



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

BOARD OF DIRECTORS' REGULAR MEETING

December 1, 2004

A meeting of the Bay Area Air Quality Management District Board of Directors will be held at 9:00 a.m. at the Waterfront Plaza Hotel – Regatta 1 Room, Ten Washington Street, Oakland, CA

Questions About an Agenda Item

The name, telephone number and e-mail of the appropriate staff person to contact for additional information or to resolve concerns is listed for each agenda item.

Meeting Procedures

The public meeting of the Air District Board of Directors begins at 9:00 a.m. The Board of Directors generally will consider items in the order listed on the agenda. However, any item may be considered in any order.

After action on any agenda item not requiring a public hearing, the Board may reconsider or amend the item at any time during the meeting.

BOARD OF DIRECTORS' REGULAR MEETING A G E N D A

WEDNESDAY
DECEMBER 1, 2004

WATERFRONT PLAZA HOTEL
REGATTA ROOM 1 - OAKLAND, CA

8:30 A.M.

Continental Breakfast

CALL TO ORDER

9:00 A.M.

Opening Comments
Roll Call
Pledge of Allegiance

Scott Haggerty, Chairperson
Clerk of the Boards

PUBLIC COMMENT PERIOD

Public Comment on Non-Agenda Items, Pursuant to Government Code Section 54954.3
Members of the public are afforded the opportunity to speak on any agenda item. All agendas for regular meetings are posted at District headquarters, 939 Ellis Street, San Francisco, CA, at least 72 hours in advance of a regular meeting. At the beginning of the regular meeting agenda, an opportunity is also provided for the public to speak on any subject within the Board's subject matter jurisdiction. Speakers will be limited to three (3) minutes each.

COMMENDATION/PROCLAMATIONS

The Board of Directors will recognize Assemblywoman Sally J. Lieber for her dedication and commitment to achieving clean air in the bay area.

CONSENT CALENDAR (ITEMS 1 – 6)

Staff/Phone (415) 749-

- Minutes of October 20, 2004
M. Romaidis/4965
mromaidis@baaqmd.gov
- Communications
Information only
J. Broadbent/5052
jbroadbent@baaqmd.gov
- Report of the Advisory Council
E. Blake/4962
eblake@igc.org
- Consider Approval of Resolution Adjusting the District's Maximum Medical Contribution Declared to California Public Employees Retirement System (CalPERS)
J. Broadbent/5052
jbroadbent@baaqmd.gov

The Board of Directors will consider approval of a resolution adjusting the District's maximum medical contribution declared to CalPERS for management, confidential, represented, and miscellaneous employees and retirees

- Out of State Business Travel
J. Broadbent/5052
jbroadbent@baaqmd.gov

6. Set Public Hearing for December 15, 2004, to Consider Amendments to District Regulation 2: Permits, Rule 1: General Requirements, Rule 2: New Source Review, and Rule 4: Emissions Banking; and Approval of a Notice of Exemption pursuant to the California Environmental Quality Act

B. Bateman/4653

bbateman@baaqmd.gov

The primary purpose of these amendments is to conform to changes in State regulations that lower the emissions threshold at which facilities must offset emission increases from new and modified sources. A number of other miscellaneous amendments to permit requirements have also been proposed.

COMMITTEE REPORTS AND RECOMMENDATIONS

7. Report of the **Public Outreach Committee** Meeting of November 8, 2004

CHAIR: M. ROSS

J. Broadbent/5052

jbroadbent@baaqmd.gov

8. Report of the **Stationary Source Committee** Meeting of November 22, 2004

CHAIR: M. DESAULNIER

J. Broadbent/5052

jbroadbent@baaqmd.gov

9. Report of the **Nominating Committee** Meeting of November 22, 2004

CHAIR: S. HAGGERTY

J. Broadbent/5052

jbroadbent@baaqmd.gov

Action: The Committee recommends Board of Director approval of Board Officers for the 2005 term of office.

OTHER BUSINESS

10. Consider Approval of Memorandum of Understanding (MOU) Extension between the Air District and Bay Area Air Quality Management District Employees' Association, Inc.

J. Broadbent/5052

jbroadbent@baaqmd.gov

The Memorandum of Understanding contract approved by the Board May 15, 2002, provides annual salary and benefits adjustments for union-represented employees. The Board of Directors will consider approval of MOU extension to June 30, 2010.

11. Report of the Executive Officer/APCO

12. Chairperson's Report

13. Board Members' Comments

Any member of the Board, or its staff, on his or her own initiative or in response to questions posed by the public, may: ask a question for clarification, make a brief announcement or report on his or her own activities, provide a reference to staff regarding factual information, request staff to report back at a subsequent meeting concerning any matter or take action to direct staff to place a matter of business on a future agenda. (Gov't Code § 54954.2)

14. Adjourn to Retreat

15. **9:45 A.M. - RETREAT**

Opening Comments

Chairperson, Haggerty

- Air District Accomplishments in Review
- Current District Operations
- Board of Director/Staff Communication
- Future Efforts/Challenges
- Open Discussion

Jack P. Broadbent

Place of Next Meeting - **1:30 p.m.**, Wednesday, **December 15, 2004** -939 Ellis Street,
San Francisco, CA 94109

Adjournment

CONTACT CLERK OF THE BOARD - 939 ELLIS STREET SF, CA 94109

(415) 749-4965
FAX: (415) 928-8560
BAAQMD homepage:
www.baaqmd.gov

- To submit written comments on an agenda item in advance of the meeting.
- To request, in advance of the meeting, to be placed on the list to testify on an agenda item.
- To request special accommodations for those persons with disabilities. Notification to the Clerk's Office should be given at least 3 working days prior to the date of the meeting so that arrangements can be made accordingly.

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 22, 2004

Re: Board of Directors' Draft Meeting Minutes

RECOMMENDED ACTION:

Approve attached draft minutes of the Board of Directors meeting of October 20, 2004.

DISCUSSION

Attached for your review and approval are the draft minutes of the October 20, 2004 Board of Directors' meeting.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
939 ELLIS STREET – SAN FRANCISCO, CA 94109

Draft Minutes: Board of Directors Regular Meeting – October 20, 2004

Call To Order

Opening Comments: Chairperson Scott Haggerty called the meeting to order at 9:46 a.m.

Roll Call: Present: Scott Haggerty, Chair, Harold Brown, Chris Daly (9:58 a.m.), Mark DeSaulnier, Dan Dunnigan, Erin Garner (9:55 a.m.), Jerry Hill, Patrick Kwok, Nate Miley, Julia Miller, Mark Ross, John Silva, Tim Smith, Pam Torliatt (10:05 a.m.), Marland Townsend, Gayle Uilkema, Brad Wagenknecht, Shelia Young.

Absent: Roberta Cooper, Erling Horn, Liz Kniss, Jake McGoldrick.

Pledge of Allegiance: Jack Broadbent, Executive Officer/APCO, led the Board in the Pledge of Allegiance.

Commendations/Proclamations: There were none.

Chairperson Haggerty announced the November 3rd Board meeting is cancelled; the next Board meeting will be November 17th; and the December 1st Board meeting will be a Retreat at the Waterfront Plaza Hotel in Oakland. Chairperson Haggerty announced the members of the 2005 Nominating Committee as follows: Directors Miller, Smith, Silva and Hill. The Committee members will be notified when a meeting is scheduled.

Chairperson Haggerty deferred appointing members the Joint Policy Committee (JPC) until after a meeting on Friday in which there will be discussion in reference to Committee make up. The meeting will start at 9:00 a.m. at the Metropolitan Transportation Commission (MTC) headquarters and any Board member interested in serving on the JPC are invited to attend Friday's meeting.

Director Uilkema noted that there is a California State Association of Counties (CSAC) meeting the week of November 15th.

Public Comment Period: There were none.

Consent Calendar (Items 1 – 8)

1. Minutes of September 15, 2004
2. Communications. Correspondence addressed to the Board of Directors
3. Report of the Advisory Council. There was no report.

4. Quarterly Report of the Clerk of the Boards
5. Quarterly Report of Air Resources Board Representative, Honorable Mark DeSaulnier
6. Consider Approval of the Establishment of a New Classification of Executive Office Manager

The Board of Directors considered approval of the establishment of a new classification of Executive Office Manager at salary Range 133. This is a one-incumbent classification that would incorporate the current duties of Executive Secretary, Mary Ann Goodley.

7. Approval of Proposed Amendments to Administrative Code Division II, Section 3.6(c) Administrative Policies and Purchasing Procedures

The amendment allows the Executive Officer/APCO to approve refunds in excess of \$50,000. Each refund in excess of \$50,000 will be reported to the Board of Directors under the Consent Calendar.

8. Notice of 3rd Salary Advance

In accordance with Memorandum of Understanding, Section 7.12, requiring Board of Director notification of salary advances, the Executive Officer/APCO approved a 3rd salary advance for L'Tanya Lee for calendar year 2004.

Board Action: Director Brown moved approval of Consent Calendar Items 1 through 8; seconded by Director Miller; carried unanimously by acclamation.

Committee Reports and Recommendations

9. Report of the Stationary Source Committee Meeting of September 27, 2004

Action(s): The Committee recommended Board of Director approval of procedure to provide advance notification to the Board of Directors of permit applications for proposed new and modified permits that are to undergo public notice.

Director DeSaulnier presented the report and stated that the Committee met on Monday, September 27, 2004. Staff provided a report on the Air District's Community Air Risk Evaluation (CARE) program and reviewed the program and technical goals. Staff reviewed the background of the Air District's monitoring program; discussed successful risk reduction measures; and reviewed the District's toxic programs. The CARE program elements are: public outreach, a technical foundation, additional air monitoring, risk assessment, targeted action plans, and a legislative and regulatory agenda. An Advisory Committee will review the data that are gathered. The Committee requested staff provide a list of the possible members of the Advisory Committee before it is made final.

Staff provided a summary of the proposed revisions to the District's permit regulations and noted that larger facilities provide their own offsets and the District uses a Small Facility Bank (SFB) to provide offsets for smaller facilities.

Director Erin Garner arrived at 9:55 a.m.

Staff reviewed the upcoming lower CARB-required threshold for offsets (from 15 tons per year facilities down to 10 tons per year facilities) and proposed changes to the thresholds for facilities that may obtain offsets from the SFB (from a range of 15 to 50 tons per year facilities down to a range of 10 to 35 tons per year facilities). The four categories of miscellaneous revisions include an obligation to obtain a permit for all crematories, a provision to extend the term of authorities to construct, clarification of requirements for submittal of trade secrets, and a provision for certification of compliance with an authority to construct. There was a workshop on October 12th and staff intends to bring the revisions to the Board for approval in December 2004. The emission reductions from the revisions are approximately 20 tons per year. Staff was requested to provide a list to the Committee members of the plants affected by lowering the SFB eligibility.

Staff presented, and the Committee recommended that the Board approve the proposed procedures to notify the Board members of permit actions requiring public notice. The next meeting of the Committee is scheduled for Monday, November 22, 2004.

Board Action: Director DeSaulnier moved that the Board approve the report and recommendations of the Stationary Source Committee; seconded by Director Silva; carried unanimously without objection.

10. Report of the Executive Committee Meeting of September 29, 2004

Action(s): The Committee recommended Board of Director approval of the following items:

- A) Air District participation in the Hydrogen Highway Blueprint planning process;*
- B) Air District participation in the California Stationary Fuel Cell Collaborative;*
- C) Allocation of \$38,400 in Diesel Back-up Generator Mitigation funds for the demonstration of a hydrogen fuel cell light duty vehicle.*

Chairperson Haggerty presented the report and stated that the Committee met on Wednesday, September 29, 2004 and received and filed the Report of the Hearing Board.

Elinor Blake, Chairperson of the Advisory Council, presented the Report of the Advisory Council. Recommendations from the Council regarding the District's 2004 Ozone Control Strategy, indoor air quality, and the proposed elimination of the California Air Resources Board by the Governor's California Performance Review were presented to the Committee.

Staff presented a status report on the Bay Area 2004 Ozone Strategy and reviewed the following:

- The control strategy, including the draft Control and Further Study Measures.
- The public outreach, including the community meetings planned for 2004.
- Ozone modeling.
- The schedule, which includes releasing the draft 2004 Ozone Strategy and EIR for public review and comment in November 2004 and bringing the final documents before the Board for hearing and adoption in early 2005.

Staff presented information to the Committee pertaining to a District-sponsored Hydrogen Fuel Cell Conference held in July 2004. The Committee recommends the Board approve the following:

- 1) The District's continued participation in the Hydrogen Highway Blueprint planning process.
- 2) The District's participation in the California Stationary Fuel Collaborative.
- 3) An allocation of \$38,400 in Diesel Back-up Generator Mitigation funds to participate with DaimlerChrysler in demonstrating a light duty fuel cell vehicle.

Director Chris Daly arrived at 9:58 a.m.

The Committee requested staff provide additional information on the request for the District to join the California Fuel Cell Partnership before allocating \$90,000 from Program 104 to cover dues for one year.

Staff provided a summary of an upcoming conference on goods movement in Northern California. The conference will be held on December 8th and 9th at the Oakland Marriott City Center and Convention Center. Staff presented an update on the District's production system for IRIS/Databank Replacement.

The Committee met in Closed Session and direction was given to the Executive Officer to continue discussions with the Employees' Association.

Chairperson Haggerty stated that he had requested any Board member interested in being on the Nominating Committee or the Joint Policy Committee to contact him. The next meeting of the Executive Committee is scheduled for 9:45 a.m., Monday, November 29, 2004.

Board Action: Director Haggerty moved that the Board approve the report and recommendations of the Executive Committee; seconded by Director Miller; carried unanimously without objection.

11. Report of the Budget and Finance Committee Meeting of September 30, 2004

Action(s): The Committee referred to the Board of Directors, staff's request to approve a contract with Stonefield Josephson, Inc. for \$180,000 to conduct a Cost Recovery Study for the District.

Director Miller presented the report and stated that the Committee met on Thursday, September 30, 2004 but lacked a quorum to take action on agenda items. Staff presented the fourth quarter financial report for fiscal year 2003/2004.

Staff presented a report on the selection of a contractor to perform the Cost Recovery Study. Staff reviewed the objectives, the members of the Steering Committee, tasks that have been completed, and the tentative schedule for completion of the Study. Staff recommends, and the Committee concurs, that the Board approve a contract with Stonefield Josephson, Inc. to complete the 2005 Cost Recovery Study.

Director Miller stated that the October 27th meeting of the Committee is cancelled and the next meeting will be in November.

Board Action: Director Miller moved the Board approve the report of the Budget and Finance Committee; seconded by Director Kwok; carried unanimously without objection.

12. Report of the Legislative Committee Meeting of October 13, 2004

Action(s): The Committee recommended that the Board of Directors adopt a \$2 Motor Vehicle Registration Fee Increase, as Authorized by AB 923 (Firebaugh);

The Committee discussed the issue of adopting a position on the local transportation sales tax measures on the November 2nd ballot; this item was moved to the full Board without recommendation for further discussion.

Director Wagenknecht recognized the efforts of Thomas Addison, Advanced Projects Advisor, for the work he has done to help the Air District have a successful legislative year, in particular his efforts with respect to AB 2683 (Lieber).

Director Wagenknecht presented the report and stated that the Committee met on Wednesday, October 13, 2004 and staff provided a summary of the 2004 legislative year. The 18 bills the District took positions on are in the Board packet.

Staff discussed AB 923 (Firebaugh), which authorizes local Air Districts to increase local registration fee surcharges for clean air from \$4 to \$6, and imposes a state tire fee for clean air. The Committee recommends the Board adopt a \$2 motor vehicle registration fee increase for clean air, as authorized by AB 923 (Firebaugh).

The Committee discussed and considered five Bay Area county sales tax transportation ballot measures. A majority of the Committee determined the issue should be forwarded to the full Board for further discussion without a recommendation.

Staff presented several ideas for consideration for the Air District's 2005 legislative agenda. The Committee provided input and staff will develop the proposals and will bring them back to the Committee at its next meeting.

Staff presented a summary of the California Performance Review, specifically on the elimination of the Air Resources Board and the issue of streamlining petroleum infrastructure permitting. The District's position on these two issues was addressed in a letter to the Governor. The next Committee meeting will be at the Call of the Chair.

Board Action: Director Wagenknecht moved the Board adopt a \$2 motor vehicle registration fee increase, as authorized by AB 923 (Firebaugh); seconded by Director Daly.

Director Pam Torliatt arrived at 10:05 a.m.

In response to a question from Director Townsend, Mr. Addison clarified that several bills were combined which ultimately became part of AB 923. The motion passed on the following roll call vote:

AYES: Brown, Daly, DeSaulnier, Dunnigan, Garner, Hill, Kwok, Miley, Miller, Ross,

Smith, Torliatt, Townsend, Wagenknecht, Young, Haggerty.

NOES: Silva, Uilkema.

ABSENT: Cooper, Horn, Kniss, McGoldrick.

There was discussion on the issue of the Board adopting a position on the local transportation sales tax measures.

Board Action: Director Wagenknecht moved that the Board not address the tax measures; seconded by Director Townsend.

Speaker: Lewis Lem, Ph.D.
Transportation Policy Manager
American Automobile Association of Northern California
San Francisco, CA 94102

The motion then passed unanimously without objection.

There was considerable discussion by the Board on the pros and cons of taking positions on the county tax measures. Chairperson Haggerty recommended that, in the future, the Board and staff become more actively engaged as these measures are being crafted so that the District could speak as an advocate while the measures are being put together.

13. Report of the Mobile Source Committee Meeting of October 14, 2004

Action(s): The Committee recommended approval of the following:

- A) Contractor selection for the expansion of the Vehicle Buy Back Program;*
- B) Transportation Fund for Clean Air Regional Fund grant awards for fiscal year 2004-2005;*
- C) Report on the audit of the Transportation Fund for Clean Air County Program Manager Fund;*
- D) Amendment to the Contra Costa County Program Manager Transportation Fund for Clean Air expenditure program for fiscal year 2004-2005;*
- E) Amendment to the Santa Clara County Program Manager Transportation Fund for Clean Air expenditure program for fiscal year 2004-2005; and*
- F) Amendments to the Solano County Program Manager Transportation Fund for Clean Air expenditure program for fiscal year 2004-2005.*

Director Young presented the report and stated that the Committee met on Thursday, October 14, 2004. Staff presented a report on the vehicle scrapping contractor selection for the Vehicle Buy Back (VBB) Program. The Committee recommends the Board:

1. Approve Environmental Engineering Studies, Inc., Pick-N-Pull, and Pick Your Part as the vehicle scrapping contractors for the fiscal year (FY) 2004/2005 VBB Program;
2. Authorize the Executive Officer/APCO to execute contracts to provide vehicle scrapping and related services for up to: \$1,250,000 with Environmental Engineering Studies, Inc.; \$1,000,000 with Pick-N-Pull; and \$1,250,000 with Pick Your Part;

3. Authorize the Executive Officer/APCO to amend the existing FY2003/2004 VBB Program contracts to pay \$650 per vehicle and increase the eligible vehicle model year to 1985 and older.

Staff presented a report on the Transportation Fund for Clean Air (TFCA) Regional Fund grant awards for FY 2004/2005. The District received 66 grant applications totaling \$17.3 million in funding requests. There is \$10.5 million available for allocation to qualified projects. Staff indicated that two projects not being recommended for funding, sponsored by the San Francisco and Oakland International Airports, respectively, would be further reviewed, and the results of this process would be presented during the next Committee meeting. Director Miller requested that Project # 04R48, sponsored by the City of Sunnyvale, be taken off the list of recommended projects for further review by staff. After considerable discussion, the Committee bifurcated this issue to two items and recommends the Board approve (1) Staff's recommendations for FY 2004/2005 TFCA Regional Fund grant awards as presented, totaling \$8.9 million (including the Regional Rideshare Program), minus Project # 04R48; and (2) staff's recommendation to allocate \$1.5 million in TFCA Regional Funds to provide incentives for surplus emissions reduction from refuse truck fleets.

Staff presented the results of the Transportation Fund for Clean Air County Program Manager Audit report, and discussed the auditor's findings and recommendations as well as the actions to be taken. The Committee received and filed the results of the TFCA Audit Report # 7, an audit of the County Program Managers, including the auditor's findings and recommendations for actions to address financial and administrative issues.

Staff presented reports on the allocation of additional funds for new projects under the County Program Manager Fund, and the Committee recommends the Board approve the following:

1. An amendment to Contra Costa County Transportation Fund for Clean Air Expenditure Program for FY 2004/2005:
 - Approve allocation of \$119,508 in TFCA Program Manager funds for two additional projects: (1) City of Martinez: Class 1 Bicycle Path – San Francisco Bay Train, Phase II; and (2) Contra Costa County General Services Department: CNG Direct Line Fast Fill Fueling Station.
2. An amendment to Santa Clara County Transportation Fund for Clean Air Expenditure Program for FY 2004/2005:
 - Approve allocation of \$329,397 in TFCA Program Manager funds for one additional project: (1) City of San Jose: Bascom Avenue Transit Signal Priority Project.
3. An amendment to Solano County Transportation Fund for Clean Air Expenditure Program for FY 2004/2005:
 - Approve allocation of \$82,000 for two additional projects: (1) City of Suisun City: Central County Bikeway Gap Closure; and (2) Solano County Fleet Operations Division: Electric Vehicle Public Charging Station.

The November 11, 2004 meeting of the Committee is cancelled due to the holiday. The next meeting of the Committee is scheduled for 9:30 a.m., Monday, December 6, 2004.

Board Action: Director Young moved that the Board approve recommendations A, C, D, E and F as stated on the agenda; seconded by Director Smith; carried unanimously without objection.

There was discussion on the allocation of the \$1.5 million to provide incentives for surplus emissions reduction from refuse truck fleets. Peter Hess, Deputy APCO, stated that because of the California Air Resources Board (CARB) regulation and the time limit to retrofit these trucks, if applications were open to all fleets, more time would be needed and this window would be missed. Mr. Hess noted additional funds will be coming in and the process would then be opened up to all cities and counties at that time.

Board Action: Director Young moved that the Board approve the Transportation Fund for Clean Air Regional fund grant awards for fiscal year 2004-2005; seconded by Director Uilkema; carried on the following roll call:

AYES: Brown, Daly, DeSaulnier, Dunnigan, Garner, Hill, Kwok, Miley, Miller, Ross, Silva, Smith, Townsend, Uilkema, Wagenknecht, Young, Haggerty.

NOES: Torliatt.

ABSENT: Cooper, Horn, Kniss, McGoldrick.

Presentation

14. Summary of 2004 Ozone Season

Staff provided a summary of the 2004 Ozone Season, and the Bay Area's attainment status with respect to the National one-hour and 8-hour ozone standards.

Chairperson Haggerty stated that during the summer months there were no exceedances of the federal eight-hour or one-hour standards.

Gary Kendall, Director of Technical Services, presented the report and reviewed the following: 1) 2004 ozone exceedances through October 19th; 2) the locations of the state one-hour ozone exceedances for 2004, which may have been a result of the Rumsey fire; 3) Bay Area ozone exceedance days by year from 2000 through 2004; 4) the number of days and the stations where the one-hour national ozone standard was exceeded; and 5) the 3-year average of the 4th highest 8-hour ozone reading in parts per billion (ppb).

Mr. Kendall noted that attainment of the federal one-hour standard will continue if there are less than three exceedances at Livermore in 2005. In addition, attainment of the federal eight-hour standard will continue if the 4th highest ozone reading is less than 94 ppb at Livermore and less than 97 ppb at San Martin in 2005.

Mr. Kendall reviewed the 2004 ozone exceedances in major California air basins and the Bay Area ozone precursor emission trends. Director Townsend requested the presentation be sent to the Board members. Mr. Broadbent stated that the District intends to put out a press release announcing this has been the cleanest year in the Bay Area.

Board Action: None. This report provided for information only.

15. Report on Air District's Enhanced Outreach for 2004 Ozone Strategy

Staff gave the Board a presentation on the Air District's enhanced outreach efforts for the 2004 Ozone Strategy.

Jean Roggenkamp, Director of Planning and Research, presented the report and stated that the 2004 Ozone Strategy addresses the State and national ozone planning requirements. Ms. Roggenkamp reviewed the public outreach that has been done since March 2003, the community meetings held in September 2003, and the community meetings held in September and October of 2004.

Ms. Roggenkamp reported that the next steps include consideration of the public comments, completion of the Draft 2004 Ozone Strategy and draft EIR, releasing the document(s) for public review and comment, and conducting additional public outreach.

Board Action: None. This report provided for information only.

Other Business

16. Report of the Executive Officer/APCO – Mr. Broadbent stated he had nothing to report.

17. Chairperson's Report:

- A) Joint Policy Committee Appointments*
- B) Nominating Committee Appointments*

Chairperson Haggerty noted the two items were handled at the beginning of the meeting.

Closed Session (The Board adjourned to Closed Session at 11:03 a.m.)

18. Conference with District's Labor Negotiators
(Government Code § 54957.6(a))

*Agency Negotiators: Jack P. Broadbent, Executive Officer/APCO
Michael Rich, Human Resources Officer*

*Employee Organization: Bay Area Air Quality Management District Employees'
Association, Inc.*

Open Session (The Board reconvened to Open Session at 11:07 a.m.)

Brian Bunker, Legal Counsel, reported that action was taken and the Board provided general direction to the Executive Officer on Agenda Item 18.

19. Board Members' Comments – There were none.

20. Time and Place of Next Meeting - 9:45 a.m., Wednesday, November 17, 2004, 939 Ellis Street, San Francisco, California.

21. Adjournment: The meeting was adjourned at 11:08 a.m.

Mary Romaidis
Clerk of the Boards

BAY AREA AIR QUALITY MANGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack Broadbent
Executive Officer/APCO

Date: November 22, 2004

Re: Consider Adjusting the District’s Maximum Medical Contribution
Declared to California Public Employees’ Retirement System
(CalPERS)

RECOMMENDATION

Approve the attached resolution adjusting the District’s Maximum Medical Contribution declared to CalPERS for management, confidential, represented, and miscellaneous employees and retirees.

BACKGROUND

Pursuant to MOU, Article XI, Section 11.07, the fringe benefit allowance for represented employees equals the total of the lowest health plan premium rate for an employee and two or more dependants offered by CalPERS, and the dental plan and vision plan premium rates for an employee plus dependents. The Board adopted the same formula for management and confidential employees.

CalPERS requires the District to declare a maximum employer contribution for employee and retiree medical insurance. The fringe benefit allowance amounts vary for different employment categories of active employees and retirees based on a formula that includes the lowest health premium rates offered by CalPERS for an employee and two or more dependants. The same formula applies to employees and retirees in the management category, plus an additional \$50.00. For miscellaneous employees (i.e., temporary employees working more than 1,000 hours), the District contributes the minimum amount required by CalPERS. The new CalPERS health plan premium rates become effective January 1, 2005 and reflect an approximate 15% increase in premiums. The District’s medical premium contributions will be adjusted accordingly, as follows:

<u>Category</u>	<u>Current Contribution</u>	<u>Contribution Effective 1/1/05</u>
Management	\$844.09	\$972.19
Non Management	\$794.09	\$922.19
Confidential	\$794.09	\$922.19
Miscellaneous Unrepresented	\$32.20	\$48.40

BUDGET CONSIDERATION/FINANCIAL IMPACT

There is no additional fiscal impact beyond that contemplated in the current budget approved for FY 2004-2005.

Respectfully Submitted,

Jack Broadbent
Executive Officer/APCO

Prepared by: Michael Rich
Reviewed by: Wayne Tanaka

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Resolution No. 2004-___

A Resolution to Fix the District's Contribution Under the Public Employees' Medical and Hospital Care Act

WHEREAS, Government Code Section 22892(a) provides that a local agency contracting under the Public Employees' Medical and Hospital Care Act shall fix the amount of the employer's contribution at an amount not less than the amount required under Section 22892(b)(1) of the Act, and

WHEREAS, the Bay Area Air Quality Management District is a local agency contracting under the Act;

NOW, THEREFORE, BE IT RESOLVED, that the employer's contribution for each employee or annuitant shall be the amount necessary to pay the full cost of his/her enrollment, including the enrollment of family members, in a health benefits plan up to a maximum of:

<u>Code</u>	<u>Bargaining (Representation) Unit</u>	<u>Contribution Per Month</u>
004	Management	\$972.19
010	Non Management	\$922.19
011	Confidential	\$922.19
005	Miscellaneous Unrepresented	\$ 48.40

Plus administrative fees and Contingency Fund assessments.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director _____, seconded by Director _____, on the _____ day of _____ 2004 by the following vote of the Board:

AYES:

NOES:

ABSENT:

ATTEST:

SCOTT HAGGERTY
Chairperson of the Board of Directors

GAYLE B. UILKEMA
Secretary of the Board of Directors

BAY AREA AIR QUALITY MANGEMENT DISTRICT

Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 17, 2004

Re: District Personnel on Out-of-State Business Travel

RECOMMENDED ACTION:

Receive and file.

BACKGROUND

It is the District's policy to report all out-of-state travel to the Board of Directors.

DISCUSSION

Janet Stromberg, Principal Air Quality Engineer, Engineering Division, attended the STAPPA/ALAPCO Permitting Workshop held in Kansas City, MO, on September 27-29, 2004.

Neel Advani, Deputy Clerk of the Boards, attended the 2004 National Association of Hearing Officials held in Fort Worth, TX on October 16-20, 2004.

Peter Hess, Deputy Air Pollution Control Officer, attended the STAPPA/ALAPCO Fall Membership Meeting held in Coeur d'Alene, ID on October 23-27, 2004.

Jack P. Broadbent, Executive Officer/APCO, participated in a trade mission to Tokyo, Japan, November 9 – 12, 2004. This trade mission was an effort to build a partnership with the Toyota Motor Corporation headquartered in Japan and to ensure long-term viability of the New United Motor Manufacturing Inc., (NUMMI) facility located in Fremont.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 24, 2004

Re: Set Public Hearing on Proposed Amendments to Regulation 2: Permits,
Rule 1: General Requirements, Rule 2: New Source Review, and Rule 4:
Emissions Banking

RECOMMENDED ACTION:

Set a public hearing for December 15, 2004 to consider proposed amendments to Regulation 2: Permits, Rule 1: General Requirements, Rule 2: New Source Review, and Rule 4: Emissions Banking; and Approval of a Notice of Exemption pursuant to the California Environmental Quality Act.

DISCUSSION

The proposed changes to Regulation 2, Rule 2: New Source Review, are required to conform to the California Air Resources Board's Transport Mitigation Requirements found in the California Code of Regulations §70600, subd. (b)(2). Currently under Reg 2-2, offsets must be provided for new and modified sources at facilities with emissions greater than 15 tons/year (TPY) of precursor organic compounds or nitrogen oxides. Offsets are provided by the District for small facilities (emissions less than 50 TPY). The proposed amendments lower the threshold for offsets to 10 TPY, and for District provision of offsets to 35 TPY. The proposed amendments to Regulation 2, Rule 4: Emissions Banking reflect the changes to Regulation 2, Rule 2.

The proposed amendments to Regulation 2: Permits, Rule 1: General Requirements, require all crematories to get permits, require operators to countersign permits, require equipment to be built in accordance with an Authority to Construct, clarify requirements for submitting trade secret information, and make minor changes and clarifications in the permitting requirements for some equipment.

The proposed amendments have been discussed with affected parties and a public workshop was held at the District office on October 12, 2004. The proposed amendments to Regulation 2, Rules 1, 2, and 4; and a staff report, are available on the web at www.baaqmd.gov/pln/ruledev/regulatory_public_hearings.asp.

BUDGET CONSIDERATION/FINANCIAL IMPACTS

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer / Air Pollution Control Officer

Prepared by: Daniel Belik
Approved by: Jean Roggenkamp

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Haggerty and Members
of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 23, 2004

Re: Report of the Stationary Committee Meeting of November, 22, 2004

RECOMMENDED ACTION

Receive and file.

BACKGROUND

The Stationary Source Committee met on November 22, 2004. Staff reported on the following items:

- A) Implementation of the District's flare monitoring rule, flare emissions, and flare control rule development progress, and;
- B) Expected rule development efforts for 2005.

Attached are the staff reports presented to the Committee for your review.

Chairperson DeSaulnier will give an oral report of the meeting.

BUDGET CONSIDERATION/FINANCIAL IMPACT

None.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

Prepared by: Daniel Belik

BAY AREA AIR QUALITY MANAGEMENT DISTRICT
Memorandum

To: Chairperson Scott Haggerty and
Members of the Board of Directors

From: Jack P. Broadbent
Executive Officer/APCO

Date: November 22, 2004

Re: Report of the Nominating Committee Meeting of November 22, 2004

RECOMMENDED ACTION:

Approve Committee recommendation of Board Officers for the 2005 term of office.

DISCUSSION

The Committee met on November 22, 2004. The Committee recommends Marland Townsend as Chairperson, Gayle Uilkema as Vice Chairperson, and Mark Ross as Secretary.

The new officer selections of the Board become effective in January 2005.

Respectfully submitted,

Jack P. Broadbent
Executive Officer/APCO

BAY AREA AIR QUALITY MANGEMENT DISTRICT
 Memorandum

To: Chairperson Haggerty and Members
 of the Board of Directors

From: Jack Broadbent
 Executive Officer/APCO

Date: November 19, 2004

Re: Consider Extending the Current Memorandum of Understanding
 between the Bay Area Air Quality Management District and Bay
Area Air Quality Management District Employees' Association

RECOMMENDATION

Approve extension of the current Memorandum of Understanding (MOU) between the Bay Area Air Quality Management District and Bay Area Air Quality Management District Employees' Association with no change in terms and conditions of employment except for salary increases and the term of the Agreement.

BACKGROUND

On October 20, 2004, the Board of Directors directed the District's negotiators to meet and confer with the Employees' Association and set negotiating authority relative to the length of the extension and salary increases. The MOU is currently set to expire on June 30, 2006, with salary increases equal to annual CPI-W for the Bay Area to be effective on July 1 of each year of the agreement. The District's negotiators reached tentative agreement with the Employees' Association to extend the MOU through June 30, 2010. Salary increases for the years of the extension will be effective on July 1 and will be equal to the annual CPI-W for the Bay Area, except that the amount of those increases shall be not less than 2% and not more than 5%. The members of the Employees Association are in the process of voting on the tentative agreement and the results will be known prior to the date this agenda item will be considered by the Board of Directors.

BUDGET CONSIDERATION/FINANCIAL IMPACT

There are no fiscal impacts through June 30, 2006 that were not contemplated and approved by the Board of Directors when the current MOU was approved in May of 2002. Salary increases for each fiscal year will be budgeted for that fiscal year in the ordinary course of the District's budget process. The minimum and maximum placed on the amount of the salary increases for fiscal years after June 30, 2006 will provide more certainty as to the amount of the increases for those years. The following chart shows the cost of salary increases in the range of 2% to 5% for all District employees based on current payroll, including salary-driven benefits such as retirement contributions. Future increases would be more due to a higher base payroll.

2%	3%	4%	5%
\$601,920	\$902,880	\$1,203,840	\$1,504,800

In addition, extending the current MOU beyond June 30, 2006 will extend current fringe benefits that increase according to factors including insurance premium increases and the CPI, the amount of which are not known at this time.

Respectfully Submitted,

Jack Broadbent
Executive Officer/APCO

Prepared by: Michael Rich
Reviewed by: Wayne Tanaka

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Resolution No. 2004-___

**A Resolution to Extend the Current Memorandum of Understanding Between
the District and the Bay Area Air Quality Management District
Employees' Association**

WHEREAS, the current Memorandum of Understanding (MOU) between the Bay Area Air Quality Management District ("District") and the Bay Area Air Quality Management District Employees' Association ("Association") representing the Technical/General representation group and the Professional representation group (collectively, the "Representation Groups") was approved by the Board on May 12, 2002, by Resolution No. 2002-05, said MOU having an expiration date of June 30, 2006; and

WHEREAS, representatives of the District, as authorized by this Board, have met and conferred in good faith with representatives of the Association regarding wages, hours, fringe benefits, and other terms and conditions of employment for the Representation Groups; and

WHEREAS, the District and Association negotiators reached a Tentative Agreement to extend the current Memorandum of Understanding through June 30, 2010; and

WHEREAS, the salary increases for Fiscal Years 2006-2007, 2007-2008, 2008-2009, 2009-2010 shall be equal to the annual CPI-W for the Bay Area, except that the amount of each increase shall be not less than 2% and not more than 5%; and

WHEREAS, the attached MOU reflects the changes agreed to by the District and the Association, including changes agreed to pursuant to interim bargaining that have already been approved by the Board of Directors; and

WHEREAS, the Tentative Agreement as reflected in the attached MOU has been duly ratified by the membership of the Association;

NOW, THEREFORE, BE IT RESOLVED that the attached extended Memorandum of Understanding between the District and the Association be, and is, hereby approved.

The foregoing resolution was duly and regularly introduced, passed and adopted at a regular meeting of the Board of Directors of the Bay Area Air Quality Management District on the Motion of Director _____, seconded by Director _____, on the _____ day of _____ 2004 by the following vote of the Board:

AYES:

NOES:

ABSENT:

ATTEST:

SCOTT HAGGERTY
Chairperson of the Board of Directors

GAYLE B. UILKEMA
Secretary of the Board of Directors

MEMORANDUM OF UNDERSTANDING

Between

Bay Area Air Quality Management District

And

Bay Area Air Quality Management District
Employees' Association, Inc.

June 7, 2000 to June 30, ~~2006~~ **2010**
(Adopted May 15, 2002)
(Amended _____)

TABLE OF CONTENTS

ARTICLE I	PARTIES	1
SECTION 1.01	DESIGNATION	1
SECTION 1.02	NOTIFICATION	1
ARTICLE II	RECOGNITION, COVERAGE AND EXCLUSIVE REPRESENTATION	2
SECTION 2.01	RECOGNITION	2
SECTION 2.02	COVERAGE OF EMPLOYEES	2
SECTION 2.03	EXCLUSIVE REPRESENTATION BY THE ASSOCIATION	2
SECTION 2.04	AGENCY SHOP / MAINTENANCE OF MEMBERSHIP	2
SECTION 2.05	RELIGIOUS EXEMPTION.....	2
SECTION 2.06	DUES/FEES DEDUCTIONS	3
SECTION 2.07	INDEMNIFICATION.....	3
ARTICLE III	RIGHTS AND OBLIGATIONS	4
SECTION 3.01	EQUAL EMPLOYMENT OPPORTUNITY POLICY	4
SECTION 3.02	EMPLOYEE RIGHTS.....	4
SECTION 3.03	PHYSICAL EXAMINATION.....	4
SECTION 3.04	SEXUAL HARASSMENT AND OTHER UNACCEPTABLE CONDUCT.....	5
SECTION 3.05	EMPLOYEES' TIME OFF TO VOTE.....	5
SECTION 3.06	DRUG-FREE WORKPLACE	5
SECTION 3.07	SAFETY	5
SECTION 3.08	WORKPLACE VIOLENCE.....	5
SECTION 3.09	SMOKE-FREE WORK SITE.....	5
SECTION 3.10	ASSOCIATION RIGHTS.....	5
SECTION 3.11	MANAGEMENT RIGHTS	6
ARTICLE IV	GRIEVANCE PROCEDURE	6
SECTION 4.01	DEFINITION OF A GRIEVANCE	6
SECTION 4.02	ASSOCIATION AS THE GRIEVANT	6
SECTION 4.03	TIME LIMITS	7
SECTION 4.04	REPRESENTATION.....	7
SECTION 4.05	PROCEDURE.....	7
SECTION 4.06	DISCIPLINARY DISPUTES	8
SECTION 4.07	MOU DISPUTES.....	8
SECTION 4.08	REQUEST FOR ARBITRATION.....	8
SECTION 4.09	SELECTION OF AN ARBITRATOR.....	8
SECTION 4.10	DECISION OF THE ARBITRATOR.....	9
SECTION 4.11	FEES AND EXPENSES.....	9
SECTION 4.12	LIMITATIONS ON ARBITRATOR'S AUTHORITY AND JURISDICTION.....	9
ARTICLE V	DISCIPLINARY PROCEDURE	9
SECTION 5.01	PROGRESSIVE DISCIPLINE	9
SECTION 5.02	GROUND FOR DISCIPLINE.....	10
SECTION 5.03	REPRIMANDS.....	10
SECTION 5.04	WARNING AND ONE-DAY SUSPENSION.....	11
SECTION 5.05	EXTENDED SUSPENSION	12
SECTION 5.06	DISMISSAL	12
ARTICLE VI	CLASSIFICATION STUDIES.....	13

ARTICLE VII	SALARIES.....	14
SECTION 7.01	SALARIES	14
SECTION 7.02	SALARY STEPS	15
SECTION 7.03	STEP INCREASES	16
SECTION 7.04	DETERMINATION OF SALARY RATES	16
SECTION 7.05	Y-RATING	17
SECTION 7.06	DIFFERENTIAL PAY	17
SECTION 7.07	SHIFT DIFFERENTIAL PAY	17
SECTION 7.08	STANDBY DUTY/CALL BACK	17
SECTION 7.09	SALARY DEDUCTIONS	18
SECTION 7.10	PAY PERIOD AND PAYDAY	18
SECTION 7.11	FINAL PAYMENTS	18
SECTION 7.12	SALARY ADVANCES	19
SECTION 7.13	ACTING APPOINTMENTS	19
SECTION 7.14	SPECIAL PAY AND ALLOWANCES	19
SECTION 7.15	LONGEVITY INCENTIVE	20
ARTICLE VIII	EMPLOYMENT AND MERIT INCREASES.....	20
SECTION 8.01	POLICY	20
SECTION 8.02	DEFINITIONS.....	20
SECTION 8.03	ANNIVERSARY DATE	21
SECTION 8.04	PERFORMANCE EVALUATION	21
SECTION 8.05	PROBATIONARY PERIOD	21
ARTICLE IX	HOURS OF WORK.....	22
SECTION 9.01	HOURS OF WORK.....	22
SECTION 9.02	MEAL PERIOD AND REST PERIOD	23
SECTION 9.03	ATTENDANCE.....	24
SECTION 9.04	OVERTIME.....	24
ARTICLE X	REDUCTION IN FORCE	27
SECTION 10.01	PROCEDURE / BUMPING, LAY-OFF AND RECALL.....	27
ARTICLE XI	FRINGE BENEFITS.....	31
SECTION 11.01	HEALTH INSURANCE.....	31
SECTION 11.02	DENTAL INSURANCE.....	31
SECTION 11.03	VISION CARE	31
SECTION 11.04	LIFE INSURANCE	31
SECTION 11.05	LONG TERM DISABILITY INSURANCE	32
SECTION 11.06	VISION CARE, AND HEALTH, DENTAL AND LIFE INSURANCE COVERAGE AFTER RETIREMENT	32
SECTION 11.07	PREMIUM REQUIREMENTS	32
SECTION 11.08	STATE DISABILITY INSURANCE	33
SECTION 11.09	WORKERS' COMPENSATION.....	33
SECTION 11.10	PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS).....	34
SECTION 11.11	CREDIT UNION	35
SECTION 11.12	EMPLOYEE ASSISTANCE PROGRAM.....	35
SECTION 11.13	TRANSIT SUBSIDY / CARPOOL SUBSIDY	35
SECTION 11.14	DEFERRED COMPENSATION.....	36
SECTION 11.15	JOB-RELATED EDUCATIONAL PURSUITS.....	36
SECTION 11.16	DEPENDENT CARE ASSISTANCE PLAN	38
SECTION 11.17	SOCIAL SECURITY REPLACEMENT BENEFITS	38
SECTION 11.18	HEALTH CARE SPENDING ACCOUNT	38
SECTION 11.19	GUARANTEED RIDE HOME	38

ARTICLE XII	LEAVE AND HOLIDAYS	39
SECTION 12.01	ANNUAL LEAVE.....	39
SECTION 12.02	SICK LEAVE	40
SECTION 12.03	BEREAVEMENT LEAVE.....	40
SECTION 12.04	MILITARY LEAVE	41
SECTION 12.05	JURY DUTY	41
SECTION 12.06	SUBPOENA AS A WITNESS	41
SECTION 12.07	HOLIDAYS	41
SECTION 12.08	BENEVOLENT LEAVE FUND	42
SECTION 12.09	TEMPORARY DISABILITY LEAVE.....	43
SECTION 12.10	FAMILY CARE LEAVE.....	43
SECTION 12.11	PREGNANCY DISABILITY LEAVE.....	44
SECTION 12.12	LEAVE ACCRUAL - RETURNING FROM UNPAID LEAVE	44
SECTION 12.13	LEAVE WITHOUT PAY	44
SECTION 12.14	LEAVE OF ABSENCE	44
ARTICLE XIII	ASSOCIATION ACTIVITIES	45
SECTION 13.01	COMMUNICATING WITH EMPLOYEES	45
SECTION 13.02	USE OF DISTRICT FACILITIES.....	45
SECTION 13.03	ASSOCIATION REPRESENTATIVES AT BOARD OF DIRECTOR MEETINGS	46
SECTION 13.04	ASSOCIATION REPRESENTATIVES.....	46
ARTICLE XIV	AVAILABILITY OF DISTRICT DOCUMENTS.....	47
SECTION 14.01	ADMINISTRATIVE CODE.....	47
SECTION 14.02	HEALTH INSURANCE PLANS	47
SECTION 14.03	PERSONNEL FILES.....	47
ARTICLE XV	PERSONNEL TRANSACTIONS AND RECORDS.....	47
SECTION 15.01	HIRING AND INITIAL ORIENTATION	47
SECTION 15.02	PERSONNEL AND MEDICAL FILES	47
SECTION 15.03	EMPLOYMENT RECORD VERIFICATION	47
SECTION 15.04	CLASSIFICATION SYSTEM.....	47
SECTION 15.05	REQUESTS FOR NEW EMPLOYEES	48
SECTION 15.06	PERSONNEL ACTION FORMS	48
ARTICLE XVI	METHOD OF FILLING VACANCIES.....	48
SECTION 16.01	PROCEDURES.....	48
SECTION 16.02	CONTRACTING OUT.....	52
ARTICLE XVII	MEMORANDUM OF UNDERSTANDING.....	52
SECTION 17.01	ENTIRE AGREEMENT	52
SECTION 17.02	CONSISTENCY WITH ADMINISTRATIVE CODE.....	52
SECTION 17.03	SEVERABILITY	53
SECTION 17.04	INTERIM BARGAINING.....	53
ARTICLE XVIII	INTERIM ADJUSTMENTS	53
ARTICLE XIX	SAVINGS PROVISION.....	53
ARTICLE XX	TERM OF AGREEMENT	53
ARTICLE XXI	SUBMISSION TO BOARD OF DIRECTORS.....	54
APPENDIX A:	CLASSIFICATIONS.....	55
APPENDIX B:	SIDE LETTERS.....	56

ARTICLE II, SECTION 2.06	56
ARTICLE IV	56
ARTICLE VI	58
ARTICLE VII, SECTION 7.02	56
ARTICLE VII, SECTION 7.10	58
ARTICLE IX, SECTION 9.04	56
ARTICLE XI, SECTION 11.02	59
ARTICLE XI, SECTION 11.03	59
ARTICLE XI, SECTION 11.07.5	57
ARTICLE XI, SECTION 11.10.3.A	57
ARTICLE XI, SECTION 11.18	59
ARTICLE XII, SECTION 12.07.4	57
ARTICLE XVI	58

ARTICLE I PARTIES

SECTION 1.01 DESIGNATION

This Agreement is between the Bay Area Air Quality Management District (hereinafter referred to as “BAAQMD”, “District”, or “Employer”) and the Bay Area Air Quality Management District Employees’ Association, Inc. (hereinafter referred to as “BAAQMD EA” or the “Association”). This document is referred to herein as either “Agreement” or the “MOU.”

Throughout this MOU, when specific management positions are indicated, such references shall be understood to include the phrase “or his/her designee.”

Throughout this MOU, the term “days” shall refer to calendar days, unless otherwise stated.

SECTION 1.02 NOTIFICATION

Official notification for purposes of this Agreement shall be by U.S. Mail or personal service to:

for the District

Executive Officer (EO)
Bay Area Air Quality Management District
939 Ellis Street
San Francisco, CA 94109

for the Association

(personal service)

President (or Designee)

BAAQMD Employees’ Association, Inc.
939 Ellis Street
San Francisco, CA 94109

(U. S. Mail)

President (or Designee)

BAAQMD Employees’ Association, Inc.
P.O. Box 420434
San Francisco, CA 94142

ARTICLE II RECOGNITION, COVERAGE AND EXCLUSIVE REPRESENTATION

SECTION 2.01 RECOGNITION

The Bay Area Air Quality Management District (District) has recognized the Bay Area Air Quality Management District Employees' Association, Inc. as the representative of the employees in the Technical/General representation unit and the Professional Employees' representation unit for all matters of employer-employee relations. (Hereinafter the term Association will apply to either or both units as applicable and appropriate.)

SECTION 2.02 COVERAGE OF EMPLOYEES

1. The classifications within each unit are listed in the Appendix A. For the purpose of this Memorandum of Understanding, the classification system which is adopted by the Board of Directors and maintained by the Human Resources Section is the source for determination of unit representation.
2. The District will notify the Association's Recording Secretary within ten (10) days when a new employee is hired into regular employment in a bargaining unit position.

SECTION 2.03 EXCLUSIVE REPRESENTATION BY THE ASSOCIATION

The District agrees that during the term this Memorandum of Understanding is in effect, the Association shall be the exclusive bargaining agent of those employees covered by this Memorandum.

SECTION 2.04 AGENCY SHOP / MAINTENANCE OF MEMBERSHIP

1. AGENCY SHOP. Each employee covered by this Agreement except supervisory employees shall, as a condition of continued employment, within thirty (30) days of first employment at the District, either 1) become and remain a member in good standing of the Association, or 2) commence and continue to make payment(s) of an amount equivalent to the Association's periodic dues to the Association as a service fee for Association representation, except such amount shall not exceed that amount as outlined by or required by law having to do with the subject of non-member fees paid to unions for representation.
2. MAINTENANCE OF MEMBERSHIP. Supervisory employees who are members of the Association after the first thirty (30) days from ratification of this Agreement by the BAAQMD Board of Directors, shall be required to maintain their membership in the Association for the duration of this Agreement. Newly promoted supervisory employees following the first thirty (30) days from their promotion shall be required to maintain their membership in the Association for the duration of this Agreement.

SECTION 2.05 RELIGIOUS EXEMPTION

No District employee shall be required to join the Association or to make an agency fee payment if the District employee is an actual verified member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially

supporting employee organizations, or if the District employee has personal moral objections to joining or financially supporting employee organizations. Such employee must, instead, arrange with the Association to satisfy his/her obligation by donating the equivalent amount to a non-labor, non-religious charitable fund chosen by the employee, which is tax exempt under Section 501 (c)(3) of the Internal Revenue Code (IRC).

SECTION 2.06 DUES/FEES DEDUCTIONS

The parties agree that the District will provide payroll deductions to the Association on the following terms:

1. Authorization:

The District shall deduct dues and initiation fees (or agency fees or charitable contributions in lieu of Association dues and initiation fees) from the salaries of unit members every pay day and remit the total deductions to the Association member designated in writing as the person authorized to receive such funds, and at the address specified by the Association. Such remittance will contain an itemized statement and will be made to the Association no later than seven (7) days following the payday. No deductions shall be made except in accordance with a deduction authorization form individually and voluntarily executed by the employee for whom the deduction is made.

2. Amount of Dues:

The Association shall certify to the District in writing the current rate of membership dues and agency fees. The District shall put into effect any new, changed, or discontinued deduction no later than the beginning of the second pay period after receipt of written notice from the Association.

SECTION 2.07 INDEMNIFICATION

The Association will defend, indemnify, and hold harmless the District from any loss, liability, or cause of action arising out of the operation of this Article. The indemnity obligation is more fully set forth as follows. Upon commencement of any such legal action, the District shall have the right to decide and determine whether any claim, liability, suit or judgment made or brought against the District because of such action shall or shall not be compromised, resisted, defended, tried or appealed. Any such decision on the part of the District shall not diminish the Association's indemnification obligations under this agreement.

The District, immediately upon receipt of notice of such legal action, shall inform the Association of such action; provide the Association with all information, documents and assistance necessary for the District's defense or settlement of such action; and fully cooperate with the Association in providing all necessary witnesses, experts, and assistance necessary for said defense.

ARTICLE III RIGHTS AND OBLIGATIONS

SECTION 3.01 EQUAL EMPLOYMENT OPPORTUNITY POLICY

It is the District's policy to provide equal employment opportunities for all persons to be recruited, employed, placed, selected for training, trained, evaluated, promoted, demoted, laid off, terminated, compensated, assigned work and otherwise treated without regard to race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, sex, age or sexual orientation. This Section is not subject to the Grievance Procedure of this Document.

SECTION 3.02 EMPLOYEE RIGHTS

1. The rights of employees of the District include, but are not limited to, the right to, subject to the provisions of this agreement and consistent with applicable laws and regulations:
 - A. Form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matter of employer-employee relations.
 - B. Refuse to join or participate in the activities of any employee organizations.
2. The scope of representation by the Association shall include all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order. This subsection parallels Section 3504 of the Meyers-Milias-Brown Act and will automatically be amended to reflect any amendment to or replacement of said statutory section on the effective date of any such change.
3. The District and the Association shall not interfere with, intimidate, restrain, coerce, retaliate, or discriminate against employees because of their exercise of these rights.
4. Any matter within the scope of the Meyers-Milias-Brown Act or within the scope of the Memorandum of Understanding that the District acts upon without meeting and conferring shall be null and void.
5. The District shall deduct dues and/or agency fees from the paychecks of all members of the Association and from non-members who are employed by the District in a classification represented by the Association.
6. The Association agrees to hold harmless and indemnify the District against any claims, causes of action or lawsuits arising out of the deductions or transmittal of such funds to the Association, except the intentional failure of the District to transmit moneys deducted from employees to the Association pursuant to this Article.

SECTION 3.03 PHYSICAL EXAMINATION

The District may require a physical examination or a personal statement of good health after an employment offer has been made.

SECTION 3.04 SEXUAL HARASSMENT AND OTHER UNACCEPTABLE CONDUCT

The provisions of Division III, Section 3.6 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association. This section is excluded from the grievance procedure.

SECTION 3.05 EMPLOYEES' TIME OFF TO VOTE

The provisions of Division III, Section 3.7 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 3.06 DRUG-FREE WORKPLACE

The provisions of Division III, Section 3.8 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 3.07 SAFETY

The provisions of Division III, Section 3.9 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 3.08 WORKPLACE VIOLENCE

The provisions of Division III, Section 3.10 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 3.09 SMOKE-FREE WORK SITE

The provisions of Division III, Section 3.11 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 3.10 ASSOCIATION RIGHTS

Nothing contained in this Memorandum of Understanding shall be interpreted or construed in any way that prohibits or restricts the Association of its rights granted by law and accordingly the Association retains all rights guaranteed to employee organizations under the Meyers-Milias-Brown Act (Government Code Sections 3500 and following), the Public

Records Act (Government Code Sections 6250 and following) and all other applicable provisions of law.

SECTION 3.11 MANAGEMENT RIGHTS

The rights of the District include, but are not limited to, the exclusive right to, subject to the provisions of this agreement and consistent with applicable laws and regulations:

- (a) Determine the mission of its constituent departments, boards, and committees.
- (b) Set standards of service.
- (c) Determine the procedures and standards of selections for employment and promotion.
- (d) Hire, promote, transfer, assign, retain in position, direct, or take other non-disciplinary action toward its employees and to relieve them from duty because of lack of work or for other legitimate reasons.
- (e) Maintain the efficiency of governmental operations and exercise complete control and discretion over its organization and the technology of performing its work.
- (f) Determine the methods, means, and personnel by which government operations are to be conducted.
- (g) Determine the content of job classifications.
- (h) Take all necessary actions to carry out its mission in emergencies.

The District will not use the provisions of this Article, for the purpose of discriminating against any employee or to avoid or evade the provisions of this agreement.

The provisions of this Article do not absolve the District or District Management from their obligation to meet and confer with the Association in advance of taking any action changing, modifying, or affecting employee wages, hours or working conditions.

This Section is not subject to the Grievance Procedure.

ARTICLE IV GRIEVANCE PROCEDURE

SECTION 4.01 DEFINITION OF A GRIEVANCE

A grievance is a claimed violation, misinterpretation, inequitable application of, or non-compliance with, a specific provision of this Memorandum of Understanding, or any disputed disciplinary action against an employee or employees covered by this MOU.

SECTION 4.02 ASSOCIATION AS THE GRIEVANT

The Association may be the grievant.

Process: When the Association is the grievant the Association shall file the first step with the Human Resources Officer (HRO). The Association shall submit the grievance in writing. The written grievance shall state the factual particulars of the matter, any provision(s) of the

Memorandum of Understanding that has allegedly been misinterpreted or misapplied, how the alleged misinterpretation or misapplication has affected the grievant to the grievant's detriment, and the redress sought. The HRO shall meet with the Association representative(s) and respond to the grievance within the proper time limits. The response shall be in writing and set forth the reason(s) therefore. Except as otherwise specified herein, all of the rights, responsibilities and procedures of the grievance procedure apply to grievances filed by the Association. If a grievance is not resolved to the satisfaction of the Association, the Association may submit the grievance in writing to the EO as set forth in 4.05 Step 3 below:

SECTION 4.03 TIME LIMITS

1. The employee and/or the Association must initiate a grievance within thirty (30) working days from the event giving rise to the grievance or from the date the employee could reasonably have been expected to have had knowledge of such event.
2. At each step District representatives shall have fifteen (15) working days from the filing of the grievance to meet with the grievant and Association representative(s) and to respond to the grievance in writing. In the event that the District fails to respond to a grievance within specified timelines the grievant has the right to continue to process the grievance at the next higher step in the process.
3. If a grievance is not resolved to the satisfaction of the grievant at each step below, the grievant may within fifteen (15) working days, submit the grievance in writing to the next higher step. Failure of the grievant to act within the specified time limits, unless such time limits are extended, shall dismiss and nullify the grievance.
4. These time limits may only be extended by mutual written agreement by the parties.

SECTION 4.04 REPRESENTATION

The Association may represent the employee(s) at any stage of the process contained herein.

SECTION 4.05 PROCEDURE

Grievances filed, except when the Association is the grievant, shall be processed in the following manner:

Step 1: The grievant shall discuss the grievance with his or her immediate supervisor and/or section manager who shall meet with the employee and Association representative(s) and respond to the grievance within the proper time limits as set forth in Section 4.03.2 above. The response shall be in writing and set forth the reason(s) therefor.

Step 2: If a grievance is not resolved to the satisfaction of the grievant in Step 1 above, the grievant may submit the grievance in writing to the HRO. The HRO shall either process the grievance at Step 2 or shall route the grievance to the appropriate Division Director for step 2 processing. The written grievance shall state the factual particulars of the matter, any provision(s) of the Memorandum of Understanding that has allegedly been violated or misapplied, how the alleged violation or misapplication has affected the grievant to the grievant's detriment, and the redress sought. The grievant shall provide a copy of the

grievance to the Association. The Division Director or HRO shall meet with the grievant and Association representative(s) and respond to the grievance within the proper time limits. The response shall be in writing and set forth the reason(s) therefor.

Step 3: If a grievance is not resolved to the satisfaction of the grievant in Step 2 above, the grievant may submit the grievance in writing to the EO or designee. The grievant shall provide a copy of the grievance to the Association. The EO shall meet with the grievant and Association representative(s) and respond to the grievance within the proper time limits. The response shall be in writing and set forth the reason(s) therefor.

STEP 3A – REQUEST FOR MEDIATION

If the grievant is not satisfied with the written response of the EO, he/she may within the time limits specified in this Article request that the matter be submitted to Mediation. Mediation shall be by mutual written agreement of the grievant and the EO. If Mediation is not agreed upon, the grievant may proceed to Step 4. If Mediation is agreed upon, within ten (10) working days from receipt of the EO's response, the parties shall request that a Mediator be appointed by the State Mediation and Conciliation Services.

Step 4: If a grievance is not resolved to the satisfaction of the grievant in Step 3 above, the grievant may, within ten (10) working days, submit the grievance to binding arbitration. The rules and procedures of the American Arbitration Association will prevail.

SECTION 4.06 DISCIPLINARY DISPUTES

The decision to proceed to binding arbitration regarding disciplinary complaints shall be at the sole discretion of the grievant.

SECTION 4.07 MOU DISPUTES

An employee or Association claim of an alleged violation of a specific section of the MOU may be submitted to binding arbitration. Such request for binding arbitration shall come only from the Association Board of Directors. An individual member may not file for arbitration on a dispute of the MOU.

SECTION 4.08 REQUEST FOR ARBITRATION

A written request for arbitration shall be submitted to the EO within ten (10) working days following the receipt of the EO's written response as required in 4.05 Step 3 above, or the conclusion of mediation, if mediation does not resolve the grievance to the satisfaction of the grievant.

SECTION 4.09 SELECTION OF AN ARBITRATOR

The District and the grievant(s) will select an arbitrator from the American Arbitration Association. If the grievant(s) is (are) represented by the Employees' Association, then the Employee's Association President or designee and the District will select an arbitrator from the American Arbitration Association. If the parties cannot agree on the selection of an arbitrator, the grievant will request of the American Arbitration Association a list of nine (9) arbitrators. Within ten (10) working days from the receipt of the list of nine (9) arbitrators,

each party beginning by lot shall alternatively cross off one name on the list; the first party to cross off a name will be selected by a flip of a coin. The final name left on the list shall be the arbitrator if he/she agrees to serve. If he/she will not serve, the process shall be repeated until an arbitrator is found. The rules and procedures of the American Arbitration Association will prevail.

SECTION 4.10 DECISION OF THE ARBITRATOR

The decision of the arbitrator shall be final and binding on the parties and on any affected employees covered by this agreement. Such decision shall be issued in writing.

SECTION 4.11 FEES AND EXPENSES

The fees of the arbitrator and related expenses shall be shared equally by the District and the grievant.

SECTION 4.12 LIMITATIONS ON ARBITRATOR'S AUTHORITY AND JURISDICTION

The limitations on the arbitrator's authority and jurisdiction are as set forth below:

1. No arbitrator shall entertain, hear, or decide any dispute unless such dispute involves a represented employee and unless such dispute falls within the grievance procedure as set forth in section 4.01 Definition of a Grievance.
2. Any dispute regarding whether an issue is grievable or applicable to arbitration shall be determined by the arbitrator as an initial determination prior to proceeding with the hearing on the merits of the grievance.
3. No arbitrator shall entertain, hear, decide, or make recommendations on any disciplinary action unless such dispute involves a bargaining unit employee who has successfully completed an initial (new hire) probationary period and who has availed him/herself of the response and appeals procedures of the Disciplinary Procedures Article of this Agreement.

ARTICLE V DISCIPLINARY PROCEDURE

SECTION 5.01 PROGRESSIVE DISCIPLINE

In order to maintain the orderly and efficient operation of the District, it may be necessary for District Management to impose discipline on an employee who violates work instructions or District policies and procedures, whose service is unsatisfactory, whose conduct is unacceptable or for other just cause. However, no employee shall be disciplined without just and sufficient cause.

The administration of discipline by District Management is intended to be corrective rather than punitive, and discipline will normally be imposed in progressive steps. The progressive steps in the imposition of discipline will normally include: (a) informal verbal reprimand, (b) formal written reprimand, (c) warning and one-day suspension, (d) extended suspension and (e) dismissal.

An employee who has been demoted, suspended or terminated from employment may appeal such disciplinary action in accordance with ARTICLE IV of this Memorandum of Understanding. An employee may provide a written response to any written disciplinary action taken against that employee.

SECTION 5.02 GROUND(S) FOR DISCIPLINE

Disciplinary Action shall be for fact(s) which establish unacceptable conduct such as, but not limited to, one or more of the following:

1. Fraud in securing appointment.
2. Incompetence.
3. Inefficiency.
4. Inexcusable neglect of duty.
5. Insubordination.
6. Failure to follow District policy.
7. Dishonesty.
8. Being under the influence of alcohol or illicit drugs while on duty.
9. Unexcused absence.
10. Conviction of a felony or conviction of a misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of the employee's position. A plea of guilty, or a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning of this Section.
11. Discourteous treatment of the public or other employees.
12. Political activity prohibited by state or federal law.
13. Engaging in sexual harassment of another employee or member of the public.
14. Refusal to take and sign any oath or affirmation which is a federal, state or District requirement.
15. Any failure of good behavior during duty hours which is of such nature that it causes discredit to the District or his/her employment.
16. Failure to possess or keep in effect any license, certificate or other similar requirement specified in the employee's position specification as a condition of employment.

SECTION 5.03 REPRIMANDS

1. The initial step in the imposition of discipline is normally a verbal reprimand. When delivering the reprimand, the supervisor shall identify the action(s) which the employee should take to correct the basis for the reprimand. A verbal reprimand is an informal disciplinary measure and is not entered in the employee's personnel record unless discipline progresses to a written reprimand or beyond.
2. If, after receiving a verbal reprimand, an employee continues to perform his or her work in an unsatisfactory manner, to engage in the same violation of a District work instruction, policy or procedure, or to manifest the unacceptable behavior or conduct for which the employee received the verbal reprimand, the employee's immediate supervisor may either: (i) repeat the verbal reprimand and again identify the action(s) which the

employee should take to correct the basis for the reprimand; or (ii) move to the next step of progressive discipline and request the section manager to issue a formal written reprimand.

3. A written reprimand shall document all previously delivered verbal reprimands, shall state the basis for such verbal reprimand(s) and shall specify the action(s) which the employee should take to correct the basis for the formal written reprimand and the possible consequences of a failure by the employee to take such corrective action. A written reprimand is a formal disciplinary measure and is entered in the employee's personnel record.
 - A. If, after receiving a formal written reprimand, an employee continues to perform his or her work in an unsatisfactory manner, to engage in the violation of a District work instruction, policy or procedure, or to manifest the unacceptable behavior or conduct for which the employee received the written reprimand(s), the employee's section manager may either: (i) repeat the formal written reprimand and again identify the action(s) which the employee should take to correct the basis for the reprimand; or (ii) move to the next step of progressive discipline and request the division director to issue a formal written warning and one-day suspension without pay.
 - B. An employee may appeal a written reprimand through the grievance procedure at Step 3. The decision of the EO shall be final. An employee has the right to respond to a written reprimand in writing and to have that response attached to the reprimand in the personnel file.
 - C. If an employee does not receive any discipline more severe than a verbal reprimand for a period of 18 months then all previous written reprimands will be sealed. However, for just cause, the District may open the employee's sealed reprimand file and use any of the contents contained therein on an as needed basis. If the sealed reprimand is opened the employee shall be notified in writing within five (5) working days. The notification shall include the reason for such action.
4. Notwithstanding paragraphs 1-3 of this section, the District has the right to impose more serious discipline or to escalate disciplinary action without satisfying each of the recommended progressive discipline steps.

SECTION 5.04 WARNING AND ONE-DAY SUSPENSION

If, for good cause shown, or after receiving a formal written reprimand, an employee continues to perform his or her work in an unsatisfactory manner, to engage in the violation of a District work instruction, policy or procedure, or continues to manifest the unacceptable behavior or conduct for which the employee received the written reprimand, the employee's division director may impose a warning and suspend the employee without pay for a full working day. The imposition of the warning and one-day suspension without pay shall be in writing, shall state the factual basis for this disciplinary action and shall specify the action(s) which the employee should take to correct the basis for this disciplinary action and the possible consequences of a failure by the employee to take such corrective action. This written documentation is entered in the employee's personnel record. A Warning and One-Day Suspension may not be grieved or appealed.

SECTION 5.05 EXTENDED SUSPENSION

1. If, for good cause shown or after being issued a warning and being placed on a one-day suspension without pay, an employee continues to perform his or her work in an unsatisfactory manner, persists in engaging in the violation of a District work instruction, policy or procedure, or continues to manifest the unacceptable behavior or conduct for which the employee was issued a warning and placed on a one-day suspension without pay, the EO may suspend the employee from work without pay for a period of up to two weeks. Prior to placing an employee on an extended suspension without pay, the EO shall cause to be served on the employee a written Notice of Proposed Disciplinary Action, which shall contain the following information: (i) a statement of the action which is proposed to be taken, (ii) a statement of the factual basis for this proposed disciplinary action, (iii) a specific reference to any District work instruction, policy or procedure which the employee is alleged to have violated, (iv) a specification of the action(s) which the employee should take to correct the basis for this disciplinary action and the possible consequences of a failure by the employee to take such corrective action, (v) a statement that the employee may review and request copies of materials upon which the proposed disciplinary action is based, and (vi) a statement that the employee will be given an opportunity to address the charges supporting this disciplinary action with the EO prior to the suspension becoming effective.
2. An employee who is to be placed on an extended suspension from work without pay will be given an opportunity to address the charges supporting this disciplinary action with the EO prior to the suspension becoming effective. This meeting with the EO should take place as soon as possible, and in no event more than five (5) working days after the recommendation for suspension from work without pay has been provided to the employee. The employee may bring a representative of the Association and/or a private personal representative to the meeting with the EO. Within five (5) working days after meeting with the employee and the Division Director recommending the suspension, the EO shall prepare a written decision regarding the recommended suspension. If, after considering the Division Director's recommendation and the information presented by the employee at the meeting, the EO determines to impose a suspension from work without pay, the suspension shall begin on the day after the EO's written decision is served on the employee, and all written documentation pertaining to the suspension will be entered in the employee's personnel record.
3. Employees who are placed on an extended suspension without pay will not accrue sick or annual leave during the period of such suspension.
4. Notwithstanding the progressive discipline policy outlined in Sections 5.01 through 5.04 above, the EO may place an employee guilty of serious misconduct on extended suspension. In such case, the EO shall follow the procedure set forth in 2 above.

SECTION 5.06 DISMISSAL

1. If, for good cause shown or after being suspended from work without pay, an employee continues to perform his or her work in an unsatisfactory manner, persists in engaging in the violation of a District work instruction, policy or procedure, or continues to manifest

the unacceptable conduct or behavior for which the employee was placed on an extended suspension from work without pay, the EO may dismiss the employee from employment with the District. Prior to the dismissal of an employee from employment with the District, the EO shall cause to be served on the employee a written Notice of Proposed Disciplinary Action, which shall contain the following information: (i) a statement of the action which is proposed to be taken, (ii) a statement of the factual basis for this proposed disciplinary action, (iii) a specific reference to any District work instruction, policy or procedure which the employee is alleged to have violated, (iv) a statement that the employee may review and request copies of materials upon which the proposed disciplinary action is based, and (v) a statement that the employee will be given an opportunity to address the charges supporting this disciplinary action with the EO prior to the dismissal becoming effective.

2. An employee who is to be dismissed from employment with the District will be given an opportunity to address the charges supporting this disciplinary action with the EO prior to the dismissal becoming effective. In such event, the employee's Division Director will inform the employee of the Director's recommendation that the employee be dismissed from employment. ~~and the employee may be placed on administrative leave with pay until the date of the scheduled meeting with the EO.~~ This meeting should take place as soon as possible, and in no event more than ten (10) working days after the recommendation for dismissal. The employee may bring a representative of the Association and/or a private personal representative to the meeting with the EO. Within five (5) working days after meeting with the employee and the Division Director recommending the dismissal, the EO shall prepare a written decision regarding the recommended dismissal. If, after considering the Division Director's recommendation and the information presented by the employee at the meeting, the EO determines to dismiss the employee from employment with the District, the dismissal shall be effective on the day on which the EO's written decision is mailed to the employee. **An employee may be placed on administrative leave with pay when they are informed of the Director's recommendation that he/she be dismissed from employment. In that event, he/she shall remain on administrative leave with pay until such time as he/she is either directed to return to work or until the date the EO's written decision is mailed to the employee**
3. After the EO takes action on a proposed dismissal of an employee, the Notice of Proposed Disciplinary Action and all related written documentation will be entered in the employee's personnel record.

ARTICLE VI CLASSIFICATION STUDIES

See side letter in **Appendix B.**

ARTICLE VII SALARIES

SECTION 7.01 SALARIES

The following changes to unit wages or salaries shall be made effective as identified below:

1. Effective 7/1/2000, wages and salaries of unit employees shall be increased by 4.3% over the wages in effect on 6/30/2000.
2. Effective 7/1/2001, wages and salaries of unit employees shall be increased by 4.4% over the wage and salaries in effect on 6/30/2001.
3. Effective 7/1/2002, wages and salaries of unit employees shall be increased by 5.3% over the wage and salaries in effect on 6/30/2002.
4. Effective 7/1/2003, wages and salaries of unit employees shall be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose for calendar year 2002, as reported by the Bureau of Labor Statistics, U.S. Department of Labor, over the wage and salaries in effect on 6/30/2003.
5. Effective 7/1/2004, wages and salaries of unit employees shall be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose for calendar year 2003, as reported by the Bureau of Labor Statistics, U.S. Department of Labor, over the wage and salaries in effect on 6/30/2004.
6. Effective 7/1/2005, wages and salaries of unit employees shall be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose for calendar year 2004, as reported by the Bureau of Labor Statistics, U.S. Department of Labor, over the wage and salaries in effect on 6/30/2005.
7. Effective 7/1/2006, wages and salaries of unit employees shall be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose for calendar year 2005, as reported by the Bureau of Labor Statistics, U.S. Department of Labor, over the wage and salaries in effect on 6/30/2006. The minimum increase shall be two percent (2%) and the maximum increase shall be five percent (5%).
8. Effective 7/1/2007, wages and salaries of unit employees shall be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose for calendar year 2006, as reported by the Bureau of Labor Statistics, U.S. Department of Labor, over the wage and salaries in effect on 6/30/2007. The minimum increase shall be two percent (2%) and the maximum increase shall be five percent (5%).
9. Effective 7/1/2008, wages and salaries of unit employees shall be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose for calendar year 2007, as reported by the Bureau of Labor Statistics, U.S. Department of Labor, over the wage and salaries in effect on 6/30/2008. The minimum increase shall be two percent (2%) and the maximum increase shall be five percent (5%).

10. Effective 7/1/2009, wages and salaries of unit employees shall be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers for the San Francisco-Oakland-San Jose for calendar year 2008, as reported by the Bureau of Labor Statistics, U.S. Department of Labor, over the wage and salaries in effect on 6/30/2009. The minimum increase shall be two percent (2%) and the maximum increase shall be five percent (5%).

SECTION 7.02 SALARY STEPS

1. There are five (5) steps within the salary range for each position, with a 5% increment between the steps. The time between Entrance Step A and Step B is six (6) months of satisfactory service in Step A. The time between Step B and Step C is six (6) months of satisfactory service in Step B. The time between Step C and Step D is one (1) year of satisfactory service in Step C, and the time between Step D and Step E is one (1) year of satisfactory service in Step D.
2. An employee promoted to a higher position will receive the minimum salary for the higher position nearest a 5% increase (not less than 4.9%) above the employee's former position, whichever is higher, provided the increase is within the range of the higher position. If a promotion is awarded within thirty days of a scheduled step increase, the step increase and promotional increase will both be effective at the time of the change.
3. If a position is reclassified, a competitive recruitment will occur and the salary placement of the selected employee will be in accordance with subsection 2 above.
4. If a position is reclassified to a position having a lower salary range, the incumbent will be Y-rated according to the provision section 7.05.
5. If an employee is transferred, the employee will remain in the same step of the salary range effective prior to the transfer.
6. Any employee who has passed through the initial probationary period with the District and who is promoted or transfers to another position in the District shall not be subject to any "up or out" probation. Such an employee may be terminated for cause. However, if an employee is promoted prior to the completion of his/her initial probation period, the employee must successfully complete the full probationary period designated for the higher classification before attaining regular status.
7. If an employee is demoted for disciplinary reasons to a position having a lower salary range, the employee will be placed in the new range at the step held prior to the demotion.
8. If an employee is demoted because of lack of funds, the employee will be placed in the salary step in the new range that reflects the least decrease in salary. If an employee promoted to a higher class fails to pass a promotional probationary period, the employee will be returned to a position in the formerly held classification and will revert back to the step in the salary range he/she occupied in the former position effective prior to promotion. Step increases will be awarded on the schedule appropriate to the prior position.

SECTION 7.03 STEP INCREASES

Step increases are effective on the first day of the pay period in which the employee's anniversary date falls providing that a formal performance evaluation has been completed which indicates at least an overall "meets standard" rating. For purposes of this section, a delayed performance evaluation exceeding 30 calendar days shall cause the employee's performance evaluation to be an overall "meets standard" rating and the employee shall receive the increase retroactive to the first of the pay period in which the employee's anniversary date falls.

SECTION 7.04 DETERMINATION OF SALARY RATES

1. ORIGINAL APPOINTMENTS: Unless special conditions warrant otherwise, employees will be hired at the entrance salary of the position classification. Hiring at a higher salary step will require justification from the Hiring Manager and approval of the EO for Steps B and C. Recommendation by the EO and approval of the appropriate committee of the Board of Directors is required for hiring at Steps D and E.
2. LIMITED-TERM EMPLOYMENT: Limited-term employees will be placed on the salary range of the classification in which the person is employed. If a former regular District employee is re-hired as a limited-term employee for the same classification in which he/she held upon separation, the former regular employee will be paid at the same step of the salary range for the classification at the time of separation. If a former regular employee is re-hired as a limited-term employee for a classification other than that held at the time of separation, the former regular employee will be paid the same step of the salary range for the classification at the time of separation providing that the salary range of the classification in which the person is employed is equal to or less than the salary range of the classification held at the time of separation. If the salary range for the classification in which the former regular employee is employed is higher than the salary range of the classification held at the time of separation, the former regular employee will be placed at the step of the salary range of the classification based on the needs of the District pursuant to 7.04.1 above.

SECTION 7.05 Y-RATING

Y-Rating refers to a position which has been reclassified to a position having a lower salary range. The incumbent will retain his/her present salary until the appropriate step in the reclassified position is equal to or greater than the incumbent's current salary. A Y-Rating status must be approved by the EO and the Board of Directors.

SECTION 7.06 DIFFERENTIAL PAY

Employees not working a regular scheduled late shift or flextime will be compensated an additional \$1.00 per hour for hour worked between 8:00 P.M. and 6:00 A.M. Differential pay is a premium payment and is, therefore, included in the computation of overtime.

SECTION 7.07 SHIFT DIFFERENTIAL PAY

A \$2.50 per hour payment shall be paid to any employee assigned regularly established shift differential assignments. For purposes of this Section, shift differential hours are 5:00 P.M. to 8:30 A.M. and all day Saturday and Sunday. Shift differential is a premium payment and is, therefore, included in the computation of overtime. The schedule for employees working a flex time or compressed schedule shall not be considered shift differential hours.

SECTION 7.08 STANDBY DUTY/CALL BACK

1. Standby Duty

- A. Standby duty shall be defined as that circumstance when an employee assigned by the District to:
 - (1). Be ready to respond immediately to a call for services;
 - (2). Be readily available at all hours by telephone, pager or other agreed upon communication equipment; and
 - (3). Refrain from activities which might impair his/her assigned duties upon call.
- B. With the approval of the EO, a manager may request volunteers or, if needed, assign an employee or employees to standby duty.
- C. Standby duty is normally assigned in one-week increments. Standby duty will be distributed among those employees deemed qualified by the District to perform the duty. An employee assigned standby duty shall be paid \$2.50 per standby duty hour (those hours before and after normal working hours) or at the employee's discretion, one (1) hour of Compensatory Time Off for each twelve (12) hours. A standby duty shift shall consist of a twenty-four (24) hour period of time as determined by the District less any regular or overtime hours.
- D. An employee called to respond while on standby duty shall be compensated for the time worked in accordance with the Call Back provision, below.

2. Call Back

- A. A bargaining unit employee who is called back to work while on standby or after he/she has worked the scheduled shift and has departed from the place of employment shall be compensated with overtime for the time worked, either in cash or compensating time off (if applicable), at the rate of time and one-half with a minimum of two (2) hours at such rate.
- B. Should the time worked while called back become contiguous with the regular work schedule, time worked shall not be treated as a call back and the minimum time period shall not apply.
- C. An employee being paid for Call Back shall not receive Stand-By Pay for the same hours.

SECTION 7.09 SALARY DEDUCTIONS

Salary deductions may be authorized from time to time by the EO.

1. Mandatory deductions include but not be limited to Federal Withholding Tax, State Withholding Tax, Medicare tax, if applicable, State Disability Insurance premium, and the employees' Public Employees' Retirement System contribution.
2. Voluntary deductions include the regular deduction of health insurance, life insurance, credit union, union dues and other voluntary program deductions that may be authorized by the employee and provided for by the District.

SECTION 7.10 PAY PERIOD AND PAYDAY

1. The pay period will be a two-week period beginning on Sunday and ending on Saturday. Employees will be paid biweekly no later than the Friday following the close of a pay period. If payday falls on a holiday, warrants will be distributed on the previous workday. Start of the pay period will be adjusted for an employee working a compressed workweek. The District shall indicate on each employee's paycheck stub the following: accrued annual leave, accrued sick leave, accrued compensatory time, and accrued floating holiday time.
2. The District shall provide employees with the option of direct deposit of their paychecks to those banks that provide this capability.

SECTION 7.11 FINAL PAYMENTS

1. SALARY. Final salary payments to any person who terminates will be paid within 72 hours of the last day worked. When an employee is discharged for cause, the final salary payment will be issued on the last day of employment.
2. ACCRUED ANNUAL LEAVE. An employee leaving the service of the District shall receive a single payment covering the amount of the accrued annual leave remaining on account.

3. ACCRUED SICK LEAVE. Employees leaving the service of the District will not be paid for any unused accumulated sick leave credit remaining on account. Accrued sick leave will be applied to service credit upon retirement under the PERS contract.
4. FLOATING HOLIDAYS. Floating holidays must be used within the fiscal year they are credited. An employee leaving the service of the District shall receive a single payment covering the amount of the accrued floating holidays remaining on account.
5. COMPENSATORY TIME. An employee leaving the service of the District shall receive a single payment covering the amount of accrued compensatory time remaining on account.

SECTION 7.12 SALARY ADVANCES

Employees may apply for a payroll advance under the following conditions:

1. An employee must have been in a paid status for at least one week in the pay period prior to receiving a salary advance.
2. The amount requested cannot exceed amount earned to date during the pay period.
3. The amount advanced must be deducted from the paycheck for that pay period.
4. No more than two (2) such requests can be submitted annually. Exceptions may be approved by the EO and must be announced to the Board under "Report of EO".
5. Requests for salary advance must be received by the HRO at least one (1) week prior to the date of requested distribution for which the advance is requested.
6. Requests are subject to the approval of the HRO.

SECTION 7.13 ACTING APPOINTMENTS

When appointed to a higher position by the EO in an "acting" status, an employee shall receive "Acting Pay" from the first day of such appointment until the end of the appointment or until withdrawn by the EO. The rate for "Acting Pay" shall be determined by Section 7.02.2 of this MOU. Acting appointments shall not be for less than ten (10) working days. Only the EO may approve an acting appointment.

SECTION 7.14 SPECIAL PAY AND ALLOWANCES

1. BILINGUAL PAY. Division directors shall identify those employees who, in the performance of their duties, are required to converse with the public or translate documents in a language other than English. Employees so designated, who have demonstrated their competency in a second language to the satisfaction of the Division Director, shall receive bilingual pay in the amount of \$30 per pay period provided the employee utilizes the bilingual skills as described above for ten (10) or more hours per pay period. The compensation shall be increased by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the San Francisco-Oakland-San Jose based on the previous year's CPI-W on each July 1, as reported by the Bureau of Labor Statistics, U.S. Department of Labor.

2. PER DIEM. Employees who travel away from the District for training or other work assignments that extend for more than one day shall be reimbursed for reasonable expenses provided that receipts are submitted for such expenses. The employee should submit a detailed expense report within 7 days of the travel, including receipts for other expenses (e.g. travel and lodging).
3. HAZARD PAY. Division directors shall identify those employees who, in the performance of their duties, are required to 1) climb to the sampling point of stacks, storage tanks or any structure at a height of 30 feet or more 2) wear a Self-Contained Breathing Apparatus (SCBA) or safety harness 3) perform confined space entries or 4) climb to a height of 30 feet or more wearing SCBA, harness and is in a confined space. Such employees shall receive additional compensation in the amount of two and one-half percent (2½%) above the employees' current salary step for the duration of that assignment.

Employees may be required to successfully complete training prescribed by The District as a condition of employment in positions requiring the above duties.

The hazard pay shall not constitute a part of the employee's base rate, but shall be a bonus for performing these duties. Hazard pay shall be considered part of the regular rate for the purpose of computing overtime.

SECTION 7.15 LONGEVITY INCENTIVE

Upon ratification in May, 2002, the District shall provide a Longevity Incentive payment of \$325 to each unit member.

ARTICLE VIII EMPLOYMENT AND MERIT INCREASES

SECTION 8.01 POLICY

Employment, passing of a probationary period and merit increases are based solely on merit of the individual employee. No employee is guaranteed a continuation of employment or of receiving any future salary benefits.

SECTION 8.02 DEFINITIONS

1. Original Date of Hire: The date of hire into a regular position with the District in an unbroken period of employment that includes the most recent employment with the District. The period of time an employee is on Workers' Compensation shall be considered a continuous period of employment.
2. Adjusted Hire Date: The most recent hire date preceding any period of absence due to layoff of six (6) months or less adjusted forward to account for the lapse in service.
3. Salary Anniversary Date: The date on which the employee has completed six (6) full months of service in pay steps A or B, or completed twelve (12) full months of service in pay steps C or D.

4. Adjusted Anniversary Date: The Salary Anniversary Date, taking into account any periods of absence without pay of a pay period or more. For purposes of this section employees on Workers' Compensation shall not be considered absent from service.

SECTION 8.03 ANNIVERSARY DATE

The salary anniversary date or adjusted anniversary date for newly hired or promoted employees is the date of hire or date of most recent promotion. The anniversary date will be used in determining when an employee becomes eligible to be considered for salary step increments.

Annual leave credits and sick leave credits are accrued from original date of hire or adjusted hire date. For the initial pay period after hire and the final pay period upon termination, annual and sick leave accruals shall be determined as forty (40) hours worked in a pay period. There will be no prorating of time for annual or sick leave for less than this minimum time per pay period. For part-time new hires and any employee who separates employment with the District, 50% of their regularly scheduled assignment will constitute forty (40) hours worked in a pay period. These provisions will not be applicable for determining annual leave and sick leave accruals during any other type of leave.

SECTION 8.04 PERFORMANCE EVALUATION

1. During the initial probationary period, a probationary employee shall receive at least two (2) formal performance evaluations which will normally be conducted at the end of the sixth and eleventh month of service as defined in Section 8.05.2 below.
2. Promoted employees who are subject to a six (6) month probationary period as defined in Section 8.05.2 below shall receive at least two (2) formal performance evaluations which will normally be conducted at the end of the third and fifth month of service as defined in Section 8.05.2 below.
3. Promoted employees who are subject to a nine (9) month probationary period as defined in Section 8.05.2 below shall receive at least two (2) formal performance evaluations which will normally be conducted at the end of the third and eighth month of service as defined in Section 8.05.2 below.
4. After completion of the appropriate probationary period, a formal performance evaluation shall be completed for the employee annually. A supervisor is not precluded from completing a formal performance evaluation at any time. Performance evaluations are a continuing responsibility of each supervisor, and each supervisor will informally discuss employees' performance as often as necessary to ensure effective work performance.
5. A performance evaluation that includes an overall rating of needs improvement or unsatisfactory must include an attached plan for improvement.

SECTION 8.05 PROBATIONARY PERIOD

1. Upon initial hire, each employee shall be subject to a probationary period equivalent to one (1) year of full-time actual and cumulative service. During an employee's initial hire probationary period the employee may be terminated without cause or right of appeal.

2. Employees promoted within the same class series shall be subject to a probationary period equivalent to six (6) months of full-time actual and cumulative service. Employees promoted to a position in a different class series shall be subject to a probationary period equivalent to nine (9) months of full-time actual and cumulative service. If an employee does not successfully complete his/her promotional probationary period, he/she shall be placed back in a position in the employee's former classification at the salary step held prior to the promotion without cause or right of appeal.
3. During any probationary period, no employee shall be demoted or terminated in violation of the District's Equal Employment Opportunity policy.

ARTICLE IX HOURS OF WORK

SECTION 9.01 HOURS OF WORK

1. WORKWEEK

- A. **NORMAL WORKWEEK.** A normal workweek shall consist of five (5) consecutive eight (8) hour days, Monday through Friday. The normal workday shall be scheduled over an eight and one-half (8 ½) hour period from 8:30 A.M. to 5:00 P.M., normally with one-half (1/2) hour for meals.
- B. **COMPRESSED WORKWEEK.** With the approval of Management, an employee's normal workweek and/or workday can be modified to allow for flextime hours or a compressed workweek. In such a case, appropriate adjustments will be made to recognize such a normal flex or compressed day/week.
- C. **TELECOMMUTING.** With the approval of Management, an employee's normal workweek may be modified to allow for telecommuting. The employee and his/her supervisor will agree on core days and hours during which the employee can be reached by phone and these will remain constant from week to week, unless modified by agreement with the supervisor. In all cases, telecommuters shall make provisions that provide sufficient communication with the office and the public to meet the District goals. Telecommuters shall be present at least three (3) days per week in the District office. Exceptions may be granted in extraordinary situations. With the approval of Management and his/her supervisor, the District will allow non-scheduled telecommuting on Spare-the-Air days.
- D. **PART-TIME WORK:** An employee may request a regular part-time work schedule of fewer than 80 hours per pay period. Approval shall be at the discretion of the Division Director and the EO on a fiscal year basis considering business needs of the District. The part-time schedule may be rescinded by the EO with a 30-day notice to the affected employee for business needs or for unsatisfactory employee performance.

2. An employee shall not work any time in excess of his or her approved work schedule without prior approval of the employee's supervisor, acting supervisor or other manager in the employee's chain of command.

3. When a situation arises in which a represented employee is unable to work his or her regular hours on a particular day, upon the approval of his or her supervisor, the employee may make up the time missed. The make up time shall occur during the same pay period. The total hours worked, including make up time, shall not exceed forty (40) hours during any work week and shall not exceed ten (10) hours on any one day.
4. When an employee is away from the employee's normal duty assignment for jury duty, an all-day or multi-day meeting, a conference or to take a District-authorized class, the employee shall only be paid: for the hours representing the agency at, and travel time to and from, meetings or conferences; for the hours at, and travel time to and from, a class; or for the hours at jury duty and for any travel time between the location of the jury duty and the District office or the location of the employee's normal duty assignment. With the approval of the employee's supervisor, an employee will receive overtime or compensatory time if the time consumed by the outside activity exceeds the employee's normal workday.
5. When an employee attends one of the activities which requires the employee to be away from the employee's normal duty assignment and the activity concludes prior to the end of the employee's assigned work day, the employee must return to work, use appropriate paid leave, work at home, or make-up time. In order to use appropriate paid leave, work at home or make-up time the employee must receive concurrence from his/her immediate supervisor and authorization from his/her manager. If the employee is authorized to make-up time, the employee must make-up the time in the same pay week in which time was taken off and in no event shall this time when combined with regular hours worked result in weekly overtime.
6. With the approval of Management, an employee may make up work time that is lost as a personal or job-related obligation within the same workweek in which the work time is lost. Make up may not be counted towards computing the total number of hours worked in a day for purposes of the overtime requirement specified in this MOU. The schedule according to which any such time will be made up will be established in consultation with the employee's supervisor.

SECTION 9.02 MEAL PERIOD AND REST PERIOD

1. Lunch period of one-half (1/2) hour is to be taken as assigned by the employee's manager, normally it will be taken between 12:00 P.M. and 1:00 P.M.
2. Rest period of one-quarter (1/4) hour each is normally taken in mid-morning and mid-afternoon.
3. Continuation of Business. An adequate number of employees may be assigned lunch and rest periods to ensure the continuation of business.

If an employee is authorized to take a 30-minute lunch, the employee may either be authorized by the manager to combine his/her two 15-minute breaks with his/her lunch period or to take one 15-minute break mid-morning and one 15-minute break mid-afternoon.

If an employee chooses and is authorized to combine his/her lunch and break periods, to provide the employee a one (1) hour lunch period, the employee will not be entitled to take any additional breaks during the employee's work shift.

If an employee is authorized to take a one (1) hour lunch and two 15-minute breaks, then the employee shall take one 15-minute break midmorning and one 15-minute break mid-afternoon.

Due to unforeseeable work duties, there may be times that an employee will not be able to adhere to his/her primary lunch option. The District acknowledges that in such cases, an employee may select an alternative lunch option for that day.

SECTION 9.03 ATTENDANCE

1. An employee's supervisor will be responsible for keeping the daily attendance record of each employee.
2. A bargaining unit employee who is tardy shall report to the employee's supervisor as promptly as possible after beginning work and at the sole discretion and approval of the employee's manager, the employee may be allowed to make-up time providing the time made-up does not put the employee in an overtime status, use appropriate paid leave in accordance with this agreement, or may be docked for the period of tardiness.
3. An employee must report unscheduled leave to the District within the first hour of the workday unless an emergency prevents such reporting.
 - a. Failure to report may result in loss of pay for the period of absences from work.
 - b. An employee who is absent without leave and without having reported his/her absence for more than one (1) working day may be considered to have resigned and may be terminated.

SECTION 9.04 OVERTIME

The District will avoid the necessity for overtime where possible. The District is under no obligation to assure anyone of the availability of overtime work, nor is the District obligated to treat any particular kind of assignment as overtime. Therefore, the District may adjust work schedules where possible to cover work assignments as straight time work assignments.

The District recognizes that not all work matters can be scheduled during a work shift, and consequently, legitimate overtime assignments will be compensated accordingly.

A notice to an employee to work overtime is a notice in advance if the assignment is given more than 24 hours prior to the beginning of the work to be performed. Such assignments will be considered "scheduled" overtime. An assignment given less than 24 hours in advance will be considered an "unscheduled" assignment for call-back purposes. A call-back is the unscheduled, emergency, and authorized call-back to return to work after a regular shift has been completed.

The District will make every reasonable effort to notify employees of changes in work schedules 14 days in advance of the work to be performed.

Though work schedules for most employees are within the normal work day and normal workweek, groupings of employees may occasionally or regularly have work schedules at different times. The District reserves the right to change work schedules to meet operational needs during straight time shifts.

Except as otherwise provided in Section 9.01, travel time pay is only authorized for call-back assignments. Travel time and call-back time will be compensated at the applicable rate of pay. The time employees spend traveling to a work assignment, except for qualifying call-back assignments, is not to be paid regardless of whether the employee is traveling to a scheduled overtime or straight time assignment.

1. AUTHORIZATION. Overtime is the necessary, assigned authorized time worked in excess of eight (8), nine (9), or ten (10) hours per day (depending on an individual's normal work schedule) or forty (40) hours per week. With regard to flex time or compressed work weeks, it is recognized that the standard work week may not be 40 hours. Any hours worked beyond whatever is necessary to fulfill the designated flex/compressed work week plan for a represented employee are designated as excess hours. These excess hours are to be paid as overtime or compensatory time at the rate of one and one-half times base hourly rate.

For the purposes of this section, paid leave time shall be included in computing the forty hours per week when determining eligibility for overtime; provided, however, that an employee on a flex time or compressed schedule may, with supervisor's approval, modify a normal schedule in order to meet operational necessities, which modified schedule will then constitute a normal work time.

2. CALL-BACK. Call-back is the unscheduled, authorized call back to work before or after but not connected to the normal workday. Compensation will be based on a minimum of two hours at the applicable rate of pay.
3. TRAVEL TIME. For a call-back which is not directly connected to the beginning or ending of a normal shift, the employee will receive compensation from the time the employee leaves home until the employee returns home (travel time) at the applicable rate of pay.
4. DISTRIBUTION OF OVERTIME. Overtime, other than call-back, will be distributed in the following manner, consistent with District operating requirements:
 - A. When overtime is required to complete an assignment, the person given the assignment will normally continue the work.
 - B. When unscheduled overtime is required in a supervisor's area (or an extended coverage area) to conduct an additional assignment, employees working for a supervisor (or working in an extended coverage area) will be asked first whether they wish to volunteer for the overtime work. If two or more people volunteer for the assignment, the assignment will be made based on a rotating overtime assignment schedule starting with the most senior person in the work group. If no one volunteers for the assignment, a supervisor may select an individual through the use of a lottery system or, at the discretion of management, the supervisor may select in the order of

inverse seniority. Any and all of the above methods may be used to establish an order of rotation for the purposes of distribution of overtime.

- C. On continuing extended, overtime assignments, coverage will be assigned on a rotating basis.
 - D. All overtime assignments will be made with due consideration for employee hardship.
 - E. Seniority, for the purposes of overtime assignments only, is determined by the time an employee has held the position for which the overtime assignment is required.
 - F. The District reserves the right to approve, or disapprove, all assignments with due consideration of safe work hours and excessive work schedules.
 - G. Limited-term employees shall not be offered the opportunity to work overtime hours without first offering the overtime hours to that supervisor's regular employees and allowing those employees to decline the overtime hours.
5. DISTRIBUTION OF CALL-BACK. Call-back will be distributed in the following manner:
- A. When call-back is required, the person normally responsible for the assignment will be given first opportunity of call-back.
 - B. If the person normally responsible for the assignment is unavailable for call-back, then the immediate supervisor will be responsible for the assigning of call-back to other employees in the same position.
 - C. If the immediate supervisor is unavailable for call-back, then the alternate supervisor, manager or division director will be responsible for the assignment of callback.
 - D. The District maintains the option to deviate from this procedure based upon immediate need.
6. All represented employees who are authorized and work overtime shall be compensated at the rate of one and one-half times their base hourly rate of pay for all time worked over their normally scheduled work day. Represented employees may elect compensatory time at the rate of one and one-half (1½) times the overtime worked in lieu of overtime pay but may not accumulate more than 240 hours of compensatory time. After 240 hours of compensatory time has been accumulated, overtime pay will be the compensation for overtime work. The maximum accumulation of compensation time is 120 hours as of the end of the calendar year. At the end of the calendar year, the District will pay the employee all compensation time in excess of 120 hours at the current hourly rate. An employee may cash out up to the full amount (240 hours) at the end of the calendar year.
7. Employees required to work a designated holiday shall receive overtime pay equal to two times the employees' base hourly rate of pay. For purposes of this section, a designated holiday shall be the dates on which the holiday is observed by the District (Section 12.07), except that for New Years Day, Independence Day, and Christmas Day, the designated holiday shall include the actual date of the holiday and if any of these holidays fall on a Saturday or a Sunday, the Monday or Friday on which the holiday is observed by the District.

8. An employee shall not work any time in excess of his or her approved work schedule without prior approval of the employee's supervisor.

ARTICLE X REDUCTION IN FORCE

SECTION 10.01 PROCEDURE / BUMPING, LAY-OFF AND RECALL

1. SENIORITY. For the purpose of this Section, there are three types of seniority which apply in connection with the implementation of a reduction in any portion of the District work force: District employment seniority, seniority within a class series and seniority within a specific job classification. District employment seniority is the seniority gained based on overall employment with the District. Seniority within a class series is the seniority gained based on time in service in a number of job classifications which all belong to the same class series (for example, Inspector I, Inspector II, Senior Inspector and Supervising Inspector). Seniority within a job classification is the seniority gained based on time in service in a specific job classification.
2. LAYOFFS/REDUCTIONS IN WORK FORCE
 - A. When a reduction in work force becomes necessary for any reason such as lack of funds or lack of work, layoffs will be based on reverse order of overall District employment seniority.
 - B. As a result of any such layoffs, management may reassign remaining employees to equal or lower paying job classifications in order to assure that the operating requirements of the District can be met. Any such reassignments shall be made in accordance with the bumping mechanism set forth in Section 3(C) below.
 - C. The District will give an employee at least 30 days written notice prior to the effective layoff date.
 - D. The District will furnish a list of employees to be laid off to recognized employee organization(s) at the same time the employees are given written notice.
3. BUMPING
 - A. DEFINITION. Bumping is the displacement of an employee to an equal or lower paying job classification. Bumping will be based on reverse order of seniority, either in the job classification or District-wide, as set forth in subsection (C) (2) below. Normally, bumping will occur in the context of a reduction in the District work force, when the position of an employee with sufficient overall employment seniority with the District to avoid being laid off is eliminated. However, bumping may also occur in the context of a static staffing mode, when the District is unable to hire new employees to fill existing vacancies or as a result of significant changes in the operating requirements of the District, such that it is necessary to displace existing employees to equal or lower paying job classifications involving new or different duties.

B. GENERAL RULES APPLICABLE TO BUMPING

The bumping procedure set forth below shall not be used for punitive or disciplinary purposes.

- (1) When any employee who has held a given job classification for less than 4 years must be bumped, the employee to be bumped to an equal or lower paying job classification will be the employee with the least seniority in that employee's current job classification. When any employee who has held a given job classification for more than 4 years must be bumped, the employee to be bumped to an equal or lower-paying job classification will be the employee with the least overall employment seniority with the District.
- (2) Whenever an employee is bumped, the time spent by the employee in the position from which the employee has been bumped, as well as any time which the employee previously spent in the position to which the employee is bumped, will count as time spent in the job classification to which the employee is bumped.
- (3) When two or more employees have the same amount of seniority in a given job classification and one must be bumped, the employee with the least overall District employment seniority is the one who will be bumped. When two employees have the same amount of overall District employment seniority and one must be bumped, the decision as to which employee must be bumped will be based on the flip of a coin.
- (4) Any employee who is bumped to a lower paying job classification will be Y-rated in accordance with Section 7.05. In the event of any subsequent vacancy in a job classification from which an employee was bumped, that employee will be automatically returned to that previous job classification. When more than one employee has been bumped, that employee with the highest applicable seniority in accordance with rule (1) above shall have priority to return to the previously held vacant job classification. In the event of a vacancy in a job classification in a class series from which an employee has been bumped that pays more than the job classification that the employee currently holds, but less than the job classification from which the employee was bumped (an intermediate-paying classification), the employee with highest applicable seniority in accordance with rule (1) above will be automatically promoted to the intermediate paying classification.
- (5) An employee's seniority in a given job classification shall not be affected by a re-titling of the position and/or modification of the job description which involves no change in pay.
- (6) Subsequent to being hired as a regular employee, an employee's time in service as a limited-term employee in excess of 1,000 hours within a fiscal year shall count toward that employee's overall District employment seniority, and all of an employee's time in service as a limited term employee in a given job

classification shall count toward that employee's seniority in that job classification.

- (7) Prior to bumping any employee to an equal or lower paying job classification, the EO shall provide a written explanation as to why the operating requirements of the District necessitate that the employee be displaced from his or her current job classification. The District will give an employee at least 30 days written notice prior to the effective date of any bumping. The District will furnish a list of employees to be bumped to recognized employee organization(s) at the same time the employees are given written notice.

C. THE BUMPING MECHANISM. The bumping mechanism will operate by the application in sequential order of the following criteria, (1) through (9). Thus, an employee who, because of a lack of seniority in his/her job classification, is to be bumped to an equal or lower paying job classification will be bumped in accordance with the first of the following criteria which applies to his/her specific circumstances. At any step where a given employee may bump one of several other employees with less seniority, the individual with the least seniority is the one who will be bumped.

- (1) Prior to the implementation of any mandatory bumping or displacement of an employee to an equal or lower paying job classification to meet the operating requirements of the District, management shall solicit volunteers to move to that job classification. If more than one employee in a job classification volunteers to be bumped, the volunteer with the greatest overall District employment seniority is the one who will be bumped.
- (2) An employee can never bump back to a higher paying position which that employee previously held in the District; however, for purposes of calculating seniority in a job classification, the time spent by an employee in a higher paying job classification will be added to the time already spent in the current, lower paying job classification.
- (3) An employee whose job is being eliminated bumps the least senior employee in the same job classification in the same division.
- (4) The least senior employee in a division bumps the least senior employee in the same job classification anywhere in the District.
- (5) An employee, "A", bumps to an equal paying job classification which "A" previously held, provided that "A" has more total seniority in the current and the previously held position than the least senior current employee in the position which "A" previously held.
- (6) "A" bumps to a lower paying job classification which "A" previously held, provided that "A" has more total seniority in the current and the previously held position than the least senior current employee in the position which "A" previously held.
- (7) "A" bumps to a lower paying job classification in a class series in the same division in which "A" previously held a position, provided that "A" has more total

seniority in that class series and in "A's" current position, taken together, than the least senior current employee in the lower paying job classification; and provided, further, that an employee must have held a job classification as a supervisor within the District in order to bump a supervisor in a lower paying class series.

- (8) "A" bumps to a lower paying job classification in a class series anywhere in the District in which "A" previously held a position, provided that "A" has more total seniority in that class series and in "A's" current position, taken together, than the least senior current employee in the lower paying job classification; and provided, further, that an employee must have held a job classification as a supervisor within the District in order to bump a supervisor in a lower paying class series.
- (9) "A" bumps to an equal or lower paying job classification which "A" did not previously hold but for which "A" meets the minimum requirements identified in the job description, provided that "A" has more total District seniority than the least senior current employee in the equal or lower paying job classification.

Note: Notwithstanding that the foregoing criteria (6), (7), (8) and (9) shall normally be applied in sequential order, an employee who can bump to an equal or lower paying job classification under any of those four criteria shall bump to the highest paying of the available positions.

D. RECALL

- (1) Employees who are laid off will be placed on a recall list for thirty-six (36) months, during which period, service time in the former classification will be preserved. However, no service time will be accrued during any period of layoff.
- (2) Employees will be recalled to their former job classification, or to a lower paying job classification for which they meet the minimum requirements identified in the job description, in reverse order of layoff provided they respond to the notice (mailed to the employee's home address of record with the District by certified mail return receipt requested) of a classification opening by notifying the District of their intent to return within 10 working days of receipt of such notice and return to work or to their former classification within fifteen (15) calendar days of receipt of such notice.
- (3) An employee recalled to a lower paying classification or advanced to an intermediate paying classification shall remain on the recall list and retain the right to return automatically to his or her former, higher paying classification. The employee with the highest seniority shall have priority to return to the previously held vacant job classification or to advance to an intermediate paying job classification in the class series of the previously held classification.
- (4) An employee's name shall be removed from the recall list only when the employee refuses an offer to be returned to the employee's former position.
- (5) A change in job title shall not affect an employee's recall rights.

ARTICLE XI FRINGE BENEFITS

An employee who is approved for a part-time assignment of 90% or more will receive the fringe allowance as specified in Section 11.07 Premium Requirements. All other employment benefits will be prorated based on the hours worked. All employment benefits for an employee who is approved for a part-time assignment of less than 90% will be prorated based on the hours worked.

SECTION 11.01 HEALTH INSURANCE

The District shall make available health insurance coverage through the Public Employees Medical and Hospital Care Program for employees and their eligible dependents. Optional coverage is available for eligible dependents and for Domestic Partners where an employee has filed a confidential Declaration of Domestic Partnership with the Human Resources Section. In the event the health insurance coverage in effect July 1, 2000 becomes unavailable, the District and the Association shall immediately meet and confer to mutual agreement in order to select a comparable value plan.

SECTION 11.02 DENTAL INSURANCE

The District shall make available dental insurance coverage for employees. Optional coverage is available for eligible dependents and for Domestic Partners where an employee has filed a confidential Declaration of Domestic Partnership with the Human Resources Section. In the event the dental insurance coverage in effect July 1, 2000 becomes unavailable, the District and the Association shall immediately meet and confer to mutual agreement in order to select a comparable value plan.

SECTION 11.03 VISION CARE

The District shall make available Vision coverage for employees. Optional coverage is available for eligible dependents and for Domestic Partners where an employee has filed a confidential Declaration of Domestic Partnership with the Human Resource Section. Vision care coverage for dependents must be elected at the time of enrollment. In the event the vision care coverage in effect July 1, 2000 becomes unavailable, the District and the Association shall immediately meet and confer to mutual agreement in order to select a comparable value plan.

SECTION 11.04 LIFE INSURANCE

The District provides life insurance coverage for employees. The life insurance amount is based on annual salary. Optional Additional Contributory Life ~~and Dependent Life Insurance~~ is also available to employees. In the event the life insurance coverage in effect July 1, 2000 becomes unavailable, the District and the Association shall immediately meet and confer to mutual agreement in order to select a comparable value plan.

SECTION 11.05 LONG TERM DISABILITY INSURANCE

The District shall provide Long Term Disability Insurance which partially replaces lost income for employees who become disabled on or off the job and meet the eligibility requirements.

SECTION 11.06 VISION CARE, AND HEALTH, DENTAL AND LIFE INSURANCE COVERAGE AFTER RETIREMENT

Health insurance, dental insurance, vision care and life insurance shall continue for retired employees at the maximum fringe benefit allowance received upon retirement. The provisions of the Public Employees' Medical and Hospital Care Act will govern health care coverage after retirement. Vision care, dental insurance and life insurance coverage after retirement will be governed by the vision, dental and life insurance plans in effect for employees covered by this agreement. Retired annuitants' fringe benefit allowances may be equal to and increased concurrently with increases to represented employees' fringe benefits, as determined by the District's Board of Directors.

SECTION 11.07 PREMIUM REQUIREMENTS

1. Effective July 1, 2000, the District will provide a Fringe Benefit Allowance (FBA) of \$576.00 per month per employee for payment of premiums for health, dental, vision and additional Life insurance coverage, as set forth in Sections 11.01 through 11.04 above.
2. Effective January 1, 2001, the District will provide a FBA of \$596.00 per month per employee for payment of premiums for health, dental, vision and additional Life insurance coverage, as set forth in Sections 11.01 through 11.04 above.
3. Effective January 1, 2002, the District will provide a Cafeteria Plan for Fringe Benefits that will provide a FBA of \$626.00 per month per employee for payment of premiums for health, dental, vision and additional Life insurance coverage, as set forth in Sections 11.01 through 11.04 above.
4. Effective July 1, 2003 and continuing for the duration of the contract, the District will provide a Cafeteria Plan for Fringe Benefits that will provide a FBA that will be the total of the lowest health plan premium rate for an employee and two or more dependants offered by the California Public Employees' Retirement System (PERS), and the dental plan and vision plan premium rates for an employee plus dependants.
5. Effective January 1, 2004, the District will provide a Cafeteria Plan for Fringe Benefits that will provide a FBA of \$983.14 per month per employee for payment of premiums for health, dental, vision and additional Life insurance coverage, as set forth in Sections 11.01 through 11.04 above.
6. Effective January 1, 2005 the District will provide a Cafeteria Plan for Fringe Benefits that will provide a FBA of \$1,111.24 per month per employee for payment of premiums for health, dental, vision and additional Life insurance coverage, as set forth in Sections 11.01 through 11.04 above.
7. Thereafter, and continuing for the duration of the contract, the District will provide a Cafeteria Plan for Fringe Benefits that will provide a FBA that will be the total of the

lowest health plan premium rate for an employee and two or more dependants offered by the California Public Employees' Retirement System (PERS), and the dental plan and vision plan premium rates for an employee plus dependants.

8. Cafeteria Plan – Each employee who uses less than the full amount of the FBA shall be eligible to receive cash payments of 50% of the unused portion. Such payments shall not exceed \$300 per month. (See side letter in the Appendix B).

SECTION 11.08 STATE DISABILITY INSURANCE/FAMILY TEMPORARY DISABILITY INSURANCE

Each employee is covered by State Disability Insurance (SDI) and Family Temporary Disability Insurance (FTDI). Premiums are paid by the employee. The District's sick leave payments are integrated with any payments received by the employee from SDI or FTDI. The cost of SDI and FTDI is deducted from the employee's pay. State Disability Insurance and Family Temporary Disability Insurance is integrated with the employee's leave time. Employees shall not be entitled to receive more than one hundred percent (100%) of pay when SDI or FTDI and leave time are combined. The administration of the SDI and FTDI programs ~~is~~ are solely the responsibility of the State of California. The District is not responsible for benefit levels, the duration of benefits, or the eligibility of District employees for benefits.

SECTION 11.09 WORKERS' COMPENSATION

An employee who is absent as a result of a work-related injury will continue to receive full pay for the first 90 calendar days after the date of injury (the period will apply only once per injury) providing the injured employee meets the following requirements/conditions:

1. The injury has been accepted by the District's workers' compensation insurance carrier as a bona fide work-related injury.
2. The work-related attending health care provider has medically authorized the absence.
3. If the length of the work-related absence qualifies the injured worker for temporary disability benefits from the District's workers' compensation insurance carrier, the wages of the employee will be deducted for the same amount as the temporary disability payments; and in no event, will the injured employee receive more than 100% of his/her wages when combined with any temporary disability payments from the District workers' compensation insurance carrier.
4. These provisions will only apply once per injury as determined by the District's Workers' Compensation Insurance carrier.
5. In the event that the District's workers' compensation insurance carrier does not accept the workers' compensation claim, the District is entitled to recover the amount of any benefits or time paid under this section. The District and the employee will develop a repayment plan. The employee may surrender sick leave, annual leave, floating holidays or compensatory time, make a cash payment, accept payroll deductions, or agree to surrender any combination thereof for repayment. The compensation shall be paid back

within one year from the denial of the claim. Any period longer than one year must be agreed upon by both parties due to extenuating circumstances.

SECTION 11.10 PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS)

1. ~~2% at 55 FULL RETIREMENT FORMULA: The District shall amend~~ **amended** the PERS contract to ~~use-~~ **implement** the “2.0% at age 55 formula” **effective July 22, 2002**. ~~Within 30 days of the effective date of this agreement, the District shall request that PERS perform an actuarial valuation for the 2.0% at age 55 contract amendment using 110% of the market value of assets to determine actuarial assets. The District must implement the 2.0% at age 55 amendment to the PERS contract (using the 110% of market value of assets option) as soon as administratively feasible, but not later than 120 days after receiving the actuarial valuation.~~
2. PICK-UP OF EMPLOYEE CONTRIBUTIONS:
 - A. Except as limited by Subsection 3 below, the District shall make employee contributions on behalf of all employees, and such contribution shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States. Such contributions are being made by the District in lieu of employee contributions.
 - B. Employee contributions made under Subsection A above shall be paid from the same source of funds as used in paying the wages to affected employees.
 - C. Employee contributions made by the employer under Subsection A above shall be treated for all purposes other than taxation in the same manner and to the same extent as employee contributions made prior to the effective date of this Agreement.
 - D. The employee does not have the option to receive the District-contributed amounts paid directly instead of having them paid to the retirement system.
3. EMPLOYEE CONTRIBUTIONS
 - A. Effective July 30, 2000, the employees’ portion of PERS contribution rate (7% maximum) will be paid by the District for as long as the District is in “super-funded” status with PERS without wage reduction. The District shall fully compensate all employees that made contributions by District applied wage reductions from July 30, 2000 until the District Board of Directors approves this MOU.
 - B. Upon approval of this MOU by the District Board of Directors, for any period of time that PERS determines the District is in “super-funded” status [Actuarial Value of Assets in the District’s PERS account exceeds the Present Value of Benefits], the District shall request that PERS transfer sufficient assets from the employer reserve account to member-accumulated (employee) contribution accounts and use those assets to satisfy all employee contributions for the maximum period of time allowed. Those contributions that the District would otherwise make on behalf of the employees during that period of time shall be paid to the employees as wages, without reduction pursuant to Subsection 2 above.

- C. Effective July 1, 2003, District shall pay the employees' required portion of PERS contribution rate (7% maximum) for the duration of the contract regardless of super-fund status without wage deduction pursuant to Subsection 2 above.

SECTION 11.11 CREDIT UNION

Employees may become members in the San Francisco Federal Credit Union.

SECTION 11.12 EMPLOYEE ASSISTANCE PROGRAM

The District shall offer an employee assistance program to employees and members of their household. The Employee Assistance Program provides limited professional, confidential counseling service at no cost to the employee.

SECTION 11.13 TRANSIT SUBSIDY / CARPOOL SUBSIDY

1. Consistent with the District's efforts to promote the use of public transportation and to reduce the number of single-occupant automobiles during commute hours, full-time District employees are eligible for a transit or a carpool subsidy. Use of the passes, or tickets, is confined to the employee during commute hours.
2. Effective July 1, 2002, the District will provide transit ticket or passes, up to a maximum value of \$150.00 per month or, at the option of the employee, the District will allow \$6.00 per-day (\$3.00 per one-way trip) up to a maximum of \$150.00 per-month per-carpool amount, for the reimbursement to the vehicle owner of commute carpooling expenses and up to \$6.00 per-day (\$3.00 per one-way trip) to District employees (driver) commuting in a carpool (carpool is three or more persons, at least two of which must be District employees). District employees who ride in a carpool will be allowed up to \$3.00 per day (\$1.50 per one-way trip). District employees who walk or bicycle to work and live more than 1.0 mile from his or her work location will be allowed up to \$3.00 per day (\$1.50 per one-way trip).
3. Procurement of the transit passes is the obligation of the individual employee. No funding will be advanced by the District. Transit tickets or passes for a given month will be made available to eligible District employees at the District's office on a designated day prior to the beginning of that month. The District reserves the right to change the system of distributing passes/tickets in order to provide direct reimbursement for transit passes to employee or other methods deemed more efficient for the District.
4. Carpool reimbursement will be made on a monthly basis. No funding will be advanced by the District. In order to receive the carpool subsidy, the employee must certify to the Director of Administrative Services, no later than the 10th day of each month, the number of days carpooled the previous month and the names of the persons who participated in the carpool.
5. There will be no banking of the unused allocation of transit subsidy. Transit subsidy allowance is for each individual month and will not be cumulative. The purpose of transit subsidy is to provide an allowance to employees who use an alternative

method of transportation for the sole purpose of coming to and from work (portal to portal).

6. Verification: Transit subsidies may be audited on a District-wide basis at any time. For stated reasons in writing to the employee, the District may audit an individual employee and require the employee to provide a written explanation of his or her use of transit subsidy. This provision is intended to be invoked on an individual basis in situations where abuse of transit subsidy is reasonably suspected. Persons in violation of this section may be subject to disciplinary action.
7. If an employee chooses to change his or her subsidy, he or she must complete the necessary forms in a timely manner in order to receive his or her subsidy for the subsequent month.
8. Effective July 1, 2002, an employee that uses an electrical vehicle to commute to and from the District main office in San Francisco shall be provided with parking and have access to a re-charging station at no cost, subject to availability.
9. The amount of transit subsidy shall be increased by any percentage increase(s) in Bay Area Rapid Transit fares that occur on or after July 1, 2003 for the duration of the contract. The maximum value of transit tickets or passes provided by the District was increased to \$165.00 effective July 1, 2004 in accordance with this provision.

SECTION 11.14 DEFERRED COMPENSATION

The District shall offer the opportunity to participate in Section 457 deferred compensation plans. These plans are designed to allow employees to invest a portion of salary that is tax deferred until such time as the employee withdraws the funds. The District will continue to provide at least two (2) vendors for its Deferred Compensation Program: Hartford and CalPERS, unless another vendor(s) is chosen by mutual agreement of the parties hereto.

SECTION 11.15 JOB-RELATED EDUCATIONAL PURSUITS

1. JOB-RELATED EDUCATIONAL PURSUITS

- A. The provisions of the “Job-Related Educational Pursuits” section will be applicable to an employee who applies for “Skills Enhancement Pursuits” and who takes an educational course or other skills enhancement course which is directly related to the employee's current position, but is not necessarily enrolled at an accredited college or university in an undergraduate or graduate degree program.
- B. “Year” is defined as fiscal year.
- C. For the purposes of this section “Job-Related Educational Pursuits” is defined as education that either maintains or improves an employee's job skills as they relate to an employee's current position.
- D. To receive reimbursement, an employee must be enrolled at an accredited college or university in an undergraduate or graduate degree program, or in a certificate program; courses taken must contribute to progress towards the degree or certificate.

- E. To qualify for reimbursement under this Section 11.15, participation in certificate programs is subject to prior approval by the HRO. Reimbursement will be approved if the educational pursuit conforms with (A), (C) and (D) above, and there is sufficient funding pursuant to (F) below. Certificate programs in which an employee's participation will normally be granted shall include, but not be limited to, environmental management certificate programs offered by the University of California or other colleges and universities as well as coursework leading to a professional license which relates to the work of the District (such as a Professional Engineer license).
- F. The District shall yearly apportion an amount up to \$15,000.00 to allow for reimbursements of up to \$1,500.00 per employee for those employees who attend and successfully complete job related educational courses or seminars. Such reimbursement will be paid upon proof of completion of any approved course. Employees wishing to take educational or other professional courses must obtain prior approval from the HRO before taking the course in order to be reimbursed.

2. SKILLS ENHANCEMENT PURSUITS

- A. For the purposes of this section “skills enhancement pursuits” is defined to include educational courses and other skills enhancement courses that may or may not be related to an employee’s current position, but reasonably relate to the District’s work in general and will enhance an employee’s skills and may allow for further advancement or promotion at the District.
- B. The District shall yearly apportion an amount up to \$10,000.00 to allow for reimbursements of up to \$1,000.00 per employee for those employees who attend and successfully complete skills enhancement course. Such reimbursement will be paid upon proof of completion in any approved course. Employees wishing to take skills enhancement courses must obtain prior approval from the HRO before taking the course in order to be reimbursed.
- C. An employee may be reimbursed for courses necessary to attain a job-related degree.
- D. Reimbursement will be approved if the skills enhancement pursuit conforms with (A) and (C) above, and there is sufficient funding pursuant to (B) above.

3. REIMBURSEMENT:

- A. Upon proof of completion of a course (grade “C” or better, “pass”, “credit” or other indication of satisfactory completion of the course) the District will reimburse the employee for the course cost and related materials (required books, supplies, lab fees, etc.) up to the prescribed limit. An employee may be reimbursed for courses necessary to attain a job related degree.
- B. The reimbursement for Job-Related Educational Pursuits or Skills Enhancement Pursuits whose course cost is all-inclusive, which includes either meals, lodging, entertainment, or special events, etc. shall be reduced by the reasonable costs of these non-course related items.

SECTION 11.16 DEPENDENT CARE ASSISTANCE PLAN

The District will continue for the term of this Agreement the Dependent Care Assistance Plan as adopted by the Board of Directors by Resolution 98-25, November 4, 1998.

SECTION 11.17 SOCIAL SECURITY REPLACEMENT BENEFITS

The District's Board of Directors has adopted and implemented a package of benefits designed to replace to the fullest extent possible those benefits formerly provided under the employer-employee jointly funded federal program commonly known as Social Security. These replacement benefits include the following:

1. Special retirement and disability benefits under PERS.
2. Life insurance coverage for employees is as specified in the contracts. The contracts are available in the Human Resources Section.
3. A portion of long-term disability coverage at the level of 66 2/3% of monthly salary to a maximum benefit of \$6,500.
4. Qualified pension plan contribution of \$62.50 per month credited to each full-time regular employee's account, effective July 1, 2000. The monthly contribution for each subsequent fiscal year shall be adjusted by the change in the annual-average Bay Area CPI-W for the previous calendar year. **The contribution amount increased to \$71.21 per month effective July 1, 2004 in accordance with this provision.**
5. Medicare Part B for employees that retire after July 1, 2000 up to a maximum total cost of \$10,000 per year for all covered retirees.
6. PERS Long Term Care for District employees who elect to enroll in the PERS Long Term Care Program as paid for by the employee.

SECTION 11.18 HEALTH CARE SPENDING ACCOUNT

The District will offer employees the option to participate in a Health Care Spending Account (HCSA) Program designed to qualify for tax saving under Section 125 of the Internal Revenue Code, but such savings are not guaranteed. The HCSA Program allows employees to set aside a pre-determined amount of money from their paycheck, not to exceed \$5000 per year, for health care expenses not reimbursed by any other health benefits plan before tax dollars. HCSA dollars can be expended on any eligible medical expenses allowed by Internal Revenue Code Section 125. The employee cannot recover any unused balance.

SECTION 11.19 GUARANTEED RIDE HOME

An employee who uses an alternate method of transportation to commute to and from work will be guaranteed a ride home in the event of an unforeseeable circumstance that would prevent the employee from using such alternate method of transportation to commute home from work.

ARTICLE XII LEAVE AND HOLIDAYS

SECTION 12.01 ANNUAL LEAVE

1. An employee will earn annual leave credits at the rate of 3.69 hours per pay period (approximately one day per month) for the first three years of employment. Annual leave will accrue but cannot be taken until the successful completion of six months' service.
2. An employee with more than three and up to five years of employment will earn annual leave at the rate of 4.64 hours per pay period (approximately 1-1/4 days per month).
3. An employee with more than five and up to ten years of employment will earn annual leave at the rate of 5.52 hours per day period (approximately 1-1/2 days per month).
4. An employee with more than ten and up to twenty years of employment will earn annual leave at the rate of 6.48 hours per pay period (approximately 1-3/4 days per month).
5. An employee with more than twenty years and up to thirty years of employment will earn annual leave at the rate of 7.69 hours per pay period (approximately 2 days per month).
6. An employee with thirty or more years of employment will earn annual leave at the rate of 9.23 hours per pay period (approximately 2-1/2 days per month).
7. If an employee's annual leave accrual rate changes during a pay period, the new rate will be credited from the first day of that period.
8. Annual leave will be normally scheduled in advance by the employee's immediate supervisor, in consideration of the operating requirements of the section and the division. However, in an emergency situation, annual leave will be authorized so long as the employee's immediate supervisor is notified in advance.
9. The maximum accumulation of annual leave is four hundred and sixty (460) working hours as of the end of the calendar year. After reaching that limit, no further hours shall be accumulated until the employee reduces the balance below four hundred and sixty (460) hours.
10. Use of annual leave of more than one hundred and sixty (160) hours must be scheduled and approved by the Executive Officer.
11. For the purposes of determining the rate of annual leave, accumulated service within the District will be used less any time for leave of absence in excess of two pay periods.
12. For a permanent employee that was previously employed as either a limited-term employee or a temporary employee for more than 1000 hours: effective July 1, 2001 accumulated service shall be the combined service as a permanent employee and previous service as a limited-term employee or temporary employee, less the initial 1,000 hours. The District will not allow retroactive accrual prior to July 1, 2001.
13. If a payday falls during an employee's vacation, the employee may receive a partial pay warrant for the pay period. The employee may pick up the warrant three (3) days prior to beginning vacation, provided two weeks' notice is given to the Human Resources Office.

14. Once per calendar year, an employee may exchange unused annual leave in excess of 200 hours, up to a maximum of 40 hours per calendar year, for the equivalent amount in wages. The request may not exceed forty (40) hours per fiscal year. Payment shall be made within 10 working days of the request.

SECTION 12.02 SICK LEAVE

1. **COVERAGE.** Sick leave is granted leave to cover authorized absence by an employee unable to work for any of the following reasons:
 - A. Personal injury or illness, pregnancy, childbirth, or pregnancy-related disability.
 - B. Exposure to contagious disease requiring quarantine.
 - C. When the employee is required to attend to a member of the immediate family for reason stated in (A) above, to a maximum of eighty (80) hours per calendar year, provided, however, that in the event of a catastrophic illness of an immediate family member, an employee may petition the EO to use more than 80 hours of accrued sick leave per year to care for that immediate family member.
 - D. For the purpose of this section, immediate family will include: mother, father, spouse, children, brother, sister, grandparents and grandchildren of the employee, domestic partners and relatives by marriage and relatives of domestic partners, including mother-, father-, brother-, sister-, son-, and daughter-in-law.
 - E. Appointments for dental, eye, and other medical examinations.
2. **ALLOWANCE.** Employees will earn sick leave at the rate of 3.69 hours per pay period. There is no limit to the amount of sick leave that may be accumulated. Employees are eligible to use sick leave as it is earned.
3. **COORDINATION WITH STATE DISABILITY INSURANCE.** At the employee's election, sick leave may be integrated with State Disability Insurance, **Family Temporary Disability Insurance** and Workers' Compensation Insurance as soon as eligibility for such benefits is established.
4. **JOB-RELATED INJURY.** Employees injured on the job and accepted for Workers' Compensation will not be required to use sick leave for the period from the 1st through the 90th calendar day. This period will begin the day following the date of injury or the date Workers' Compensation approved the absence from work, whichever date begins the absence from work. The period will apply only once per injury. The date of injury will be paid as a day worked for pay purposes.
5. **HOLIDAY DURING A SICK LEAVE PERIOD.** If a holiday occurs during a continuous period of authorized sick leave, the holiday will not be counted as a day of sick leave.
6. **BLOOD DONATIONS.** Employees may take up to two (2) hours to donate blood to the District's account or to a specific person's account to a maximum of twice a year without loss of sick leave credits. Such leave must be approved in advance by the employee's supervisor and consistent with District operating requirements.

SECTION 12.03 BEREAVEMENT LEAVE

1. When a death occurs in the immediate family of an employee, the employee may take twenty-four (24) consecutive work hours off, counting the day of the funeral, without loss of pay, or
2. If the employee is the family member required to make the family arrangements for the funeral and burial (or equivalent ceremony), the employee may take up to forty (40) work hours off without loss of pay to make such arrangements. Such time shall include all time for travel.
3. For the purpose of this Section, immediate family is defined the same as in Section 12.02 (1)(D) above.

SECTION 12.04 MILITARY LEAVE

The District shall comply with all applicable laws requiring the release and payment for duty in the U.S. Military or California National Guard. Notice must be given by the employee to his/her supervisor as soon as the obligation to attend military duty is known.

SECTION 12.05 JURY DUTY

Employees selected for jury duty shall be excused from work with pay for the hours required by such obligation provided they submit any jury fees received for such time to the District. The employee shall return to work whenever released during working hours and travel time allows except as provided in Section 9.01.3.

SECTION 12.06 SUBPOENA AS A WITNESS

Pursuant to Government Code Sections 1230 and 1230.1, any employee subpoenaed as a witness shall be allowed the time necessary to be absent from work without loss of regular pay.

SECTION 12.07 HOLIDAYS

1. The following days will be paid holidays for all employees:

New Year's Day	(First day of January)
King's Birthday	(Third Monday of January)
Lincoln's Birthday	(Twelfth day of February)
Washington's Birthday	(Third Monday of February)
Chavez' Birthday	(Thirty-first day of March)
Memorial Day	(Last Monday of May)
Independence Day	(Fourth day of July)
Labor Day	(First Monday of September)
Columbus Day	(Second Monday of October)
Veterans Day	(Eleventh day of November)
Thanksgiving Day	(Fourth Thursday of November)
Day After Thanksgiving	(Fourth Friday of November)
Christmas Day	(Twenty-fifth day of December)

2. Every day appointed by the President of the United States or Governor of California as a holiday.
3. Holidays falling on Sunday will be celebrated on the following Monday. Holidays falling on Saturday will be celebrated on the preceding Friday, except, if the Governor proclaims the following Monday to be the holiday.
4. Commencing with fiscal year 2001-02, employees will be granted 28 hours of floating holidays per year. Except, an employee hired after January 1st and prior to June 1st will be allowed only 8 hours of floating holiday within that fiscal year. Employees hired after May 31st and prior to July 1st will receive no floating holiday for that fiscal year. Employees must request to use a floating holiday in advance. A floating holiday can be taken only with the approval of the employee's supervisor.
5. If an employee normally is not scheduled to work on a day which is a paid holiday for other District employees, that employee is entitled to 8 hours (or 4 hours for December 24 or 31) of paid holiday leave on the day on which that employee is normally scheduled to work which immediately precedes or follows the paid holiday.
6. Employees working a compressed workweek whose normal workweek includes a paid holiday for other employees are only entitled to 8 hours of paid leave for that holiday.
7. When a recognized holiday falls on a scheduled day off of the compressed workweek the employee may take the preceding, or following day off.

SECTION 12.08 BENEVOLENT LEAVE FUND

1. The Benevolent Leave Fund is established for the exclusive use and donation by bargaining unit employees. Any bargaining unit employee (herein after employee) may donate annual leave or, with the limitation noted in subsection 1 immediately below, floating holiday leave to a benevolent leave fund for the benefit of employees who are ill or injured for one hundred (100) consecutive working hours or longer. In order to donate leave, the following conditions apply:
 - A. Only accrued annual or floating holiday leave may be donated. Floating holiday leave that is donated will only be valid during the fiscal year in which it is accrued. Thus, if in a given fiscal year, an employee donates floating holiday leave and the leave is not used during that fiscal year, the donated leave will expire on the last day (June 30) of that fiscal year.
 - B. To donate accrued leave to the fund, an employee must be eligible to accrue or use annual leave credit and cannot currently be using leave from the Benevolent Leave Fund.
 - C. Donated leave may be designated for a specific employee, or may be donated without designation.
 - D. Leave may be donated to the fund regardless of whether there is a qualified recipient.
 - E. Leave may not be sold, bartered or traded to another employee under any circumstances.

- F. Once leave has been donated to the fund, that leave cannot be reclaimed by the employee making the donation unless and until that employee later becomes an eligible fund recipient.
2. In order to be a fund recipient, the following conditions apply:
- A. The recipient must be on an approved leave for medical purposes and must have on file with the Association Board of Directors a medical verification that demonstrates that the recipient is in fact ill or injured and unable to work for at least one hundred (100) consecutive working hours or longer.
 - B. Upon written request from the Association Board of Directors, the Human Resources Officer shall provide, if available, to the recipient the amount and type of donated leave indicated.
 - C. The recipient must have exhausted all forms of paid leave prior to using any benevolent leave. However, it is understood the employee will accrue all appropriate leaves during the time the Benevolent Leave Fund is in use and shall not be required to use such accrued leave during such time.
 - D. The recipient may not receive benevolent leave from the fund in an amount which exceeds 100% of that employee's normally scheduled hours for any pay period.
 - E. Written requests to use leave from the fund shall be submitted to the Board of Directors of the Association with a copy to the Human Resources Officer.

SECTION 12.09 TEMPORARY DISABILITY LEAVE

The provisions of Division III, Section 11.4 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association in said changes.

SECTION 12.10 FAMILY CARE LEAVE

The provisions of Division III, Section 11.7 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference except as modified in 1 and 2 below:

- 1. Each full-time employee is entitled to a maximum of 480 hours of family care and medical leave during any 12-month period. The 12-month period begins on the first date family care and medical leave is taken. Family care and medical leave can only be initiated by request of the employee. Prior to the request, time off taken on any type of paid leave will not be deducted from the family care and medical leave entitlement. When medically necessary, leave may be taken on an intermittent basis or the employee may be authorized to work on a reduced schedule.
- 2. The family care and medical leave entitlement may consist of paid or unpaid leave. An employee who is taking family care and medical leave to care for an eligible family member must use all accrued annual leave and floating holiday, except for 80 hours that may be retained or used at the employee's discretion, before unpaid leave may be taken.

An employee who is taking family care and medical leave due to the employee's own serious medical condition is not required, but may choose to, use accrued annual leave and floating holiday.

No changes to said provisions of Division III, Section 11.7 of the District's Administrative Code Personnel Policies and Procedures that are within the scope of bargaining will be proposed to the District's Board of Directors by District Management without first obtaining the concurrence of the Association in writing of said proposed changes.

SECTION 12.11 PREGNANCY DISABILITY LEAVE

The provisions of Division III, Section 11.9 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association in said changes.

SECTION 12.12 LEAVE ACCRUAL - RETURNING FROM UNPAID LEAVE

Once returning to work from unpaid leave, in order to accrue annual and sick leave, an employee must work 50% of his or her regularly scheduled assignment (i.e. 50% of the regular assignment of 40 hours in five (5) consecutive eight-hour days or 50% of 40 hours in four (4) consecutive 10-hour days).

SECTION 12.13 LEAVE WITHOUT PAY

Regular full-time or part-time and probationary employees may be granted a leave without pay for non-medical reasons. Such leave will be granted at the discretion of the EO.

Leave may be granted for any period of time up to thirty (30) calendar days and may be extended for one (1) to ten (10) additional working days. A working day is any day that the District office is open for business. A return to work of one full day is considered as ending a leave period. Additional time after this day will be requested as a new and separate leave.

An employee on leave without pay continues to receive benefits described in Article XI, except that an employee on leave without pay for more than 80 hours during a fiscal year will not accrue annual or sick leave for the period of leave without pay in excess of 80 hours, and will not receive transit subsidy, or receive educational reimbursement, unless the course was approved prior to the commencement of the leave. Employee and employer contributions to PERS are not paid during leave without pay. A leave without pay is not considered as a break in service, and the employee is assured return to the same position, or to a comparable position in the same job classification and at the same pay grade.

SECTION 12.14 LEAVE OF ABSENCE

1. Leave of absence may be granted for non-medical reasons or to continue a medical leave for a maximum of six (6) months by the EO. A consecutive leave of absence may be granted but in no case for a total of more than twelve (12) months for any employee.

No annual or sick leave credits are earned during leaves of absence. An employee on a medical leave of absence continues to receive benefits described in Article XI, except that

an employee on leave of absence shall not receive transit subsidy, or receive educational reimbursement, unless the course was approved prior to the commencement of the leave. Employee and employer contributions to PERS are not paid during unpaid leaves of absence. An employee on a leave of absence for non-medical reasons receives none of the benefits described in Section 11. A leave of absence for non-medical reasons is considered a break in service, and the position vacated by this leave may be open for recruitment of a regular employee.

2. Return after unexpired leave. Granting a leave of absence will permit the return of the employee to District employment before the expiration of the leave of absence under the following conditions.
 - A. The employee will have preference for re-employment in the same classification or at another lower classification for which the person is qualified, provided the position is vacant.
 - B. Leave of absence does not confer any absolute right to return to position or employment.
 - C. Employee time in-grade for salary increase will be preserved, at the same level.
 - D. Accrued pension rights and pension time will be preserved.

ARTICLE XIII ASSOCIATION ACTIVITIES

SECTION 13.01 COMMUNICATING WITH EMPLOYEES

1. The Association may use District internal mail. Any mail will be given to the Business Manager for routing.
2. The Association will use the right-hand third of the space on District bulletin boards for posting Association business announcements provided District business matters do not take precedence. All material posted will be dated for timely removal. No Association documents will be removed prematurely except for demonstrated lack of space.

SECTION 13.02 USE OF DISTRICT FACILITIES

1. The Association may use District meeting rooms provided they are available and there is no interruption of District work. The Association will submit its requests to the Business Manager for the use of the rooms in advance. Meetings of the District take precedence over Association meetings. Security and clean-up will be the responsibility of the Association.
2. The Association may use the District's reproduction facilities at reasonable cost. Materials to be reproduced will be submitted to the Business Manager for costing and scheduling, which will be without interruption of District business. The District will bill the Association monthly for costs incurred.
3. The District will provide the Association with office space providing there is available space.

SECTION 13.03 ASSOCIATION REPRESENTATIVES AT BOARD OF DIRECTOR MEETINGS

Two Association representatives will be allowed to attend regular meetings of the Board of Directors on paid release time. Two Association representatives will be allowed to attend regular meeting of committees of the Board of Directors when items are on the agenda that directly relate to matters within the scope of representation of Association activities.

SECTION 13.04 ASSOCIATION REPRESENTATIVES

1. The Association may, by written notice to the HRO, designate no more than seven (7) of its members to be stewards. If a change in Stewards occurs, notification shall be provided to the HRO within ten (10) working days of such change.
2. The stewards and officers (representatives) will obtain approval from their immediate supervisor or management official before leaving a work assignment. Permission will not be withheld except for good cause.
3. Representatives will be allowed to post Association notices on District bulletin boards.
4. Representatives other than the President or Vice President will each be allowed up to seven (7) hours off, with pay, per month to engage in Association business, including but not limited to assisting employees in processing grievances. The amount of time so used will be reflected in the representative's time sheet. Time spent meeting with District Management personnel shall not count against the hours allotted. The President and Vice President each will be allowed up to seven (7) hours off, with pay, per month to spend on Association business.
5. Any represented employee who has a grievance may request the assistance of a representative in preparing and presenting the grievance.
6. Association board and committee members working on Association business and issues related to meet and confer shall be provided with reasonable time and accommodations to spend on these activities, so long as advance notification is given to, and approval is received from, an employee's supervisor.
7. The Association negotiating team members (total of eight) will be allowed up to 30 hours off, with pay, per month for bargaining preparation when negotiations are in progress.
8. In the event that a dispute results in litigation or is submitted to arbitration or any other forum for dispute or grievance or litigation resolution, not more than two representatives shall be authorized to attend the proceedings on paid release time to represent the grievant and/or the Association. This paid release time is separate and apart from any other paid time afforded to representatives for association activities. The EO may release any number of people for such proceedings.

ARTICLE XIV AVAILABILITY OF DISTRICT DOCUMENTS

SECTION 14.01 ADMINISTRATIVE CODE

The District will continue to make available to the Association a copy of the Administrative Code.

SECTION 14.02 HEALTH INSURANCE PLANS

The District will continue to make available for reading by authorized representatives of the Association the master plans of the life, health, vision and dental insurance plans. The master plans will be available in the Human Resources Section only.

SECTION 14.03 PERSONNEL FILES

The District will continue to maintain a personnel file on each employee. Employees have the right to review their personnel file at reasonable times with prior arrangement (normally within 7 days) with the Human Resources Section.

ARTICLE XV PERSONNEL TRANSACTIONS AND RECORDS

SECTION 15.01 HIRING AND INITIAL ORIENTATION

The provisions of Division III, Section 12.1 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 15.02 PERSONNEL AND MEDICAL FILES

The provisions of Division III, Section 12.2 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 15.03 EMPLOYMENT RECORD VERIFICATION

The provisions of Division III, Section 12.3 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 15.04 CLASSIFICATION SYSTEM

The provisions of Division III, Section 12.4 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 15.05 REQUESTS FOR NEW EMPLOYEES

The provisions of Division III, Section 12.5 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

SECTION 15.06 PERSONNEL ACTION FORMS

The provisions of Division III, Section 12.6 of the District's Administrative Code Personnel Policies and Procedures are incorporated herein, and made a part hereof by this reference. Proposed changes to this policy that are within the scope of bargaining will not be implemented without first obtaining the concurrence of the Association.

ARTICLE XVI METHOD OF FILLING VACANCIES

SECTION 16.01 PROCEDURES

1. **ANNOUNCEMENT PROCEDURE.** When a bargaining unit vacancy exists, the Human Resources Officer (HRO) will prepare and distribute a position announcement for the vacancy. The announcement will normally be posted on the electronic (e-mail) Personnel Bulletin Board as well as on each floor's bulletin board. The announcement will be delivered by mail or by insertion into the employee's pay envelope. The position will be opened for at least 10 working days. The bargaining unit vacancy announcement will include the opening date, minimum qualifications required, the criteria to be used to screen applicants, the weight which will be given to the panel interview, and a statement that the District may choose to utilize these procedures or any other selection procedure deemed appropriate as determined by the HRO and Hiring Manager, if the qualified applicant pool does not include any bargaining unit employees.
2. **REVIEW OF JOB ASSIGNMENT(S) AND DESCRIPTION.** Prior to the opening of a vacancy, a Division Director shall have the right to make job assignment changes within the classification of the vacant position prior to identifying the actual vacant position. The Hiring Manager must review the job description prior to the commencement of the recruitment process in order to select those duties and functions, which are the most relevant for the position to be filled. Those identified duties and functions shall be placed in bold print so that they are given prominence in the job announcement for the position to be filled.
3. **APPLICATION.** Employees who wish to be considered for the position will submit a completed application form to the HRO on or before the filing deadline specified on the announcement.
4. **QUALIFICATIONS.** The qualifications include, but are not limited to, the education, experience, knowledge, skills, abilities and other background factors, which are needed for each classification. The minimum qualifications will be specified in the position description form and included in the announcement. The HRO may allow for or consider equivalent education and/or work experience when evaluating if an applicant meets the

minimum qualifications. In reviewing job applications, the HRO shall consider all relevant education, work experience, supervisory experience and lead experience. In evaluating the qualifications of each applicant, the HRO shall document in writing the extent to which each applicant possesses the desirable qualifications.

The HRO shall determine if candidates meet the minimum qualifications of the position. The HRO shall inform each candidate in writing if he/she meets the minimum qualifications for the position. The HRO may reject any application if the applicant does not possess the minimum qualifications required for the position, or for other justifiable reasons. The HRO shall inform any disqualified District employee in writing. This written notice shall inform the employee of his/her rights to appeal the HRO's decision and the right to obtain a written statement of the specific reasons for the disqualification, providing the employee requests the written statement within five (5) working days of the receipt of the written notice.

5. **VACANCY.** A vacancy is a position in which there is no incumbent and no employee has a right to the position. A position is vacant when the position is newly-created, the incumbent terminates, the incumbent is on a leave of absence or the incumbent has been demoted from the position. A position is not vacant if the incumbent is on sick leave, annual leave, bereavement leave, temporary disability including maternity leave, Family Care Leave, Workers' Compensation, leave without pay or any other circumstances determined by the EO.

6. **ORDER OF FILLING VACANCIES.**

- A. **FIRST PRIORITY.** Reinstatement from layoff, return from leave of absence granted for medical reasons. To fill a vacancy in the first priority category, the HRO will submit the names of all qualified candidates to the Hiring Manager.

- B. **SECOND PRIORITY.** For regular employees, transfer, promotion, or return from leave of absence granted for non-medical reasons. To fill a vacancy in the second priority category, the procedures specified in this Section shall be used.

The Hiring Manager shall have the right to determine whether a second priority order for filling vacancies shall be promotional or open. In the event the recruitment is open, bargaining unit employees have the opportunity to apply and compete for the vacant position with the outside applicants.

7. **DISQUALIFICATION APPEAL.** Those bargaining unit applicants who do not meet the minimum qualifications for the bargaining unit vacancy shall be notified in writing and shall have the right to a consultation with the HRO and an opportunity to present additional information regarding his/her qualifications provided a written request for consultation is submitted to the HRO within 10 working days from the receipt of the written notification of disqualification. The HRO shall review the additional information with the Hiring Manager. The Hiring Manager shall have the final decision in determining whether or not a bargaining unit applicant meets the minimum qualifications for the bargaining unit vacancy. If the Hiring Manager or the HRO decides that the employee meets the minimum qualifications, the employee will be allowed to continue in the recruitment. If the Hiring Manager decides that the employee fails to meet the

qualifications, the employee shall be disqualified. The HRO, within five (5) working days of receipt of the Hiring Manager's written decision, shall inform the employee of the reason for his/her disqualification in writing.

8. QUALIFIED APPLICANT POOL - PROCEDURE.

The following procedure shall be used to determine the qualified applicant pool. In an open recruitment, all qualified District employees shall be interviewed by the Hiring Manager and Steps A, B, and C will not apply to those District employees. When there are five (5) or fewer qualified applicants, Steps A, B, and C will not apply.

- A. A panel of three (3) District employees chosen by and facilitated by the HRO shall screen those applicants who meet the minimum qualifications for the bargaining unit vacancy. The HRO will not be a member of the screening panel. The Hiring Manager in consultation with the HRO shall establish the screening criteria. The screening criteria may include a practical test, a written examination, a review of the responses to the supplemental application question, and/or any combination of screening methods deemed appropriate for the position by the Hiring Manager. The screening panel shall score the applicant consistent with predetermined scoring methodology. As a result of the screening, all applicants will be given a score based on a 100-point scale. If the Hiring Manager has opted for an examination, then the HRO shall administer the examination to all of the candidates under the same conditions. The HRO or the screening panel shall score the examinations with the predetermined scoring criteria. The examination will be scored blindly.
- B. Out of the total qualified applicant pool screened by the panel identified in (A) above, the top eight (8) applicants, by score, will be referred for a panel interview.
- C. The top eight (8) applicants will be interviewed by the panel of three (3) District employees designated at the discretion of the HRO, giving due consideration to the necessities of the job being filled. The HRO shall ensure that one of the panelists shall be a representative from the Division where the vacancy exists, and who occupies a position in a job classification, which is equal to or higher than that of the job to be filled. The HRO shall ensure that the other two panelists come from two other Divisions and each shall occupy a position in a job classification, which is equal to or higher than that of the job to be filled. The HRO may choose a fourth (4th) panel member from outside the District employ who possesses expertise in the area of the vacant position. The Hiring Manager and the HRO will develop the interview questions and rating criteria. A representative of the HRO will facilitate the interview process, however, that person will not be a member of the panel. The interview panel score, based on a 100-point scale, will be combined with the screening panel score, if applicable, in accordance with the weighting identified in the vacancy announcement. In no event will the interview score be weighted less than 20% of the total score.
- D. As a result of the combined scores, the Hiring Manager in the presence of the HRO will interview the top five (5) applicants. In open recruitments the Hiring Manager will interview all qualified District employees. The Hiring Manager and the HRO will develop the interview questions and rating criteria. The Hiring Manager shall ask the predetermined interview questions of every candidate and evaluate the

candidates based on the predetermined selection criteria. Based on the answers to the prepared questions, the Hiring Manager may pursue further lines of inquiry, which will draw out further information about the candidate's qualifications or abilities that relate to the vacant position. The Hiring Manager shall document in writing the extent to which each applicant possesses the desirable qualifications. The Hiring Manager shall score each candidate consistent with the scoring criteria. The Hiring Manager shall review the scoring of each candidate with the HRO or designee. At the conclusion of all the interviews, the Hiring Manager shall forward his/her scoring sheets, notes and recommendation of the selected candidate to fill the vacancy to the HRO or designee. The hiring recommendation shall be forwarded to the HRO for certification as to process and procedure. Once the HRO certifies the process and procedure the hiring recommendation shall be forwarded through the chain of command to the EO for approval. Any determination not to approve a Hiring Manager's recommendation shall be in writing. If the hiring process and procedure is not certified by the HRO, the recommendation shall not be forwarded to the EO and the HRO shall take the appropriate steps to ensure the recruitment and selection process conforms to the procedures specified in this Article. Any determination not to approve the Hiring Manager's recommendation shall be in writing and shall provide a detailed explanation of the reasons for the determination, and must be approved by the EO. This document, and any correspondence concerning the document from the Hiring Manager or from any other manager in the chain of command applicable to the hiring decision, shall become part of the record of the hiring decision.

- E. In the event the EO does not approve the Hiring Manager's recommendation, the Hiring Manager shall submit the name of the candidate who has the next highest final score through the appropriate levels of management for approval by the EO.
- F. After the final selection(s) are made and approved by the EO, the Hiring Manager upon request shall provide each unsuccessful candidate with reasons for his or her rejection. These reasons shall be constructive and specific.
- G. In the event there are tied scores at the eighth or fifth positions as a result of the procedures identified in Step B and C above, each employee at the tied positions shall proceed to the next steps in the process.
- H. For more than one vacancy, one additional applicant for each additional vacancy will be added to each of the selection processes Steps B, C and D above.
- I. If a vacancy occurs in the same classification during a current recruitment or within 18 months from the start date of the selected applicant, the District shall have the option of using the applicant pool of the most recent recruitment to fill the subsequent vacancy.
- J. A bargaining unit employee or the Association has the right to file a grievance if the procedures of this Article are not followed when there are bargaining unit employees in the applicant pool. Matters that are not procedural, including the hiring decision, are not grievable.

- K. If there are two (2) or less bargaining unit candidates who meet the minimum qualifications in the applicant pool, the bargaining unit candidates will be interviewed by the Hiring Manager, and in continuing the recruitment, the District retains the right to utilize these procedures or any other selection procedures deemed appropriate by the HRO with the concurrence of the Hiring Manager.

Allegations of discrimination under this Article cannot be grieved.

SECTION 16.02 CONTRACTING OUT

The District shall not contract out or remove from the bargaining unit any District work, whether permanent or temporary, which is performed by bargaining unit members, if the services are of a kind that persons selected through the District's normal selection process could perform adequately, competently and in timely manner, except as follows:

- A. Concurrent with recruitment for one or more bargaining unit vacancies, the District may contract out for services normally performed by bargaining unit employees provided no more than 1,000 hours is contracted out per vacancy.
- B. In emergency situations contracting out for services normally performed by bargaining unit employees shall be permitted, providing no more than 1,000 hours is contracted out per contract employee.
- C. Contracting out of new functions not previously undertaken or covered by existing employees shall be permitted provided it is determined that the services cannot be adequately performed by bargaining unit employees.
- D. Non-bargaining unit employees (Temporary workers) employed by the District for the purpose of filling a bargaining unit position while a bargaining unit employee is on approved leave (i.e., not those instances where the temporary worker is filling a vacant position) need not be terminated for the duration of the approved leave.

ARTICLE XVII MEMORANDUM OF UNDERSTANDING

SECTION 17.01 ENTIRE AGREEMENT

It is the intent of the parties hereto that the provisions of this Memorandum of Understanding supersede previous agreements between the parties.

This Memorandum of Understanding supersedes any and all other statements of policy or procedure established by this District through its Board of Directors insofar as such provisions relate directly to the matters specifically dealt with herein. Matters not the subject to bilateral agreement through this Memorandum of Understanding remain in full force and effect. Unless specifically amended by the terms of this Understanding, all other terms and conditions of employment remain as previously established.

SECTION 17.02 CONSISTENCY WITH ADMINISTRATIVE CODE

To the extent that any provisions of said Policies and Procedures, which pertain to any subject within the scope of representation, are inconsistent with the terms of this

Memorandum of Understanding, the terms of this Memorandum of Understanding shall prevail. During the term of this Memorandum of Understanding, no new provision or amendment to said Policies and Procedures not in accord with this Memorandum or which directly affect wages, hours, terms or conditions of employment of employees covered by this Memorandum of Understanding shall be adopted and/or implemented by the District except upon written agreement with the Association following meet and confer with bargaining representatives.

SECTION 17.03 SEVERABILITY

It is understood that this Memorandum of Understanding is not intended to conflict with any State or Federal law; however, should any provision be deemed ineffective or null and void by reason of law, the remaining provisions shall remain in full force and effect.

SECTION 17.04 INTERIM BARGAINING

Nothing contained in this Memorandum of Understanding, included but not limited to any reopener provision, shall allow any modifications to this Agreement without written consent of the parties hereto.

ARTICLE XVIII INTERIM ADJUSTMENTS

During the term of this MOU any and all increases in salary or benefits granted to all confidential employees not expressly provided herein to the Association members shall be immediately incorporated into this MOU.

ARTICLE XIX SAVINGS PROVISION

Should any provision of this Agreement be found to be in contravention of any Federal or State law, or by a court of competent jurisdiction, such particular provision shall be null and void, but all other provisions of this Agreement shall remain in full force and effect until otherwise canceled or amended by mutual agreement of the parties. In the event that any provision shall be held unlawful and unenforceable by any court of competent jurisdiction, the parties agree to meet forthwith for the purpose of renegotiating such provision in an attempt to reach a valid agreement.

ARTICLE XX TERM OF AGREEMENT

The District and the Association agree that the term of this Agreement shall commence June 7, 2000 and expire at midnight on June 30, 2006. **The parties further agree to amend the term of this Agreement to expire at midnight June 30, 2010.**

ARTICLE XXI SUBMISSION TO BOARD OF DIRECTORS

The provisions of the Memorandum of Understanding are hereby being submitted to the Board of Directors of the Bay Area Air Quality Management District for its approval.

For the District

Date

For the BAAQMD Employees' Association, Inc.

Date

APPENDIX A: CLASSIFICATIONS

Accountant	Permit Coordinator
Accounting Assistant I	Principal Accountant
Accounting Assistant II	Principal Air & Meteorological Monitoring Specialist
Administrative Analyst	Principal Air Quality Chemist
Administrative Secretary	Principal Air Quality Engineer
Advanced Projects Advisor	Principal Air Quality Specialist
Air Quality Case Settlement Specialist I/II	Principal Environmental Planner
Air Quality Chemist I	Programmer Analyst I
Air Quality Chemist II	Programmer Analyst II
Air Quality Engineer I	Public Information Officer I
Air Quality Engineer II	Public Information Officer II
Air Quality Inspector I	Radio Telephone Operator
Air Quality Inspector II	Radio Telephone Operator Supervisor
Air Quality Instrument Specialist I	Receptionist
Air Quality Instrument Specialist II	Research Analyst
Air Quality Laboratory Technician I	Secretary
Air Quality Laboratory Technician II	Senior Accounting Assistant
Air Quality Meteorologist I	Senior Advanced Projects Advisor
Air Quality Meteorologist II	Senior Air Quality Chemist
Air Quality Permit Technician I	Senior Air Quality Engineer
Air Quality Permit Technician II	Senior Air Quality Inspector
Air Quality Specialist I	Senior Air Quality Instrument Specialist
Air Quality Specialist II	Senior Air Quality Meteorologist
Air Quality Technical Assistant	Senior Air Quality Specialist
Air Quality Technician I	Senior Atmospheric Modeler
Air Quality Technician II	Senior Environmental Planner
Atmospheric Modeler	Senior Public Information Officer
Building Maintenance Mechanic	Statistician
Data Entry Operator	Supervising Air Quality Engineer
Database Specialist	Supervising Air Quality Inspector
Deputy Clerk of the Boards	Supervising Air Quality Instrument Specialist
Environmental Planner I	Supervising Air Quality Specialist
Environmental Planner II	Supervising Environmental Planner
Legislative Analyst	Supervising Air Quality Meteorologist
Library Specialist	Supervising Public Information Officer
Mechanic I	Supervising Systems Analyst
Mechanic II	Systems Analyst
Office Assistant I	Systems Quality Assurance Specialist
Office Assistant II	Toxicologist
Office Services Supervisor	Web Master

APPENDIX B: SIDE LETTERS

(The following Side Letters have been completed as of November 17, 2004)

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
DUES/FEES DEDUCTIONS
ARTICLE II, SECTION 2.06**

The District and the Association agree that there shall be no Association dues deducted from retroactive compensation, July 1, 2000 through June 15, 2002, afforded to bargaining unit members.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING THE GRIEVANCE PROCEDURE
ARTICLE IV**

Any grievance filed after June 7, 2000, and has not be resolved, will subject to the new grievance procedure under this MOU.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASOCIATION
REGARDING SALARY STEPS
ARTICLE VII, SECTION 7.02**

Any bargaining unit employee who was promoted to a higher paying bargaining unit position beginning at step A, or step B, under the Terms and Conditions of Employment imposed on June 7, 2000, shall advance to the next salary step C, D, or E based on the salary step provisions of this MOU. This is a one-time adjustment only. Retroactive pay does not apply for this section.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING OVERTIME
ARTICLE IX, SECTION 9.04**

The District and the Association agree that the provisions of Section 9.04, Overtime, will be applicable for represented employees commencing June 7, 2000 under the following conditions.

Represented employees who qualify for overtime under the provisions of Section 9.04 shall submit the necessary records to document working of overtime to the Human Resource Office by no later than June 30, 2002. The Human Resource Office shall provide an employee reasonable access to their records in order to ascertain if overtime pay is applicable.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING PREMIUM REQUIREMENTS
ARTICLE XI, SECTION 11.07.5**

The District and the Association agree that represented employees will receive, effective May 15, 2002, the same Cafeteria Plan as the Confidential Employees until such time as the Cafeteria Plan for Confidential Employees is structured similar to Section 11.07.5. When the Confidential Employee cafeteria plan is restructured, Section 11.07.5 of the MOU will become operative.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING RETROACTIVE COMPENSATION FOR PERS CONTRIBUTIONS
ARTICLE XI, SECTION 11.10.3.A**

The District and the Association agree that, pursuant to Subsection 11.10.3A, retroactive compensation for employees PERS contributions made between July 30, 2000 and May 15, 2002 will be made as a lump sum monetary payment, or at the option of any individual employee, an employee may elect to receive a portion of the compensation as Floating Holiday, up to a maximum of 240 hours. Each hour of Floating Holiday will be equivalent to the hourly wage rate in effect on May 16, 2002.

Any employee that elects to receive a portion of the retroactive compensation as Floating Holiday shall submit a written request to the Human Resource Office by May 22, 2002. This retroactive Floating Holiday compensation must be used by June 30, 2003 or it will expire.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING FLOATING HOLIDAYS
ARTICLE XII, SECTION 12.07.4**

Commencing with fiscal year 2001-02 employees will be granted an additional 8 hours of floating holiday. Employees may carry over to the next fiscal year (2002-03) these additional 8 hours due to the limited time left in this fiscal year. These 8 hours must be used by June 30, 2003.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING METHOD OF FILLING VACANCIES
ARTICLE XVI**

The District and the Association agree that the Method of Filling Vacancies contained in the MOU will be applicable for all represented positions opened after the signing of the MOU. All represented positions opened prior to signing of the MOU will use the procedures in place at the time the position was opened.

(The following Side Letters remain in full force and effect)

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING CLASSIFICATION STUDIES
ARTICLE VI**

The District Board of Directors or Executive Officer may require that a salary classification study be conducted to evaluate individual positions or groups of positions, classes or class series from time to time. The current Classification Study being performed by CPS will be discarded and will not be used for any purpose. Existing represented classifications shall remain in full force and effect without modification for the term of this agreement. **Note – the CPS study was discarded in 2002 and has not been used.**

If the District chooses to conduct a comprehensive Classification Study it shall be conducted in the last year of this MOU and it shall conclude its study before the expiration of this MOU in preparation for a succeeding MOU. If the District chooses to conduct a Classification Study the District shall not conduct any salary or classification survey affecting wages, hours or terms and conditions of employment in any represented classification without first meeting and conferring with the Association.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING PAY PERIOD AND PAYDAY
ARTICLE VII, SECTION 7.10**

The District and the Association agree that during the term of this MOU, the parties will study alternate paydays and pay periods. No said changes will be made unless parties to this MOU agree to such changes.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING DENTAL INSURANCE
ARTICLE XI, SECTION 11.02**

The District and the Association agree that during the term of this MOU the parties will study alternative dental plans offered by Delta Dental Insurance. No said changes will be made unless the parties to this MOU agree to such changes.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING VISION CARE
ARTICLE XI, SECTION 11.03**

The District and the Association agree that during the term of this MOU the parties will study vision care coverage. No said changes will be made unless the parties to this MOU agree to such changes.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING HEALTH CARE SPENDING ACCOUNT
ARTICLE XI, SECTION 11.18**

The District and the Association agree that during the term of this MOU the parties will study the time and cost factors in the administration of the Health Care Spending Account program. If the parties agree that the time and cost factors are reasonable, the District will implement the program.

**SIDE LETTER
BETWEEN THE DISTRICT AND THE ASSOCIATION
REGARDING COLLEGE INTERNS
AND HIGH SCHOOL INTERNS**

This Side Letter of Agreement is reached between the Bay Area Air Quality Management District Employees' Association (EA) and the Bay Area Air Quality Management District (District) pursuant to Section 17.04 Interim Bargaining of the current Memorandum of Understanding (MOU).

This Side Letter of Agreement is incorporated into the MOU as if fully set forth therein.

The District is implementing a College Intern Program and High School Intern Program. In connection with these actions, the District and the EA agree that individuals appointed to College Intern or High School Intern classifications shall be allowed to perform bargaining unit work based on the conditions set forth in this Agreement.

PART A COLLEGE INTERNS

1. The EA and the District shall mutually establish College Intern Program guidelines and College Intern classifications for Air Quality Engineering Intern and Administrative Intern. The District shall have the right to determine where Interns are assigned. The District agrees Interns shall perform work consistent with the class specification only. The College Intern classifications shall be in place and in effect prior to the implementation of Part A.
2. The District shall be allowed to use up to 4,000 hours for a 12-month period beginning with July 1, 2003 to and including June 30, 2004 and each 12-month period following thereafter for the College Intern Program. The District has the right to determine the number of College Interns to use in this Program. The cumulative hours for all College Interns shall not exceed 4,000 hours in each 12-month period following thereafter.
3. The District shall be allowed to work any individual College Intern up to 1,000 hours providing the College Intern does not work more than 1,000 hours from his/her original date of hire. The District shall terminate the employment of any Individual College Intern no later than the time when the College Intern has worked 1,000 hours.
4. The District has the right to determine each College Intern's work schedule. The District shall be allowed to assign intermittent, part-time or full-time work schedules to College Interns. College Interns shall not be assigned work in excess of 40 hours in a workweek. College Interns are subject to the Fair Labors Standards Act (FLSA).
5. For each pay period, the District shall report to the EA in writing the names, duties, hourly pay rate, hours of work in that pay period, and cumulative hours of work since the original date of hire for each College Intern. The District shall ensure that the EA President or designee is in receipt of this written report no later than 14 calendar days from the end of the preceding pay period.
6. College Interns shall not be eligible to become members of the EA and are not covered by the MOU.

7. The hourly pay rate for Air Quality Engineering Intern shall be equivalent to that of step A of the Air Quality Permit Technician I. The hourly pay rate for the Administrative Intern will be determined.

PART B HIGH SCHOOL INTERNS

1. The EA and the District shall mutually establish High School Intern Program guidelines and the High School Intern classification. The District shall have the right to determine where High School Interns are assigned. The District agrees High School Interns shall perform work consistent with the class specification only. The High School Intern classification shall be in place and in effect prior to the implementation of Part B.
2. The District shall be allowed to use up to 1,100 hours for a 12-month period beginning with July 1, 2003 to and including June 30, 2004 and each 12-month period following thereafter for the High School Intern Program. The District has the right to determine the number of High School Interns to use in this Program. The cumulative hours for all High School Interns shall not exceed 1,100 hours in each 12-month period following thereafter.
3. The District shall be allowed to work any individual High School Intern up to 1,000 hours providing the High School Intern does not work more than 1,000 hours from his/her original date of hire as a High School Intern. The District shall terminate the employment of any individual High School Intern no later than the time when the High School Intern has worked 1,000 hours.
4. The District has the right to determine each High School Intern's work schedule. The District shall be allowed to assign intermittent, part-time or full-time work schedules to High School Interns. High School Interns shall not be assigned work in excess of 40 hours in a workweek. High School Interns are subject to FLSA. High School Interns shall not be eligible to perform work done by regular employees as an overtime assignment that includes but not limited to, home and garden shows, county fairs, lawn mower exchange programs, wood stove exchange programs, ethnic celebrations and earth day fairs.
5. For each pay period, the District shall report to the EA in writing the names, duties, hourly pay rate, hours of work in that pay period, and cumulative hours of work since the original date of hire for each High School Intern. The District shall ensure that the EA President or designee is in receipt of this written report no later than 14 calendar days from the end of the preceding pay period.

6. High School Interns shall not be eligible to become members of the EA and are not covered by the MOU.
7. The hourly rate for High School Interns shall be \$8.25 per hour.

PART C VIOLATIONS OF THIS AGREEMENT

1. If the EA believes this Side Letter is being violated, the President or designee shall request a meeting with the Human Resource Officer or designee to review concerns. The meeting shall be held within 5 calendar days of the request. In the event matters are not resolved to the EA's satisfaction, at the sole discretion of the EA, the EA may move any alleged violation of this Agreement to binding arbitration, beginning at Section 4.09 of the MOU. If an arbitrator determines that the District violated any provision in Part A and/or Part B of this Agreement, then Part A and/or Part B inclusive shall automatically be rendered null and void and terminated. For example, if an arbitrator determined that the District only violated a provision in Part A of this Agreement, the District would terminate the College Intern Program. The High School Intern Program would not be effected. If an Intern Program is terminated, all Interns in that program shall be terminated within 7 calendar days from the date of receipt of the arbitrator's decision. If an arbitrator determines that the District violated any provision in Part E of this Agreement, then Part A and Part B shall automatically be rendered null and void and terminated.
2. Upon termination of Part A and/or Part B, as a result of the arbitrator's decision, the District shall have the right to discontinue the work performed by an Intern or offer current bargaining unit employees overtime to complete the work that was previously performed by the Interns.

PART D LAYOFFS AND BUMPING

Except as provided under Section 16.02 of the MOU, if for any reason layoffs and/or bumping is implemented, then all non-regular employees (e.g. temporary part-time or full time worker, College Intern or High School Intern) performing bargaining unit work shall be terminated prior to layoffs and/or bumping of any regular bargaining unit employee. A regular employee is an employee who is hired on a permanent basis.

PART E MISCELLANEOUS

1. The District shall pay to the EA an equivalent amount of dues, that the College Interns would have paid had they been EA members, as applicable under Section 2.06 of the MOU.
2. Effective June 15, 2003, except as provided in Section 16.02 of the MOU, all other temporary employees performing bargaining unit work shall be terminated for the duration of this agreement.
3. In the event that part A and or Part B are terminated the remaining provisions of this agreement remain in full force and effect.
4. Non-bargaining unit employees (Temporary workers) employed by the District for the purpose of filling a bargaining unit position (not a vacant position) while a bargaining unit employee is on approved leave need not be terminated for the duration of the approved leave.