either procedure shall constitute a binding election of the remedy chosen and a waiver of the alternative remedy.
- b. No grievant shall lose the right to process a grievance because of Management imposed limitations in scheduling meetings.
- c. The grievant has the responsibility to discuss the grievance informally with his/her immediate supervisor. The immediate supervisor will, upon request of a grievant, discuss the grievance with him/her at a mutually satisfactory time. The grievant may be represented by a representative of his/her choice in the informal discussion with the immediate supervisor and in all formal review levels.
- d. The time limits between steps of the grievance procedure provided herein may be extended by mutual agreement; or by mutual agreement, the grievant and Management may waive one level of review from this grievance procedure.

- e. Management shall notify the Association of any formal grievance filed that involves the interpretation and/or application of the provisions of this Memorandum of Understanding and a full-time Union Staff Representative shall have the right to be present and participate in the discussion at any formal grievance meeting concerning such a grievance. If the full-time Union Staff Representative elects to attend said grievance meeting, he/she shall inform the City Attorney's Management representative of his/her intention. The Union is to be notified of the resolution of all other formal grievances.

Section III - Procedure

The grievance procedure for employees covered by this Memorandum of Understanding shall be as follows:

Step 1 - Informal Discussion

The grievant shall discuss the grievance with the immediate supervisor on an informal basis in an effort to resolve the grievance and said grievance shall be considered waived if not so presented to the immediate supervisor within fourteen (14) calendar days following the day during which the event upon which the grievance is based occurred.

The immediate supervisor shall respond within ten (10) calendar days following his/her meeting with the grievant. Failure of the immediate supervisor to respond within such time limit shall entitle the grievant to process the grievance at the next step.

Step 2 - First Level of Review

If the grievance is not settled at Step 1, the grievant may serve written notice of the grievance on a form provided by the City Attorney upon the person designated by the City Attorney to review the grievance at Step 2 within seven (7) calendar days of receipt of the grievance response at Step 1. The City Attorney shall, upon request of the grievant or grievant's chosen representative, forthwith identify the individual upon whom the written notice may be served. Failure of the grievant to serve such written notice shall constitute a waiver of the grievance.

If such written notice is served, said person shall meet with the grievant, and a written decision or statement of the facts and issues shall be rendered to the grievant and his/her representative, if any, within fifteen (15) calendar days from the date of service.

Failure of Management to respond within such time limit shall entitle the grievant to process the grievance at the next level of review.

Grievance Mediation (Optional)

If the written decision at Step 2 does not settle the grievance, within ten (10) calendar days of receipt of such response, or time limits, the grievant and the Association jointly may request mediation by letter to the City Attorney. This procedure is optional.

Either the grievant/Association or Management may waive mediation and proceed to the next step in the grievance procedure. Within ten (10) calendar days of receipt of a request for mediation, the City Attorney shall either return the request without action or request that the Employee Relations Board appoint a mediator. The Employee Relations Board shall attempt to obtain the services of a mediator from the State Mediation and Conciliation Service. If a State mediator is unavailable, the Association and Management may jointly agree to a mediator selected by the parties. The fees, if any, of such mediator shall be shared equally by the Association and Management.

The primary effort of the mediator should be to assist the parties in settling the grievance in a mutually satisfactory fashion. The mediation procedure shall be informal. Court reporters shall not be allowed to be present, the rules of evidence shall not apply and no record shall be made. The mediator shall determine whether witnesses are necessary in the conduct of the proceedings. If settlement is not possible, the mediator may be requested to provide the parties with an immediate oral opinion as to how the grievance would be decided if it went to arbitration. Such opinion shall be advisory only. Upon mutual agreement of the parties, the mediator may be requested to furnish such opinion in writing, along with a brief statement of the reasons for the opinion. Such opinion as well as anything said by the parties during mediation shall not be used during any subsequent arbitration. Notwithstanding the above, and Section 4.865 of the Employee Relations Ordinance, the parties may, upon mutual agreement, agree to accept the opinion of the mediator as binding, in lieu of arbitration. Use of grievance mediation shall toll the time limits otherwise applicable in this Article.

Step 3 - Second Level of Review

If the grievance is not settled at Step 2, the grievant may serve written notice of the grievance on said form upon the Chief Assistant of the appropriate branch or his/her designee within seven (7) calendar days of receipt of the Step 2 grievance response. Failure of the grievant to serve such written notice shall constitute a waiver of the grievance.

If such written notice is served, said person shall meet with the grievant, and a written decision or statement of the facts and issues shall be rendered to the grievant and his/her representative, if any, within fifteen (15) calendar days from the date of service.

Failure of Management to respond within such time limit shall entitle the grievant to process his/her grievance at the next level of review.

Step 4 - City Attorney Review (Third Level of Review)

If the grievance is not settled at Step 3, the grievant may serve written notice of the

grievance on said form upon the City Attorney or his/her designee within seven (7) calendar days following receipt of the grievance response at Step 3. Failure of the grievant to serve such notice shall constitute a waiver of the grievance. If such notice is served, the grievance shall be heard by the City Attorney or his/her designee who will afford the parties an opportunity to present oral and/or written arguments on the merits of the grievance, and shall render to the grievant and his/her representative, if any, a written decision within thirty (30) calendar days from the date said arguments, oral and/or written, were submitted or waived by grievant.

Step 5 - Arbitration

If the written decision at Step 4 does not settle the grievance, the grievant and the Association jointly may serve upon the City Attorney, a written notice that a written request for arbitration is being filed with the Employee Relations Board. Such request must be filed with the Employee Relations Board within ten (10) calendar days following the date of service of the written decision of the City Attorney or his/her designee. Failure of the grievant and the Association jointly to serve such written request for arbitration with the Employee Relations Board within said period shall constitute a waiver of the grievance.

If such notice is served, the parties shall meet for the purpose of selecting an arbitrator from a list of seven arbitrators furnished by the Employee Relations Board, within seven (7) calendar days following receipt of said list.

- a. Arbitration of a grievance hereunder shall be limited to the formal grievance as originally filed by the employee to the extent that said grievance has not been satisfactorily resolved. The proceedings shall be conducted in accordance with applicable rules and procedures adopted or specified by the Employee Relations Board, unless the parties hereto agree to other rules or procedures for the conduct of such arbitration. The grievant shall have the right to be represented by an attorney provided by the Union, or by any attorney privately retained by the grievant, at all stages of Step 5. The fees and expenses of the arbitrator shall be shared equally by the parties involved, it being mutually understood that all other expenses including, but not limited to, fees for attorneys, fees for witnesses, transcripts, and similar costs incurred by the parties during such arbitration, will be the responsibility of the party incurring same.
- b. The decision of an arbitrator resulting from any arbitration of a grievance hereunder shall be binding upon the parties concerned.
- c. The decision of an arbitrator resulting from any arbitration of a grievance hereunder shall not add to, subtract from, or otherwise modify the terms and conditions of this Memorandum of Understanding.

ARTICLE 21

GRIEVANCE REPRESENTATION

The Association may designate a reasonable number of grievance representatives who must be members of the Unit, and shall provide the City Attorney's Office with a written list of employees who have been so designated. Management will quarterly accept changes to the list presented by the Association. A grievance representative, if so requested, may represent a grievant in the presenting of grievances at all levels of the grievance procedure. The grievant and the representative may have a reasonable amount of paid time off for this purpose.

The grievant may be represented by any privately retained attorney at all stages of Steps 2, 3, and 4 of the Grievance Procedure contained in Article 20.

If a grievance representative must leave his/her work location to represent a grievant, he/she shall first obtain permission from his/her supervisor on a form provided for such purpose. Permission to leave will be granted unless such absence would cause an undue interruption of work. If such permission cannot be granted promptly, the grievance representative will be informed when time can be made available. Such time will not be more than forty-eight (48) hours, excluding scheduled days off and/or legal holidays, after the time of the grievance representative's request unless otherwise mutually agreed to. Denial of permission to leave at the time requested will automatically constitute an extension of time limits provided in grievance procedure herein, equal to the amount of the delay.

Time spent on grievances outside of regular working hours of the employee and/or his/her representative shall not be counted as work time for any purpose. Whenever a grievance is to be presented during the working hours of the grievant and/or his/her representative, only that amount of time necessary to bring about a prompt disposition of the grievance will be allowed.

No grievance representative shall be transferred because of activity performed on behalf of an employee in accordance with this Article.

ARTICLE 22 **AGENCY SHOP**

The following agency shop provisions shall apply to employees in classifications listed in the Salary Appendix herein.

A. DUES/FEES

- 1.a. Each employee in this unit (who is not on a leave of absence) shall, as a condition of continued employment, become a member of the certified representative of this unit, or pay the Association a service fee in an amount not to exceed periodic dues and general assessments of the Association for the term of this MOU. Such amounts shall be determined by the Association and implemented by Management in the first payroll period which starts 30 days after

written notice of the new amount is received by the Controller.

- b. Notwithstanding any provisions of Article 2, Section 4.203 of the LAAC to the contrary, during the term of this MOU, payroll deductions requested by employees in this Unit for the purpose of becoming a member and/or to obtain benefits offered by any qualified organization other than the Association will not be accepted by the Controller. For the purpose of this provision, qualified organization means any organization of employees whose responsibility or goal is to represent employees in the City's meet and confer process.
2. The CAO and the Association shall jointly notify all members of the representation unit that they are required to pay dues or a service fee as a condition of continued employment and that such amounts will be automatically deducted from their paychecks. The religious exclusion will also be explained. The cost of this communication and the responsibility for its distribution shall be borne by Management.

B. EXCEPTIONS

1. Management, Supervisory or Confidential Employees

In accordance with Section 3502(c) of the Government Code, the provisions of this article shall not apply to management, confidential, or supervisory employees.

- a. Management and confidential employees shall be as defined in Section 4.801 and designated in accordance with Section 4.830d of the Los Angeles Administrative Code.
- b. Supervisory employees shall be defined as follows:

"Supervisory employee" means any individual, regardless of the job description or title, having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if, in connection with the foregoing, the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment. Employees whose duties are substantially similar to those of their subordinates shall not be considered to be supervisory employees.

Management shall designate supervisory employees. Said designation or claim shall be reviewed jointly by Management and the Union. Any dispute shall be referred to the Employee Relations Board for resolution.

2. Religious Objections

Any employee who is a member of a bonafide religion, body, or sect which has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support the organization. Such employee shall, in lieu of periodic dues or agency shop fees, pay sums equal to said amounts to a non-religious, non-labor charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, which has been selected by the employee from a list of such funds designated by the parties hereto in a separate agreement.

Such payments shall be made by payroll deduction as a condition of continued exemption from the requirements of financial support to the Union and as a condition of continued employment.

C. MANAGEMENT RESPONSIBILITIES

1. The Controller shall cause the amount of the dues or service fee to be deducted from twenty-four (24) biweekly payroll checks of each employee in this unit as specified by Union under the terms contained herein. "Dues", as distinct from "service fee", shall be the result of voluntary consent in the form of a payroll deduction card signed by the individual employee.
 - a. Remittance of the aggregate amount of all dues, fees, and other proper deductions made from the salaries of employees hereunder shall be made to the Association by the Controller within thirty (30) working days after the conclusion of the month in which said dues, fees and/or deductions were deducted.
 - b. A fee of nine cents (\$.09) per deduction shall be assessed by the City Controller for the processing of each payroll deduction taken. The City Controller will deduct the aggregate amount of said fees on a biweekly basis.
2. The Controller shall also apply this provision to every permanent employee who, following the operative date of this article, becomes a member of this representation unit, within sixty (60) calendar days of such reassignment or transfer. Such deduction shall be a condition of continued employment.
3. Management will provide the Union with the name, home address, and employee number of each permanent employee.
4. The Controller shall notify the organization within sixty (60) calendar days of any employee who, because of a change in employment status, is no longer a member of the representation unit or subject to the provisions of this article.

D. ASSOCIATION RESPONSIBILITIES

1. The Association shall keep an adequate itemized record of its financial transactions and shall make available annually to the City Clerk, and to all unit employees, within sixty (60) calendar days after the end of its fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to its accuracy by its president and the treasurer or corresponding principal officer, or by a certified public accountant.
2. The Association certifies to the City that it has adopted, implemented and will maintain constitutionally acceptable procedures to enable non-member agency shop service fee payers to meaningfully challenge the propriety of the uses to which service funds are put.

These procedures shall be in accordance with the decision of the United States Supreme Court in Chicago Teachers Union, Local No. 1, AFT, AFL-CIO, et al. v. Hudson, 106 S. Ct. 1066 (1986).

3. The Association agrees to indemnify and hold harmless the City for any loss or damage arising from the operation of this article. It is also agreed that neither any employee nor the Union shall have any claim against the City for any deductions made or not made, as the case may be, unless a claim of error is made in writing to the Controller within thirty (30) calendar days after the date such deductions were or should have been made.

E. RESCISSION

The agency shop provisions herein may be rescinded in accordance with the procedures contained in Rule 12 of the Employee Relations Board adopted January 11, 1982.

In the event that this Article is overturned by the employees in the representation unit, all other Articles of the MOU shall remain in full force and the prior agreement, rules, regulations, and past practices relating to organizational dues deductions authorizations shall be reinstated until a successor MOU or amendment shall have been approved.

ARTICLE 23 WORK ACCESS

An Association or Union staff representative shall have access to the facilities of the Office of the City Attorney during working hours for the purpose of assisting employees covered under the Memorandum of Understanding in the presenting of grievances, in investigating complaints about working conditions or in investigating matters arising out of the application of the provisions of this Memorandum of Understanding. Said representative shall request authorization for such visit by contacting the designated representative of the City Attorney. In the event immediate access cannot be authorized, the designated representative shall inform the Union staff representative as to the time when access can be granted.

The Association or Union shall give to the Office of the City Attorney and the City Administrative Officer a written list of its staff representatives and shall keep such list current.

This Article shall not be construed as a limitation on the power of the City Attorney or his designee to restrict access to areas designated as security or confidential.

ARTICLE 24 **BULLETIN BOARDS**

Management will provide bulletin board space at each work location which may be used by the Association/Union for the following purposes:

- a. Notices of Association meetings.
- b. Notices of Association elections and their results.
- c. Notices of Association events excluding any illegal activities.
- d. Notices of official Association business and information.

The Association may post all such notices listed above, provided that such notices are identified with an official stamp of the Association, and indicate a removal date. All other communications must receive approval by the designated representative of the City Attorney prior to posting. Such other communications will also contain an official Association stamp and removal date.

Management may remove any and all Association notices or other communications that do not conform with the above provisions of this Article. If Management removes a notice or other communication, Management will immediately notify the Association and meet with the Association within 24 hours after removal to discuss the propriety of the notice or other communication in question, if the Association believes said removal is an unwarranted action.

ARTICLE 25 **OBLIGATION TO SUPPORT**

The parties agree that prior to the implementation of this Memorandum of Understanding and during the period of time it is being considered by the Mayor, City Council, Council Committees and the City Attorney for action, neither the Association nor Management, nor their authorized representatives, will appear before the Mayor, City Council, Council Committees or City Attorney, nor meet with the Mayor, members of the City Council or said department heads, individually to advocate any addition or deletion to the terms and conditions of this Memorandum of Understanding. However, this Article shall not preclude the parties from appearing before the Mayor, City Council, Council Committee or City Attorney, nor meeting with individual members of the City Council or department heads to

advocate or urge the adoption and approval of this Memorandum of Understanding.

ARTICLE 26 **FULL UNDERSTANDING**

Management and the Association acknowledge that during the meet and confer process, each had the unlimited right and the opportunity to make demands and proposals on any subject within the scope of representation and that this Memorandum of Understanding constitutes the full and entire understanding of the parties regarding all such demands and proposals. The parties mutually understand that any prior or existing understandings or agreements by the parties, whether formal or informal, are hereby superseded or terminated.

The parties mutually agree that this Memorandum of Understanding may not be opened at any time during its term for any reason, except by mutual consent of the parties hereto.

It is mutually understood that any changes mutually agreed to shall not be binding upon the parties unless and until they have been implemented in accordance with Article 2.

The waiver or breach of any term or condition of this Memorandum of Understanding by any party hereto, shall not constitute a precedent in the future enforcement of any of its terms and provisions.

ARTICLE 27 **AUTHORIZED AGENTS**

For the purpose of administering the terms and provisions of this Memorandum of Understanding:

- A. Address: The Los Angeles City Attorneys Association
515 South Figueroa street, Suite 321
Los Angeles, California 90071

- B. Management's principal authorized agents shall be the City Administrative Officer or his duly authorized representative, and the City Attorney of his duly authorized representative.
 - 1. Address: City Administrative Officer
Employee Relations Division
Room 601, City Hall East
Los Angeles, California 90012
Telephone: (213) 485-5253

 - 2. Address: City Attorney
Administrative Services
Room 1800, City Hall East
Los Angeles, California 90012

Telephone: (213) 485-4461

ARTICLE 28 **PROVISIONS OF LAW AND SEPARABILITY**

It is understood and agreed that this Memorandum of Understanding is subject to all current applicable Federal and State laws, the City Charter, City ordinances, and any lawful rules and regulations enacted by the Civil Service Commission, Employee Relations Board, or similar independent commissions of the City. If any article, part or provision of this Memorandum of Understanding is held to be invalid or unenforceable by the final judgement of a court of competent jurisdiction, said Article, part or provision shall be suspended and superseded by such applicable laws or regulations, and the remainder of this Memorandum of Understanding shall not be affected thereby.

ARTICLE 29 **INTRA-DEPARTMENTAL REASSIGNMENT OPPORTUNITIES**

The assignment of employees within the Office of the City Attorney is the exclusive right of the appointing authority.

Employees may submit written requests that they be automatically considered for reassignment to specific assignments, sections or divisions within the Office of the City Attorney whenever a reassignment opportunity exists. Management need not select employees who have requested reassignment. However, Management will consider all reassignment requests on file for the positions involved prior to making its decision. No grievance representative, officer or member of the Board of Directors of this Association shall be transferred for performing legitimate Union activities.

ARTICLE 30 **EMPLOYEE BENEFITS INFORMATION**

Management shall furnish at least twice a year to each employee in the Unit a statement listing sick leave, vacation and accumulated overtime balances.

ARTICLE 31 **DEFRAYAL OF STATE BAR DUES**

The City shall make advance payment to the State Bar of California for the required dues, other than the penalty assessments, for every employee in the classifications listed in Appendix A on January 15 of each calendar year. Attached to the advance payment shall be a statement to the Controller that substantiation will follow within 30 days. Within 30 days after payment by the City for the required dues, the Office of the City Attorney shall submit such documentation as determined by the City Controller to substantiate the advance payment.

Persons entitled to defrayal of State Bar dues shall present to the City Attorney's Office the statement received from the State Bar prior to each January 15. Late submittal may be deemed a waiver by the attorney to have the City pay his/her Bar dues for that particular year.

Operative July 1, 2002, Management will reimburse each employee up to a maximum

amount of \$80.00 each fiscal year toward the cost of membership dues in the Los Angeles County Bar Association and/or toward the cost of belonging to a specialized section of the State Bar of California. Failure to submit a claim for reimbursement by June 1 of each fiscal year will be deemed a waiver by the employee to receive reimbursement for that fiscal year.

ARTICLE 32 **USE OF CITY FACILITIES**

City facilities may be used with the prior approval of Management for the purpose of holding meetings, if such facilities can be made available without disrupting the normal operations of the departments, offices, or bureaus affected. Participating employees will attend such meetings on their own time. The Association will pay such usual and customary fee(s) and/or other charges as are required by the City. Such changes normally cover rental, special set-ups, cleanups, and security services.

ARTICLE 33 **MILEAGE**

When an employee is authorized to use his/her own vehicle, pursuant to Division 4, Chapter 5, Article 2 of the Los Angeles Administrative Code, in the performance of his/her duties, such employee shall be reimbursed for his/her transportation expenses at the rate of thirty-four and one-half cents (\$.345) for each mile traveled in any biweekly pay period.

Effective January 1, 2002, the reimbursement rate shall increase to thirty-six and one-half cents (\$.365) for each mile traveled in any biweekly pay period.

During the term of this MOU, the cents per mile reimbursement shall be increased to an amount equal to the annual standard car mileage allowance as determined by the Internal Revenue Service (IRS). The City Administrative Officer shall certify to the Controller appropriate changes, if required, to become effective the beginning of the pay period in which January 1 falls, or on such other date as the IRS may determine.

ARTICLE 34 **ASSOCIATION RELEASE TIME**

The Association will submit a list of Board members and designated grievance representatives of the Los Angeles City Attorneys Association who may be given release time from their normal duties, without loss of pay or benefits, to represent Association members in grievance proceedings as specified in Article 21, Unfair Fair Labor practice charges, arbitration proceedings, and to meet and confer with City management representatives on matters within the scope of representation, as specified in the Employee Relations Ordinance, Section 4.845 of the LAAC.

Said representatives shall be made known to Management on a yearly basis.

The designated representative shall not leave his or her work area to conduct such business without first notifying his or her supervisor, and without ensuring that his or her absence will not adversely affect the ongoing business of the City Attorney's Office.

ARTICLE 35 **CITY-ASSOCIATION RELATIONSHIP**

In consideration of the mutual desire of the parties to promote and ensure harmonious relations, the City agrees that there shall be no lockout or the equivalent of members of the Association, and the Association and its members agree that there shall be no strike, slowdown, or other concerted action resulting in the withholding of service by the members during the term of this MOU. Should such a strike, slowdown, or concerted action by Union members occur, the Association shall immediately instruct its members to return to work. It is mutually understood and agreed that the City has the right to take disciplinary action, including discharge, against any employee who participates in any manner in any strike or slowdown, picketing on any paid City time in support of a strike, or other concerted action resulting in the withholding of service by the members during the term of this MOU. The curtailing of operations by the City in whole or part for operational or economic reasons shall not be construed as a lockout.

The provisions of this Article shall not detract in any way from any restrictions imposed by law on strikes and other types of work stoppages by public employees.

The provisions of this Article shall expire at 12:01 a.m. on July 1, 2004.

ARTICLE 36 **WORKERS' COMPENSATION**

The City shall provide Workers' Compensation benefits in accordance with Section 4.104 of the Los Angeles Administrative Code, except that salary continuation payments during absences for temporary disability conditions shall be in an amount equal to the employee's regular biweekly, take-home pay at the time of incurring the disability condition. For purposes of this Article, take-home pay shall be defined as an employee's biweekly gross salary rate less the mandatory deduction for Federal and State income tax withholding and employee retirement contributions. The employee will be able to make adjustments in his/her voluntary deductions while on temporary disability leave but will not be able to change the amount normally deducted for State and Federal income taxes, unless the employee has changed those deductions to those which he/she is legally entitled to take within ten (10) days of the commencement of any disability leave, or within ten (10) days of any change in dependents. This Article shall not affect employees who are receiving Workers' Compensation pay in accordance with Section 4.104 of the Los Angeles Administrative Code prior to August 16, 1995.

ARTICLE 37 **LIFE INSURANCE**

Effective January 1998, a term life insurance benefit equal to approximately one-year's salary will be provided at no cost to current Unit members. Such benefit may be provided by affording additional appropriate flexible benefit credits to Unit members for utilization in the City's flexible benefit program.

ARTICLE 38 **CONTRACTING OUT**

City Attorney management will submit all proposals to contract out bargaining unit work to the Contracting Clearinghouse established by the City Administrative Officer as soon as is practicable. No bargaining unit personnel shall be laid off nor authorized positions in the bargaining unit reduced as a result of contracting out legal services.

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute this Memorandum of Understanding the day, month, and year first written above.

Los Angeles City Attorneys
Association Representatives

City of Los Angeles,
Authorized Management
Representatives

Shelley I. Smith, President
Los Angeles City Attorneys Association

City Administrative Officer

Vice President, Los Angeles
City Attorneys Association

City Attorney

Secretary, Los Angeles
City Attorneys Association

FOR THE CITY ATTORNEY

mou29-01.04

