

**MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**CITY OF EUREKA**

**AND**

**EUREKA FIREFIGHTERS' LOCAL #652**

**JULY 1, 2003 - JUNE 30, 2004**

## INDEX

ARTICLE NUMBER	TITLE OF ARTICLE	PAGE NUMBER
1	Introduction	1
2	Non-Discrimination	2
3	Salaries	3
4	Overtime/On Call	4
5	Retirement Plan	7
6	Health Insurance	11
7	Life Insurance	12
8	Holidays	13
9	Vacation Leave	15
10	Employee Sick Leave	18
11	Employee Family Sick Leave	19
12	Employee Family Death Leave	20
13	Light Duty Policy	21
14	Uniform Allowance	22
15	Layoff Procedure	23
16	Management Rights	25
17	Maintenance of Operations	26
18	Volunteer Program	27
19	Grievance Procedure	28
20	Emergency Leave	32

ARTICLE NUMBER	TITLE OF ARTICLE	PAGE NUMBER
21	Compensation for Working Out of Class	33
22	Medical Examination	34
23	Smoking	35
24	Probationary Period	36
25	Scheduling	37
26	Staffing	38
27	Method of Filling Vacancies	39
28	Deferred Compensation	41
29	Union-Management Cooperation	42
30	Residency	44
31	Trades	45
32	Defibrillation Program	46
33	Personnel Rules	47
34	Personnel Rule 11, Amended	48
35	Automatic Aid	49
36	Fire Service Alternatives	50
37	Specialist Pay Programs	51
38	Catastrophic Leave	52
39	Employee Qualifications	54
40	Substitute Appointments	56
41	Professional Fire Service Enhancement	57

42	Cable TV/Newspaper	58
ARTICLE NUMBER	TITLE OF ARTICLE	PAGE NUMBER
43	MOU Copies	59
44	Departmental Reorganization	60
45	Term of MOU	62
46	Scope of Agreement	63
47	Acknowledgments	64
48	Separability	65
49	Ratification & Execution	66

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
THE CITY OF EUREKA  
AND  
EUREKA FIREFIGHTERS' LOCAL #652  
REGARDING SALARIES AND SUPPLEMENTAL BENEFITS FOR  
JULY 1, 2003 - JUNE 30, 2004

- A. In accordance with the provisions of the Meyers-Milias Brown Act, Section 3500 et. seq. of the Government Code of the State of California, the authorized representatives of the City of Eureka, herein called City or Management, have met and conferred in good faith with the authorized representatives of the Eureka Firefighters' Local #652, herein called EFL or Union, regarding salaries and supplemental benefits.
- B. RECOGNITION: The Eureka City Council hereby recognizes the Association as the representatives for the bargaining unit consisting of the following classes:

FIRE CAPTAIN  
FIRE ENGINEER  
FIREFIGHTER

The parties agree that recognition extends to all regular City Council allocated positions, whether full-time or part-time, in the classes listed above and such other classifications as may be created, during the term of this agreement, that are not filled by employees properly designated as "Confidential" or "Management" employees. Regular City Council allocated position is defined to mean those positions approved by the City Council and subject to the provisions of the City's Personnel Rules and this Memorandum of Understanding. These positions are in the classified/competitive service as compared to Temporary, Seasonal and Extra Help positions, which are not. No person employed by the City in a Temporary, Seasonal or Extra Help status, in any EFL represented class, shall be subject to the provisions of this MOU or eligible to the benefits provided therein.

- C. The following Articles represent those points of agreement which the EFL and City representatives mutually agree are fair and reasonable, and are recommended for adoption.

ARTICLE 2 - NON-DISCRIMINATION - EFL

- A. The parties mutually recognize and agree to protect the rights of all employees hereby to join and/or participate in protected Union activities or to refrain from joining or participating in protected activities in accordance with the Employee Relations Resolution and Government Code Section 3500 and 3511.
  
- B. The City and the Union agree that they shall not discriminate against any employee or applicant for employment because of age, race, sex, religious creed, color, national origin, ancestry, physical disability, medical condition, or sexual orientation. The City and the Union shall reopen any provision of this agreement for the purpose of complying with any final order of a Federal or State agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this Agreement in compliance with State or Federal Anti- discrimination laws.

ARTICLE 3 - SALARIES - EFL

Effective with the adoption of a successor MOU, all EFL-represented employees will receive a one-time signing bonus of \$750.

## ARTICLE 4 - OVERTIME - EFL

On April 16, 1986, the Fair Labor Standards Act (FLSA) was applied to local government. The FLSA specifies that fire personnel on a 27 day work period may work no more than 204 hours before receiving cash or compensatory time off at the rate of one and one-half times, for hours worked in excess of 204 hours. Fire suppression personnel in the City of Eureka are assigned to work 216 hours in a 27 day work period. Effective April 16, 1986, the salaries of all fire personnel are increased by 2.7% to compensate for the additional one-half time pay required by the FLSA for hours worked between 204 and 216 per 27 day work period. The salary for the Fire Captain assigned to Fire Prevention, who regularly works either a 5-8 or a 4-10 schedule and does not meet the 204-hour minimum, has also been increased by 2.7%.

- A. All eligible employees shall receive in cash or compensatory time off at the rate of one and one-half times the basic authorized rate of pay for time worked in excess of 216 hours in a 27 day work period.
  - 1. For Mandatory Overtime
    - a. Employees may choose cash or comp-time compensation up to the limit as permitted by this Article as follows:
      - 1. Emergency Recall
      - 2. Training
      - 3. Regular staffing when ever the regular staffing assignment is made less than 12 hours prior to the start of duty.
  - 2. For Voluntary and Regular Overtime
    - a. The City may determine whether the overtime will be compensated in cash or comp-time up to the limit as permitted by this Article as follows:
      - 1. Scheduled meetings that are noticed 14 or more days in advance - limit 6 per calendar year.
      - 2. Regular staffing whenever the assignment is made 12 or more hours prior to the start of duty.
- B. The use and accrual of compensatory time shall be:
  - 1. All employees may accumulate up to 72 hours of compensatory time.
  - 2. All compensatory time accrued in excess of 72 hours shall be paid in cash.

3. Requests for compensatory time off (CTO) shall be approved provided such time off does not cause overtime.
  4. Once approved, CTO shall be treated the same as vacation requests.
  5. Once approved, CTO shall take precedence over vacation requests except for regular vacation sign-ups as defined in Article 9, Paragraph I.
  6. Once approved, all efforts to honor CTO shall be made.
  7. Prior to completion of vacation sign-ups, CTO shall not be approved beyond December 31. After completion of vacation sign-ups as per Paragraph I of Article 9, Subparagraph 3 above shall apply.
  8. CTO requests may be substituted for approved vacation requests with the approval of the Fire Chief.
  9. After accruing compensatory time, all employees shall make every reasonable effort to take the accumulated CTO and to take it in as reasonable time as possible.
- C. All employees represented by EFL who normally work a 40 hour week shall receive in cash or compensatory time off at the rate of one and one-half times the basic authorized rate of pay for time worked in excess of 40 hours in a 7 day work period.
- D. All employees are subject to be recalled to duty as follows:
1. Emergency Recall
  2. Required Staffing as defined in Article 25
  3. Department Related Training
- E. No overtime may be earned without prior approval of the Department Head or his/her designee. The City has, and will continue to retain, the unilateral and exclusive right to assign overtime. Nothing in this Article shall be deemed to infringe upon this right whenever the Department Head or his/her designee believes overtime is necessary.

To the greatest extent practicable, the Fire Chief, or the Chief's designee, shall assign overtime in a manner which equitably shares the overtime assignments and overtime compensation among all EFL represented employees, keeping, however, the needs of the Department as the highest priority.

Overtime that can be anticipated shall be assigned by the Chief, or his/her designee, in accordance with current Department Policy (#601). "Anticipated" overtime is understood to include schedule coverage for training, vacation, and other administrative time off.

Overtime that is the result of an unanticipated event shall be assigned by the Chief, or his/her designee, based on locating the first qualified individual available, without regard to the procedure described in Department Policy (#601). "Unanticipated" is defined as any event occurring with twelve (12) hours or less advance notice which

necessitates the need to assign overtime.

- F. Whenever an employee is called to duty on an off-duty day or while on paid leave, the employee shall be compensated with a minimum of three (3) hours overtime. In the event that an employee is required to work a continuation of the employees regular shift, the three (3) hour minimum shall not apply.

It is understood that the three (3) hours overtime minimum described above is compensated at the one and one half (1.5) time premium rate thereby equating to 4.5 hours of compensation.

Staff meetings which cannot be scheduled during regular working hours shall be considered overtime, not call back. Training sessions which cannot be scheduled during regular working hours shall be considered overtime when mandated by the Fire Chief, or by the certification and/or licensure requirements for particular classification. No overtime may be earned for staff meetings and training sessions without prior approval of the Fire Chief or his/her designee.

- G. On-Call Duty Officer shall be a voluntary assignment for the Fire Captain II position, wherein an off-duty employee in that position has either the primary or the secondary responsibility of managing suppression personnel. The employee may have the initial responsibility of managing the personnel or may serve as a secondary resource to a Duty Officer (an on-duty Fire Captain II) or a Duty Chief (Chief Officer).

An On-Call Duty Officer shall be compensated at a  $\frac{1}{4}$  time standard for working on-call hours. If required to respond to an incident, the employee will also be compensated for a three-hour minimum at the premium overtime rate, per Item F above. If the incident response exceeds three hours, then the employee will be compensated for any additional time at the premium overtime rate. If the employee must respond to multiple events within a three-hour period, the compensation will not exceed three hours at the premium rate.

## ARTICLE 5 - RETIREMENT PLAN - EFL

### A. Public Employees' Retirement System

Note: The Local Firemen's and Policemen's Retirement System referred to in this Article is the actual legal title of that system as it was originally adopted. It is therefore understood these references do not violate the intent to eliminate from this MOU any terms that may be considered discriminatory.

1. The City will continue the current retirement contract, as such existed on the date of this Agreement between the City of Eureka and the Board of Administration for the Public Employee's Retirement System for the State of California, to provide for safety employees the benefits listed in this section of this Article (as contained in current law). In addition to those contained in the contract in force on this date:
  - A City agrees to amend Government Code Section 20862.8 (Unused Sick Leave Credit) to the current retirement contract between the City of Eureka and the Board of Administration for the Public Employees' Retirement System.
    - a. The fraction of final compensation to be provided for each year of credited prior and current service as a local safety member shall be that provided in Section 21252.01 of Public Employees' Retirement Law.
    - b. Section 21361.5 (Providing that years of service rendered as a member of the Local Retirement System prior to July 1, 1975 shall be included in the computation of the basic death benefit provided in Section 21361 upon the death of any member who was also a member of the Local Firemen's and Policemen's Retirement System and elected to waive local system rights.)
    - c. Section 21263 (Providing upon death of a local safety member who retired for service or disability for the continuation of one-half the retirement allowance to certain survivors.)
    - d. Section 20952.5 (Providing for age 50 as the minimum voluntary retirement age for local safety members with benefit payments commencing prior to age 55 subject to actuarial discount.)
    - e. Section 21222.1 (Providing for increases in allowances to which the annual cost-of-living provisions apply, payable for time commencing August 1, 1973, to or on account of persons retired or members

deceased on or prior to December 31, 1970.)

- f. All increases in the employee's share of the total contribution shall be borne by the individual employee.
  - g. All increases in the City's share of the total contribution shall be borne by the City.
2. Effective July 1, 1985, the City agrees to amend the current retirement contract, as such existed on the date of this Agreement, between the City of Eureka and the Board of Administration for the Public Employees Retirement System for the State of California, to provide for safety members in this bargaining unit the benefits listed in the Article (as contained in current law).

In addition to those contained in the contract in force on this date:

- a. Government Code Section 21252.01 (Pensions for Patrol Members and Local Safety Members as to Service Rendered to Contracting Agencies.)
- b. Government Code Section 21382 (Survivor Allowance: When payable: Persons Entitled: Amount), and pursuant to Government Code Section 21390, to provide simultaneous to Government Code Section 21382, to include the provisions of Government Code

Section 21382.2 (Same: Increase with Respect to Beneficiaries Receiving Allowances on July 1, 1975, and Beneficiaries of State Member Dying After July 1, 1975.)

- c. All increases in the employee's share of the total contribution as a result of this amendment shall be borne by the individual employee.
  - d. All increases in the City's share of the total contribution shall be borne by the City.
- A. The City agrees to amend its PERS contract to provide eligible employees with the 3% @ 50 formula effective 07-01-01 under the following conditions:
- 1. In exchange for being granted the enhanced retirement benefit formula of 3% @ age 50, EFL agrees to the following benefit changes which will also be effective 07-01-01, and which have been amended in their respective MOU Articles:
    - A. VACATION LEAVE - ARTICLE 9, Section K, shall be amended as follows:
      - K. Any employee who is not a member of the Public Employees Retirement System (PERS) may sell back vacation days to the City

for the equivalent payment of the employee-s base salary on a one-for-one basis. In order to sell back days, the employee must inform the City of employee-s election prior to the completion of vacation sign-up, April 1. Payment will be made to employees on the second payday in July for all vacation days bought by the City. No employee who is a member of PERS may sell vacation back after 06-30-01.

b. HOLIDAYS, ARTICLE 8, Sections D and F, shall be amended as follows:

A. All employees shall be entitled to all recognized City holidays, to be taken either by compensatory time off or by compensation at the close of the fiscal year, except as provided below. (For computing compensating time off for EFL-represented classes, one shift of twenty-four (24 hours) shall equal two (2) days.)

No employee who is a member of the Public Employees Retirement System (PERS) may sell back the two (2) personal holidays after 06-30-01. Effective 07-01-01, PERS employees must take the two (2) personal holidays as time off within the fiscal year. However, probationary employees within the first six months after hire must take the two holidays as time off before the end of the current fiscal year, or they will forfeit those holidays entirely. If a separating employee has been unable to take the two holidays off prior to their last day worked, those holidays will be paid off in cash as described in Item F\* below.

F\*. Any accumulated Holiday Credit which is compensable as cash pursuant to Section D above will be paid off in cash at the time of termination of employment, rather than being taken off immediately prior to the termination with the intent of extending the termination date by the amount of the leave time. An employee terminating employment shall not be compensated for holidays occurring after the employee-s actual last day of work.

\*Note: F becomes AE in Article 8.

C. Employees under the Firemens' and Policemens' Retirement System of the City.

1. The City will continue the current retirement program as such existed on the date of this Agreement to provide for safety employees the benefits listed in Title 2, Chapter 5, Article 4 - Retirement of Fire and Police Department Members of the Eureka Municipal Code.

D. At any time during the term of this MOU, EFL may request that the City obtain from the Public Employees' Retirement System (PERS) an actuarial valuation to determine what

costs, if any, would be attributable to amending the City's PERS contract to provide for ONE-YEAR FINAL COMPENSATION (Section 20024.2).

## ARTICLE 6 - HEALTH INSURANCE - EFL

- A. The full side letter agreement between the City and EFL regarding health insurance benefits is attached to this MOU, and the items included in this Article represent only a partial summary of the terms of that side letter.
1. Regarding Item #5 of the attached agreement, it is agreed that EFL employees will not be charged the “pro rata portion” of the deficit referenced for the months of May, June, and July, 2002. The City has absorbed this deficit, like the “tail” described in Item #4 of the agreement, in its entirety.
- B. The monthly financial obligation of the City and of the employee for medical coverage for EFL-represented employees shall be as follows:
1. Insurance Plan: Operating Engineers, Plan B
  2. Total Monthly Premium: \$548
  3. Monthly Access Fee: \$37
  4. Monthly Contributions:  
City: \$386.90      Employee: \$166.50 (doesn't include \$37 access fee).
  5. Special Adjusted Contributions (for the three listed employees only):
 

City: \$486.90	Michael Bakke:	\$0
City: \$486.90	Jeff Nicklas:	\$0
City: \$486.90	Chris Myers:	\$0

Note: Every EFL-represented employee other than the three employees listed in #5 above must be enrolled and participate in health insurance through the Operating Engineers. The three listed employees must pay the \$37 monthly access fee.

## ARTICLE 7 - LIFE INSURANCE - EFL

- A. During the term of this Agreement, the City shall continue to provide a \$5,000 life insurance policy for each employee.

## ARTICLE 8 - HOLIDAYS - EFL

- A. The following are those holidays which employees shall be granted:
1. January 1
  2. Third Monday in January known as "Martin Luther King's Birthday"
  3. Third Monday in February, known as "President's Day"
  4. Friday before Easter, 12 noon until 5 p.m.
  5. Last Monday in May, known as "Memorial Day"
  6. July 4, known as "Independence Day"
  7. First Monday in September, known as "Labor Day"
  8. November 11, known as "Veterans' Day"
  9. Thanksgiving Day
  10. Friday after Thanksgiving Day
  11. December 25
  12. Two (2) personal holidays
  13. Subject to approval by the City Council, every day appointed by the President or Governor as public fast, thanksgiving, or holiday.
- B. If January 1, July 4, November 11 or December 25 fall upon a Saturday or Sunday, the Friday preceding the Saturday or the Monday following the Sunday shall be holiday.
- C. For personnel working a 40-hour work week, one holiday shall equal one day.
- D. All employees shall be entitled to all recognized City holidays, to be taken either by compensatory time off or by compensation at the close of the fiscal year, except as provided below. (For computing compensating time off for EFL-represented classes, one shift of twenty-four [24 hours] shall equal two [2] days.)
- No employee who is a member of the Public Employees Retirement System (PERS) may sell back the two (2) personal holidays after 06-30-01. Effective 07-01-01, PERS employees must take the two (2) personal holidays as time off within the fiscal year. However, probationary employees within the first six months after hire must take the two holidays as time off before the end of the current fiscal year, or they will forfeit those holidays entirely. If a separating employee has been unable to take the two holidays off prior to their last day worked, those holidays will be paid off in cash as described in Item E below.
- E. Any accumulated Holiday Credit will be paid off in cash at the time of termination of employment, rather than being taken off immediately prior to the termination with the intent of extending the termination date by the amount of the leave time. An employee terminating employment shall not be compensated for holidays occurring after the

employee's actual last day of work.

- F. The City Council may by resolution declare and establish special holidays for City officers and employees.

ARTICLE 9 - VACATION LEAVE - EFL

A. The purpose of the annual vacation leave is to enable each eligible employee annually to return to his/her work mentally refreshed. All employees in the competitive service shall be entitled to annual vacation leave with pay except the following:

1. Employees serving their initial probationary period in the service of the City. Accrued vacation credits for the initial probationary period shall be granted upon completing six months of probationary service.
2. Temporary or part-time employees.

B. All eligible employees shall earn vacation time as outlined by one of the following schedules:

1. Non-Suppression Personnel

<u>Years of Service</u>	<u>Length of Vacation</u>
1st through 6th	13 days per year
7th and 8th	16 " " "
9th and 10th	17 " " "
11th and 12th	18 " " "
13th and 14th	19 " " "
15th and 16th	20 " " "
17th and 18th	21 " " "
19th and over	22 " " "

2. Suppression Personnel

<u>Years of Service</u>	<u>Length of Vacation</u>
1st through 6th	7 Shifts per year
7th and 8th	8 " " "
9th and 10th	8.5 " " "
11th and 12th	9 " " "
13th and 14th	9.5 " " "
15th and 16th	10 " " "
17th and 18th	10.5 " " "
19th and over	11 " " "

C. The times during a calendar year in which an employee may take his/her annual vacation shall be determined by the Department Head with due regard to the employee's wishes,

seniority, and with particular regard for the needs of the department. The employee shall have the option to defer up to 50% of his/her vacation credits to the following year and upon permission of the Department Head all vacation credits may be deferred.

- D. Except upon termination of employment or pursuant to Paragraph K of this Article, no employee shall receive pay in lieu of vacation leave. Employees who terminate employment shall be paid the salary equivalent to all accrued vacation leave earned prior to the effective day of termination.
- E. Vacation leave may be accumulated to the maximum number of fifteen (15) shifts. For the purpose of computing vacation time, Saturday, Sundays and official holidays shall not be counted. In the event an employee is on industrial injury leave at the time he/she exceeds this limit, the limit shall not apply then nor for six (6) months after returning to work, or upon retirement.
- F. A retiring employee shall be prohibited from being off work on vacation during the two month period immediately preceding his/her effective date of retirement, unless permission of the Department Head, with concurrence of the Personnel Officer, is received for such leave.
- G. It is the intent of the City to maintain the existing practice of allowing two (2) personnel per shift to take vacation simultaneously, consistent with Sections "C" and "I" of this Article. This shall be allowed only during the first two choice sign ups as described in Section "I" of this Article.
- H. If a scheduled vacation is canceled by the department, the affected employee shall not suffer any loss of vacation or any other benefits. In the event that a previously scheduled and approved vacation is canceled by the department and an employee accrues vacation credit in excess of the maximum allowed, the excess credit shall be paid to the employee in the following pay period or may be deferred for a six-month period. In the event the employee elects to defer the vacation credit which was previously scheduled and approved but canceled at the department's request, and the employee elects to defer such credit and is unable for any reason to use such credit during the six-month extension period, he/she shall be paid in cash for such credit no later than the pay period immediately following the six month extension period.
- I. Beginning with calendar year 2004, the vacation sign up procedure shall be as follows:
  - 1. Vacation selections shall be on a total seniority basis.
  - 2. The vacation sign up sheet for a calendar year shall be distributed by November 1 of the previous year.
  - 3. An employee's first choice shall be a maximum of six (6) consecutive shifts in two periods or a minimum of three (3) consecutive shifts in one period.
  - 4. An employee's second choice sign up shall be a maximum of three (3) shifts in one period or any part of one period.

5. An employee's third and fourth choice sign up procedure shall be the same as #4 above, except that 3rd and 4th sign ups may not create an overtime situation.
6. The deadline for first choice vacation sign up for a calendar year shall be December 1st of the previous year.
7. Second, third and fourth choice vacation sign ups for a calendar year must be completed no later than December 31 of the previous year.
8. Any vacation for which an employee has signed up and is taken from January 1st through December 31st will be counted as first, second, third, or fourth choice vacation time as indicated on the sign up list.

EXAMPLE

<b>Date</b>	<b>1st Choice</b>	<b>2nd Choice</b>	<b>3rd/4th Choice</b>			
<b>Dec 30 Jan 2-3</b>	<b>Smith</b>	<b>Green</b>				
<b>Jan 8-10-12</b>	<b>Smith</b>		<b>Brown</b>			
<b>Jan 17-19-21</b>		<b>Black</b>				
<b>Jan 26-28-30</b>				<b>Black</b>		
<b>Feb 4-6-8</b>			<b>Jones 4th</b>		<b>Black 6th</b>	<b>Brown 8th</b>

9. It is recognized that there are times throughout the year when the training needs of the Fire Department must be addressed. The parties agree to work cooperatively to arrange mandatory training in such a way as to avoid overtime assignments whenever possible.
- J. It is understood that all existing practices, policies, and procedures, either oral or in writing, regarding the administration of the vacation benefit which are in conflict with this Article are nullified.
- K. Any employee who is not a member of the Public Employees Retirement System (PERS) may sell back vacation days to the City for the equivalent payment of the employee-s base salary on a one-for-one basis. In order to sell back days, the employee must inform the City of employee-s election prior to the completion of vacation sign-up, April 1. Payment will be made to employees on the second payday in July for all vacation days bought by the City. No employee who is a member of PERS may sell vacation back after 06-30-01.

## ARTICLE 10 - EMPLOYEE SICK LEAVE - EFL

- A. Sick leave with pay shall be granted by the appointing authority at the rate of one-half (2) sick leave shift per month or six (6) shifts per year. Sick leave shall not be considered as a privilege which an employee may use at his/her discretion, but shall be allowed only in case of necessity in actual sickness or disability.
- B. There shall be no limitation on the accrual of unused sick leave. Sick leave accrues from and after the 31st day following the date of employment.
- C. In order to receive sick leave compensation while absent from work, the employee shall make every reasonable effort to notify his/her immediate supervisor prior to the beginning of his/her work day.
- D. The employee may be required to file a physician's or dentist's statement, or a personal affidavit with the Personnel Officer stating the cause of absence before such leave with pay will be granted.

## ARTICLE 11 - EMPLOYEE FAMILY SICK LEAVE - EFL

- A. Each employee may use up to three (3) shifts per fiscal year of his/her accrued sick leave to attend to the needs of a member of his/her immediate family whose illness requires his/her care. Thereafter, the employee will then utilize either vacation, accumulated time-off, or time-off without pay for family sick leave. The time in any shift to be taken for family sick leave is only that required for the immediate care of the qualified family members.
- B. In order to receive compensation while absent on family sick leave, the employee shall notify his/her immediate supervisor or his/her Department Head prior to the time set for beginning his/her daily duties. In all cases of absence on family sick leave, the employee may be required to file a physician's certificate or a personal affidavit with the Personnel Officer stating the cause of absence before such leave with pay shall be granted.
- C. Immediate family shall include the father, mother, brother, sister, spouse or child of any eligible employee, including the children of the employee's spouse who reside in the employee's primary residence.

## ARTICLE 12 - EMPLOYEE FAMILY DEATH LEAVE - EFL

- A. Any eligible employee who is absent from work by reason of the death of a member of the employee's immediate family may be allowed a leave of absence with full pay not to exceed three (3) shifts per incident.
- B. All leaves of absence for family death shall require approval of the Department Head with concurrence of the City Manager. In granting family death leave, only time off for funeral arrangements and service, reasonable travel time to and from the funeral, and a maximum of one extra day shall be considered.
- C. In order to receive compensation while absent on employee family death leave, the employee shall notify his/her immediate supervisor or his/her Department Head prior to the time set for beginning his/her regular duties. The employee may be required to submit to the Personnel Officer evidence of proof of death, location of death and burial before such leave with pay shall be granted.
- D. For the purpose of this section, immediate family shall include the father, mother, grandfather, grandmother, grandchild, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, spouse or child of any eligible employee, including the children of the employee's spouse. The City Manager may approve bereavement leave for other relatives of the employee when such a relationship maintained a unique or non-typical family relationship with the employee so as to be considered a member of the employee's immediate family as listed above.

## ARTICLE 13 - LIGHT DUTY POLICY - EFL

- A. Whenever an employee is injured or suffers an illness, which according to a licensed medical practitioner (physician, chiropractor, physician's assistant, etc.) renders the employee unable to perform the full scope of their principal employment, the employee shall be considered for light duty assignments. Light duty assignments shall be determined based on the needs of the City and the Department, and shall be at the discretion of the Department Head. No employee shall be required to work light duty assignments unless a licensed medical practitioner has determined they are medically able to perform such duties.

## ARTICLE 14 - UNIFORM ALLOWANCE - EFL

- A. Whenever an officer or employee of the Fire Department is required to have, or while on duty to wear, a full distinctive uniform, he/she shall be paid for the maintenance, repair, and replacement of such distinctive uniform at the rate of forty-one dollars and thirty-three cents (\$41.33) per month.
- B. To the extent allowed under the law, such payments for uniform allowances shall be deemed to be made solely for the benefit of the City and in no case shall be deemed compensation for services rendered.
- C. When the City elects to change or add to the uniforms required for City service, the City shall bear the cost of the change to the extent that it will supply one article or set for each affected employee.

## ARTICLE 15 - LAYOFF PROCEDURE - EFL

- A. In accordance with Personnel Rule Section 13.2, layoff lists shall be prepared by the Department Head and shall take into consideration job performance and length of service. For the purpose of determining the list, these elements shall be in the following order:
1. Length of service.
  2. Job performance, based upon past three years Fire Department Employee Performance Evaluations.
  3. Last person hired shall be the first laid off. In the event that more than one employee has the same hiring date, layoff shall be by placement on the original (hiring list) entry position with the Fire Service.
- B. Order of layoff classification shall be:
1. New probationary employees.
  2. Other employees by placement on layoff list.
- C. Any person in a higher rank shall have the right to demote to a lower rank formerly held by that employee. Any employee in a higher rank, who has service in a lower classification shall be allowed to use all years service for both positions as seniority credit to establish position on the lower classification layoff list (bumping). Otherwise, seniority shall be determined by number of years in the rank in which employee is presently serving. Seniority credit will be based on years of service, or prorate of years of service based on twelve (12) months per year.
- D. In the event the layoff of employees within the EFL bargaining unit is contemplated, the City shall provide wherever possible, at least 30 calendar days written notice of such.
- E. Employees bumped shall be placed on a permanent promotional eligibility list for all promotions provided they are regular, full-time employees of the Eureka Fire Department at the time the vacancy occurs. If a re-promoted employee has been working at a lower rank for one year or more, he/she must go through the probationary process.
- F. Employees actually laid off shall be placed on a rehire list for a five (5) year period. Employees who are laid off shall be placed on a reinstatement eligibility list for five (5) years. During the first two years, a reinstated employee shall be placed at the step in the salary range which they head at the time they were laid off. An employee reinstated after two years shall have a salary placement as through they were newly hired or promoted. Vacation accrual rates shall only be reinstated to an employee within two (2) years of being laid off.

If an employee has been laid off for one year or more, the employee must go through a new

probationary period upon reinstatement. Employees who are eligible for reinstatement after they have been laid off for more than two (2) years shall be required to pass a pre-employment physical given by the City. Such employees may also be required to complete the EFD Training Academy.

Except as provided above, an employee shall not receive credit for time spent on layoff in computing time for any benefit entitlement.

In the event an employee refuses reinstatement, his/her name shall be removed from the re-employment list.

- G. Employees reinstated or re-promoted shall be placed at the step which they held at the time they were demoted, "bumped" or laid off.

## ARTICLE 16 - MANAGEMENT RIGHTS - EFL

- A. Except as otherwise provided in this Agreement, the City retains all rights, powers and authority exercised or held by it, including, but not limited to:
1. The right to determine and modify the organization and structure of the City.
  2. To determine and change the purpose, extent and mission of each of its constituent departments, commissions and boards and to make changes therein.
  3. To set standards for service to be offered to the public.
  4. To direct the employees of the City in order to carry out its mission.
  5. To determine the procedures and standards of selection and testing for employment.
  6. To hire, examine, classify, promote, train, transfer, assign and schedule employees in positions with the City.
  7. To take disciplinary action against employees for cause.
  8. To increase, reduce or change, modify or alter the composition and size of the work force, including the right to relieve employees from duties because of lack of work or funds or other legitimate reasons.
  9. Determine the location, methods, means and personnel by which operations are to be conducted including the right to contract and subcontract out work.
  10. To create, modify or delete City and/or departmental rules and regulations.
  11. To direct management groups to perform tasks or assignments as directed by the City Manager.
  12. To take all necessary actions to carry out its mission in emergencies.
  13. To exercise complete control and discretion over its organization and the technology of performing its work.
- B. Nothing contained within this Article is intended to, in any way, supersede or infringe upon the rights of the recognized employee organization as provided under City of Eureka Resolution 6708.
- C. The City shall not Meet and Confer on any subject preempted by Federal or State law or by City Code, nor shall it be required to Meet and Confer on its exercise of these Management Rights nor any other subject that is not a mandatory subject of bargaining.

## ARTICLE 17 - MAINTENANCE OF OPERATIONS - EFL

- A. It is recognized that the need for continued and uninterrupted operation of the City is of paramount importance. Therefore, the EFL agrees that from 12:01 a.m. of the first work day immediately following the legal ratification of this Agreement by the City and the EFL membership through and inclusive of the Meet and Confer process to conclude a successor Agreement to this Agreement, neither the EFL nor any person acting on its behalf, will cause, authorize, engage in, encourage, or sanction a work stoppage, slow-down, or picketing, other than informational picketing on the employee's own time, against the City, or the concerted failure to report for duty or abstinence from the full and faithful performance of the duties of employment, including compliance with the request of another labor organization or bargaining unit to engage in such activity which results in less than full and faithful performance of any duties of employment of employees represented by the EFL.
- B. The City agrees it shall not, during the term of this Agreement, lock out any employee in the bargaining unit.
- C. Employees may not be entitled to any wages or City paid benefits not earned for engaging in any activity prohibited by Section "A" of this Article, and/or the City may take other action which may be appropriate and shall notify EFL. It is expressly understood that any action taken pursuant to this section is subject to administrative appeal by the employee through the Grievance Procedure of this Agreement.
- D. If the City has cause to believe that Section "A" of this Article has been violated by the EFL, the City may take such action as may be appropriate. It is expressly understood that any action taken pursuant to this section is subject to administrative appeal by EFL.
- E. EFL and the City recognize their duty and obligation to comply with the provisions of this Agreement and to make every effort toward fully and faithfully carrying out each provision. All costs incurred in the enforcement of this Agreement, including damages, shall be borne by the party failing to fulfill its obligation.
- F. In the event of any activity prohibited by Section "A", EFL agrees to take supererogatory steps necessary to assure compliance with this Agreement.

## ARTICLE 18 - VOLUNTEER PROGRAM - EFL

- A. EFL acknowledges the importance of a strong and well trained volunteer force and agrees to vigorously and publicly support upgrading and increasing the volunteer force of the Eureka Fire Department.
- B. EFL agrees to vigorously assist in the volunteer program of the Eureka Fire Department.
- C. EFL will honor the aforementioned commitments as stated in Sections A and B of this Article until changed by subsequent agreement through the Meet and Confer process.

## ARTICLE 19 - GRIEVANCE PROCEDURE - EFL

### A. Purpose

The purpose of the grievance procedure is as follows:

1. To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations.
2. To afford employees individually or through qualified employee organizations a systematic means of obtaining further considerations of problems after every reasonable effort has failed to resolve them through discussions.
3. To provide that grievances shall be settled as nearly as possible to the origin.
4. To provide that appeals shall be conducted as informally as possible.

### B. Matters Subject to Grievance Procedure

For purpose of this rule, a grievance shall be considered as any matter for which appeal is not provided, or prohibited, in the personnel ordinance concerning:

1. A dispute about the interpretation or application of any ordinance, rule or regulation governing personnel practices or working conditions.
2. A dispute about the practical consequences of a City decision on wages, hours and other terms and conditions of employment.
3. A decision affecting the employment of any permanent or probationary employee over which his/her appointing authority has partial or complete jurisdiction.

### C. Definitions

1. The term grievant means an employee in the unit or the Union which represents the employee.
2. A "day" (for the purpose of this grievance policy) is any day on which the City Hall of the City is open for business for a normal span of eight (8) hours.
3. The "immediate supervisor" is the first level manager having immediate jurisdiction over the grievant; the immediate supervisor cannot be eligible to be, or be, represented by the Union.

### D. Time Limits

1. A grievant who fails to comply with the established time limits at any step shall forfeit all rights to the further application of the grievance procedure for the alleged violation of this Agreement.

2. Extension or contraction of any time limit, by mutual written agreement between the grievant and the appropriate manager at each respective level, is permissible.

E. Other Provisions

1. No probationary employee may use the grievance procedure in any way to appeal discharge. No employee shall use the grievance procedure to dispute any action of the City which complies with State or Federal law; agreed upon Management Rights; and a State or Federal regulatory commission or agency.

F. Steps in Grievance Procedure

The following are the steps to be taken by an employee who has a grievance which does not involve demotion, dismissal, or suspension, which are covered by other rules:

Step 1 - Informal Oral Discussion (Immediate Supervisor)

Within five (5) work days of the time an alleged grievance is alleged to have occurred, or became reasonably apparent to the employee, the employee shall orally discuss with his/her immediate supervisor the alleged grievance. Within three (3) work days of the oral discussion, the immediate supervisor shall give his/her oral response to the alleged grievance.

Step 2 - Formal Levels

Level I (Immediate Supervisor)

- a. Within three (3) work days of the oral response, if the alleged grievance is not resolved, it shall be stated in writing by the grievant on the "Statement of Grievance" form as provided by the City, signed by the grievant or his/her representative, and presented to his/her immediate supervisor, or designee.
- b. The statement of grievance form must be complete, including but not limited to, the full employee name, all facts giving rise to the grievance, the date of occurrence, the date of informal oral discussion, the date of oral response; and, identification by appropriate specific reference to Federal and State laws, MOU's, policies, procedures, rules and past practices alleged to have been violated; shall state the contention of the employee with respect to such provisions; and shall indicate the specific relief, action, or remedy requested.
- c. The immediate supervisor/designee shall communicate his/her decision to the grievant in writing within five (5) days after receiving the alleged grievance.

- B. Within the above time limits, either the grievant or the immediate supervisor/designee may request a personal conference with the other party.

#### Level II (Fire Chief)

- a. In the event the grievant is not satisfied with the decision rendered in Level I, he/she may appeal the decision on the appropriate form to the Department Head, within three (3) work days.
- b. The appeal shall include a copy of the original grievance, a written copy of the decision rendered by his/her immediate supervisor/designee, and a clear, concise statement of the reason(s) for the appeal, referencing any Federal or State laws, MOU's, policies, procedures, rules, regulations and past practices that the supervisor overlooked. The presentation of new or additional facts or evidence submitted by the grievant shall serve as a basis for returning the grievance for further consideration at Step 2 of Level I.
- c. The Department Head shall communicate his/her decision to the grievant, in writing, within five (5) work days of receiving the appeal.
- d. Within the time limits, either the grievant or the Department Head may request a personal conference with the other party.

#### Level III (City Manager)

- a. In the event the grievant is not satisfied with the decision rendered in Level II, he/she may appeal the decision on the appropriate form to the City Manager within three (3) work days.
- b. The appeal shall include copies of the original grievance, the decision of the immediate supervisor, the appeal, the decision of the Department Head, and a clear, concise statement of the reasons for the appeal referencing any Federal or State laws, MOU's, policies, procedures, rules, regulations and past practices which have been overlooked. The presentation of ne or additional facts or evidence submitted by the grievant shall serve as a basis for returning the grievance for further consideration at Step 2 at Level I.
- c. The City Manager shall communicate his/her decision in writing to the grievant within five (5) work days. In the event the complexity of the grievance or work load considerations so necessitate, the City Manager's period of response may be extended by five (5) days. Either the grievant or the City Manager may request a personal conference within the above time limits.

#### Level IV (Personnel Board)

- a. If the grievance is not settled at the third level the employee may, within three (3) work days, submit the grievance to the Personnel Board. The Personnel Board

shall investigate the matter and conduct a hearing.

- b. On an appeal, the Personnel Board shall make such investigation it may deem necessary and within ten (10) calendar days after request for hearing filed by the employee, the Board shall hold a hearing at which time it shall hear evidence for and against such employee. Hearings may be informally conducted and the rules of evidence need not apply. Hearings shall not be unreasonably protracted.
- c. It shall be permissible for any employee or group of employees to be represented by any person including counsel.
- d. Within five (5) working days after concluding the personnel hearing, the Personnel Board shall certify its findings and present its recommendations to the Council with copies to the City Manager and other officials from whose action the appeal was taken and to the employee affected.

#### Level V (City Council)

- a. The appointing power, the official from whose action the appeal was taken, and the employee affected shall review the findings and recommendations of the Board, and may within five (5) days after the findings and recommendations of the Personnel Board have been certified, appeal to the Council for a review of such findings and recommendations.
- b. The Council shall thereupon consider the appeal and make such investigation as it may deem necessary and within a reasonable time shall affirm, revoke, or modify the action of the Personnel Board findings as in its judgment seems warranted, provided that a four-fifths (4/5) vote of the Council is required to revoke or modify the findings and recommendations of the Personnel Board.

## ARTICLE 20 - EMERGENCY LEAVE - EFL

- A. In the event of an unforeseen emergency, when an affected employee has attempted but has been unable to secure a trade, that employee may be allowed to take time off utilizing time from his/her own time bank, i.e., vacation, CTO, or holiday leave time. If Emergency Leave is approved, and if the department is required to hire overtime to fill the uncovered shift, the employee being granted the Emergency Leave shall designate vacation, CTO, and/or holiday leave time to be charged at time and one-half to cover the overtime for that shift. If an employee has exhausted all paid leave time available to them, then leaves other than sick leave may be donated to the affected employee by other employees to cover the Emergency Leave. For the purposes of this Article only, the eligibility requirements of the Catastrophic Leave Program will be waived in this instance.
- B. Whether or not a situation comprises an emergency, and whether or not Emergency Leave shall be granted, is at the discretion of the Fire Chief or his/her designee.

## ARTICLE 21 - COMPENSATION FOR WORKING OUT OF CLASS - EFL

- A. Whenever an employee is assigned, in writing, duties and responsibilities of a higher classification, the employee shall receive additional compensation in the amount of 5% of base salary.

## ARTICLE 22 - MEDICAL EXAMINATION - EFL

- A. The Personnel Officer may, at any time, require an examination of any employee if there is a reasonable cause to suspect that the employee may be unable to provide fit and efficient service or may be a danger to himself/herself, his/her fellow workers, or the public because of any health conditions.
- B. The employee has the option of being examined by a City designated specialist at the City's expense and a personal physician at his/her own expense. The results of all examinations shall be promptly submitted to the Personnel Officer.
- C. If after examination a condition is found that affects the ability of the employee to provide fit and efficient service in the position that the employee holds, or to the extent that the employee is a danger to himself, other employees, or the public, it shall be the responsibility of the employee to correct the condition within a reasonable period of time if possible, or the City may take appropriate action. The burden of proof that a health condition which affects the ability of the employee to provide fit and efficient service in the position that the employee holds, or that the employee is a danger to himself, or other employees, or the public shall rest with the City.
- D. The employee shall be responsible for the costs incurred above and beyond coverage provided by health insurance for any follow up care to correct the condition. The employee shall not be responsible for assuming costs related to recognized industrial injuries.
- E. The employee shall have the right to appeal the determination by the City, within five (5) calendar days, to the Personnel Board per Section 11.6 of the Personnel Rules.

## ARTICLE 23 - SMOKING - EFL

- A. Employees who are hired under a policy requiring them to be a non-smoker or non-user of tobacco products of any kind shall maintain their non-use throughout their employment with City. Use of such products or smoking during duty hours shall be cause for disciplinary action.
- B. Persons currently employed will be required to declare whether they are or are not a user of tobacco products or a smoker of tobacco products. Employees declaring to be non-users or non-smokers will agree not to use such products or smoke during duty hours.
- C. All City buildings and facilities, including those of the Fire Department, are designated as completely smoke and tobacco-free. Only those employees who, pursuant to Section B above, have declared themselves to be tobacco chewers shall not be prohibited from "chewing" tobacco products within Fire Department facilities.

Note: Sections A & B were first negotiated and became part of this Memorandum of Understanding on September 15, 1987.

## ARTICLE 24 - PROBATIONARY PERIOD - EFL

A. Objective of the Probationary Period

The probationary period is to be regarded as an integral part of the testing procedure and shall be utilized for closely observing the employee's work and for securing the most effective adjustment of a new employee to his/her position. During their first six months of employment, initially hired probationary employees are not eligible to take leave through vacation, CTO, trades, or holidays, with the exception of the two personal holidays specified in Article 8, D. Any exceptions to this provision will be at the discretion of the Fire Chief.

B. Regular Appointment Following Probationary Period

All original appointments shall be tentative and subject to a probationary period to twelve (12) months and may be extended up to an additional twelve (12) months by the Fire Chief with the approval of the City Manager. All benefits shall accrue to the employee at the end of six (6) months, except the right to appeal of dismissal.

C. Regular Appointment following Promotional Probationary Period

All promotional appointments shall be tentative and subject to a probationary period of twelve (12) months and may be extended up to an additional twelve (12) months by the Fire Chief with the approval of the City Manager.

## D. During the probationary period, an employee may be rejected at any time by the appointing authority without cause, and without right of appeal.

E. Rejection Following Promotion

Any employee rejected during the probationary period from a position to which he/she has been promoted shall be reinstated to the position from which he/she was promoted unless he/she is dismissed from the City service as provided by the Personnel Rules and Regulations.

F. Rejection Following Promotion or Transfer to a Position Not Within Competitive Service

Any employee in the competitive service promoted or transferred to a position not included in the competitive service shall be reinstated to the position from which he/she was promoted or transferred if, within six (6) months after such promotion or transfer, action is taken to reject or dismiss him/her unless he/she is discharged from the City service in the manner provided by the Personnel Rules and Regulations.

ARTICLE 25 - SCHEDULING - EFL

- A. The regular work week for employees assigned to Fire Suppression shall be an average of fifty-six (56) hours per week.
- B. The work schedule shall consist of three (3) twenty-four (24) hour on-duty periods, commencing at 0800 hours, within a nine (9) day cycle to be worked in accordance with the following chart:

X0X0X0000

X is a twenty-four (24) hour on-duty period  
0 is a twenty-four (24) hour off-duty period

- C. The above cycle is currently in effect and shall be a continuous, on-going cycle.
- D. Management may request and an employee may agree to work outside the employee's regular schedule.
- E. For the good of the Department, the City has the right to transfer Fire personnel from one platoon schedule to another Platoon schedule for not less than ten (10) shifts. This practice shall not be used to cover vacations.

## ARTICLE 26 - STAFFING - EFL

A. Deployment Levels

1. A minimum of three paid professional firefighters shall be assigned to respond on all Engine Companies in service.
2. A minimum of two paid professional firefighters shall be assigned to respond with all Truck Companies in service. However, this does not require that two personnel ride on the truck. EFL and the City agree that the City will be in compliance whenever a Duty Officer responds to an incident from their home. Qualified volunteers may be assigned to the Truck Company on weekends to supplement regular truck staffing.
3. It is understood and mutually agreed that these staffing levels are for the safety and work load of the personnel and are not an infringement of the Management Rights Article of this Agreement.
4. Nothing herein shall prevent the City from closing fire stations to comply with the provisions of this Article.
5. In the event the City elects to close fire stations, the City shall not be required to Meet and Confer or Meet and Consult with EFL.

B. Rank Structure

1. The rank structure in the Fire Department shall be at least:
  - a. Ten (10) Fire Captains, one of whom may be assigned to the Prevention Bureau with the title of "Prevention Captain"
  - b. Twelve (12) Fire Engineers
  - c. The number of firefighter positions shall be the sole discretion of the City and shall not be subject to the Meet and Confer or Meet and Consult process.
2. It is understood and agreed that this section of this Article does not address management or civilian positions/classifications in the Fire Department.
3. It is understood and mutually agreed that nothing in this Article or this Agreement shall limit the City from creating new positions or classifications. In the event the City opts to create new positions or classifications, it shall not be required to Meet and Confer or Meet and Consult over such.

- C. During the term of this MOU, should the City determine that a reduction in force is necessary, the parties agree to meet and confer promptly upon request of either party, to amend rank structures as contained in Section B1 (a and b) of this article.

## ARTICLE 27 - METHOD OF FILLING VACANCIES - EFL

- A. Every reasonable effort shall be made to effect promotions to non-management, safety classifications in the Fire Department.
- B. With respect to management classifications and classifications represented by other recognized bargaining units, every effort shall be made to select the most qualified candidate. It is understood that the City recruitment procedure, as presently exists in the Personnel Rules and Regulations, is modified so recruitments can be conducted at the option of the Personnel Officer after conferring with the affected Department Head(s) through closed promotional (all permanent City employees who meet desirable qualifications) and/or open competitive (all individuals who meet desirable qualifications) processes.
- C. The City agrees that the filing period for such promotional opportunities as stipulated in Section "A" of this Article shall be no less than 30 calendar days.
- D. The period specified in Section "C" of this Article may be modified by the mutual written consent of EFL and the Personnel Officer.
- E. Pursuant to the written agreement dated August 16, 1996, between the City and EFL, the testing process for Fire Engineer has been modified to a two-step process as follows:
  1. To obtain certification as an Apparatus Operator, Firefighters must successfully complete, on a pass-fail basis, the required evaluation components of the Eureka Fire Department Apparatus Operator Program. The Program shall be administered by Fire Department personnel at the Captain level or above.  
  
Following successful completion of these components, candidates will be assigned to a Fire Captain for six (6) shifts for evaluation as an Acting Apparatus Operator. Satisfactory completion of this six (6)-shift evaluation period certifies a Firefighter as an Apparatus Operator and makes them eligible for consideration of shift trades with Fire Engineers, and for Apparatus Operator assignments as needed to fill in for Fire Engineers. Only Apparatus Operators will be allowed to compete in the recruitment process for Fire Engineer.
  2. To be placed on an eligibility list for Fire Engineer, Apparatus Operators must successfully complete the required competitive examination. Whenever it is necessary to fill a temporary Fire Engineer vacancy for a longer period, all certified Apparatus Operators shall be eligible; however, preference will be given to those candidates on a Fire Engineer eligibility list.
- F. Pursuant to the agreement between the City and EFL effective with the adoption of this

successor MOU, the testing process for Fire Captain has been modified to a two-step process as follows (note: candidates on the current Fire Captain eligibility list expiring June 5, 2004, do not have to meet this requirement):

1. To obtain certification as a Company Officer, applicants must successfully complete, on a pass-fail basis, the required evaluation components of the Eureka Fire Department Company Officer Program. The Program shall be administered by Fire Department personnel at the Captain level or above.

Following successful completion of these components, candidates will be assigned to a Fire Captain for six (6) shifts for evaluation as a Company Officer. Satisfactory completion of this six (6)-shift evaluation period certifies an applicant as a Company Officer and makes them eligible for consideration of shift trades with Fire Captains, and for Company Officer assignments as needed. Only Company Officers will be allowed to compete in the recruitment process for Fire Captain.

2. To be placed on an eligibility list for Fire Captain, Company Officers must successfully complete the required competitive examination. Whenever it is necessary to fill a temporary Fire Captain vacancy for a longer period, all certified Company Officers shall be eligible; however, preference will be given to those candidates on a Fire Captain eligibility list.

## ARTICLE 28 - DEFERRED COMPENSATION - EFL

- A. The City has established voluntary deferred compensation plans administered by third party administrators. The City agrees to process the necessary payroll deductions and make payments to the administrators twice monthly.
- B. All costs for administration of the Plan exclusive of payroll deduction will be borne by the assets of the Plan.

## ARTICLE 29 - UNION-MANAGEMENT COOPERATION - EFL

- A. The City and EFL recognize the need for and benefit of exploration and study of current and potential problems and differences by meetings of representatives of the parties and an exchange of views and information without the stresses and time limitations which may exist at the bargaining table. The City and EFL agree to establish a Joint Study Committee to function during the term of this Agreement. The Authority of the Joint Study Committee may include:
1. To study, explore, and make recommendations to the parties concerning employer-employee relations problems referred to the Committee by the parties.
  2. To consider areas of work in which modifications can be made, including improving the efficiency of operations, conserving materials and supplies, and effecting other economies.
  3. To consider opportunities to increase efficiency and productivity.
  4. To consider opportunities to improve conditions of employment.
- B. The Committee shall consist of not more than two (2) employees from EFL and not more than two (2) management employees from the City. EFL members will be designated in writing to the City by the President, one of whom will act as co-chair. City members will be designated by the City Manager, one of whom will act as co-chair.
- C. Persons from either party who are specialists in a subject under discussion may be brought into Committee meetings by mutual agreement of the co-chairs.
- D. The Committee's authority shall be limited to discussion, exploration and study of subjects referred to it by the parties. Any Committee recommendations to the parties shall be on a confidential basis.
- E. The committee shall have no authority to bargain for the parties on any issue, or to determine the disposition of any grievances which the Committee may review.
- F. Each party shall pay the expenses incurred by its permanent Committee members.
- G. Matters considered by the Committee shall not be subject to the Grievance Procedure Article, and adoption of any suggestions remains a Management Right.
- H. The Committee shall not engage in meeting and conferring in good faith nor in any way modify, add to, or detract from the provisions of this Memorandum of Understanding.
- I. The City and EFL recognize that continued large-scale employment at a fair wage can continue only as long as a high level of productivity is maintained. The City and EFL agree

that this result is dependent upon achieving a high quality of individual employee performance and efficiency and EFL undertakes to encourage its members in the attainment of this objective. This can be done by reducing scrap and spoilage, good care of tools and equipment, a minimum amount of time wasted and careful and economical use of supplies, including utilities.

- J. It is agreed that EFL will cooperate with the City in an effort to reduce to a minimum all practices which result in a loss of efficiency and needless expense. Inasmuch as "waste" is comprehensive in scope, it is impossible to enumerate all of the practices which might be involved. However, specifically the cooperation will include elimination of wasted time, elimination of wasted materials, reduction of absenteeism and conservation of tools, equipment materials and supplies.
- K. EFL recognizes that in consideration of commitments made by the City, there is an obligation upon every employee to give honest, efficient and economical service in the performance of his/her duties.
- L. EFL agrees that it will not directly or indirectly oppose or interfere with the legitimate and reasonable efforts by the City to maintain and improve the skill, ability and production of the employees and to reduce waste of materials.
- M. The parties acknowledge that protection against unexplained loss and disappearance of City property, materials and supplies is essential for efficient operation. EFL will cooperate with the City in the elimination of such loss and disappearance.
- N. Both parties recognize that it is to their mutual interest and to the best interest of both the employees and the City if the quality of the City's service is improved. EFL will encourage its members to attain these ends. It is agreed that the parties shall work together to improve the quality of service provided, reduce departmental ineffective service delivery, and to further these ends by developing job pride among employees.
- O. Consistent with the principle of a fair day's work for a fair day's pay, and consistent with the employee's welfare in regard to safety, health, and sustained effort, EFL agrees to cooperate with the City in its effort to increase employee effectiveness and productivity.
- P. The parties agree that they will cooperate together toward the elimination of inefficiency where proven to exist. This means doing a fair day's work by all employees, and the carrying out of all reasonable instructions issued by their supervisors regarding work assignments. Complaints regarding the meaning of "reasonable" shall be made through the Grievance Procedure Article of this Agreement after the instruction has been carried out, unless complying with the instruction would place the employee's life in immediate danger.
- Q. It is agreed that EFL, the employees and members of management shall do everything within their power to conduct themselves individually and collectively so as to reflect favorably on the departments and the City, and improve the public standing of the City.

## ARTICLE 30 - RESIDENCY - EFL

- A. All safety employees represented by EFL shall reside within 30 minutes driving time of 6th and C Streets.
- B. All safety employees shall make every reasonable effort to receive the pager signal used to call back off-duty personnel.

## ARTICLE 31 - TRADES - EFL

- A. Voluntary trading of time between employees is a benefit solely for the convenience of the employees involved and shall not be deemed as overtime. Trades of shifts are allowed only between employees in the same class, or between an employee in a particular class and another employee who has completed the department requirements to fill that class in an acting capacity. The City has no obligation to keep any records on shift trades or to be involved in enforcing a shift pay back.
- B. Upon signing a shift trade agreement, it shall be the responsibility of the trading partner to cover the initiating employee's original shift. If the trading partner is unable to fulfill their trade obligation for any reason, the trading partner shall be charged vacation, or CTO, at straight time. If, however, the Department was forced to hire overtime to fill the uncovered shift, the trading partner shall have the vacation, or CTO, charged at time and one half. An exception shall apply however, should a trading partner be injured while working a shift trade and be unable to complete the shift. In this case, it shall be the responsibility of the Department and not the trading partner to arrange and pay for a qualified staff replacement.

If for reasons of administrative difficulty or conflict, the City is unable to charge the trading partner leave time as set forth above (i.e., the trading partner being off on 4850, or if the trading partner had no leave time accrued, etc.) the responsibility for covering the shift reverts ultimately to the initiating employee. In this circumstance, if the initiating employee fails to arrange appropriate staffing to cover his/her original shift, then the initiating employee shall be charged leave time in the same manner as set forth above.

When an employee separates from City employment, the employee's last day on the City's payroll shall be the last day actually worked. No employee shall be allowed to extend their employment through repayment of shift trades.

- C. Employees who have been assigned as Company Officer shall be eligible for shift trades upon completion of six (6) "Acting" assignments (in the same rank) within a calendar year and shall remain eligible until the next promotional list is established for that rank.

## ARTICLE 32 - DEFIBRILLATION PROGRAM - EFL

- A. EFL agrees to support and participate in the automatic defibrillation program.
- B. All employees shall earn accreditation in the use of defibrillation equipment.
- C. Any training required for accreditation shall be provided "on duty".
- D. The qualifications for immunity from liability for emergency rescue personnel is clearly set forth in Section 1799.100- 110 of the California Health and Safety Code. The City further agrees to defend its employees in litigation arising out of job related incidents.

## ARTICLE 33 - PERSONNEL RULES - EFL

During the term of this MOU, the parties agree to meet and confer promptly upon the request of either party on the implementation of the revised Personnel Rules and Regulations.

ARTICLE 34 - PERSONNEL RULE 11, AMENDED - EFL

City Personnel Rule 11 shall be amended to include ~~Reduced in Compensation~~ in Section 11.1 as an additional possible disciplinary action option.

## ARTICLE 35 - AUTOMATIC AID - EFL

- A. The parties agree to implement Automatic Aid between the EFD and Humboldt Fire District #1 (HFD#1) as described in the Mutual Response Agreement executed between the City of Eureka and HFD#1 on March 9, 1992 and the Mutual Aid Agreement, as amended, executed between the City of Eureka and the Arcata Fire District on September 12, 1989. Both the City and EFL support the concept of Automatic Aid, and are jointly committed to insure its success.
  
- B. During the term of this MOU, the parties agree to meet and confer promptly upon request of either party, should the Automatic Aid Agreement described in Section A, above, be changed or should the City propose other Automatic Aid agreements that may be reached with other agencies. It is the intent of the parties that only those issues related to officer safety and workload which concern 1) staffing, 2) the number of apparatus responding pursuant to the Automatic Aid Agreement, or 3) the relocation of HFD#1 stations are subject to the reopening of bargaining.

## ARTICLE 36 - FIRE SERVICE ALTERNATIVES - EFL

- A. During the term of this MOU, either party may request to meet and confer over alternatives to the current method of providing fire services.

Whenever either party requests to meet and confer on fire service alternatives, neither party shall be bound to keep the subject(s) or the discussions confidential during the meet and confer process.

## ARTICLE 37 - SPECIALIST PAY PROGRAMS - EFL

## A. HAZARDOUS MATERIALS RESPONSE TEAM

If the City determines it to be in the City's best interest, it may create and implement a Hazardous Materials Response Team (HAZMAT) under the following conditions:

1. The City in its sole discretion shall decide the make-up of the HAZMAT response team including, but not limited to, the use of EFL personnel.
2. Protocols for HAZMAT response team operations shall be determined by the City Manager and other management staff, based upon input from a joint committee comprised of equal numbers of EFL and Fire Department management staff. Protocols shall be established prior to the HAZMAT response team becoming operational.
3. Specialist Pay - Effective April 1, 1995, up to a maximum of 12 EFL represented employees who are assigned to HazMat response team duties shall be entitled to receive a 3% salary increase above base salary during the period of such assignment. Assignments shall be at the City's sole discretion and no specialist pay shall commence until such time as the HAZMAT response team is operational.

The HAZMAT Response Team shall become operational when the City has determined that it is ready and available to respond to Hazardous Materials Incidents. It is the intent of the parties that employees receiving specialist pay pursuant to this article, shall be entitled to such pay while assigned to the HAZMAT Response Team and not simply when responding to Hazardous Materials Incidents. Assignments to the HAZMAT Response Team shall be done in writing.

4. The City may, at its sole discretion, discontinue the HAZMAT team at any time. This decision is not subject to meet and confer.

## ARTICLE 38 - CATASTROPHIC LEAVE - EFL

- A. Catastrophic illness or injury is a severe illness or injury which is expected to incapacitate the employee for an extended period of time, and which creates a financial hardship because the employee has exhausted all of his/her accumulated paid leave time. Catastrophic illness or injury is further defined as a debilitating illness or injury of an employee's spouse or legally dependent child that results in the employee being required to take time off from work for an extended period to care for the family member, when this creates a financial hardship because the employee has exhausted all of his/her accumulated paid leave time. An employee's job related illness or injury subject to worker's compensation coverage shall not be eligible for the catastrophic leave provision.
- B. Paid leave time may be donated under the following conditions:
1. Any permanent employee may donate accumulated vacation, compensatory time or holiday time to an eligible employee. Sick leave cannot be donated.
  2. Donations must be made in increments of one regular work day (or more) from the donating employee.
  3. Should the employee receiving the donated hours not use all donated leave for the catastrophic illness/injury, any balance(s) will remain with the respective donating employee(s).
  4. Donated paid leave time shall be converted to its cash value and then credited to the recipient in hours at the recipient's base hourly rate as holiday credit.
  5. Employees donating paid leave time shall do so in writing on a form developed by the City.
  6. All donation transactions shall be credited effective the pay period following submittal of the form requesting the paid time donation.
- C. Paid leave time may be used under the following conditions:
1. The employee requesting "catastrophic leave" shall submit a written request to their Department Head for review. The request must include a written statement from a licensed physician verifying the illness or injury. If the Department Head approves the request, it shall be forwarded to the Director of Finance who shall include with the next payroll an announcement which shall state:  
  
"(employee's name) has requested Catastrophic Leave. If you would like to donate some of your accrued leave time to this employee, please contact Personnel Department for a donation form."

The Director of Finance shall implement the Catastrophic Leave donation and usage program in accordance with this article.

2. The affected employee must have exhausted any accumulated paid leave time for which they are eligible (sick, vacation, compensatory, holiday) prior to utilizing catastrophic leave.
3. Any paid leave time accrued by the affected employee while using donated time must be used during the next pay period.
4. Only permanent employees are eligible to receive donated paid leave time. Exceptions to this provision may be approved by Personnel on a case-by-case basis.
5. The use of donated paid leave time shall not exceed three months for any one catastrophic illness or injury.

## ARTICLE 39 - EMPLOYEE QUALIFICATIONS - EFL

- A. All employees are required to maintain the qualifications required for their position. This may include, but is not limited to, driver's license, and/or other licenses and certificates required for the position. Whenever possible, testing for renewal of licenses and certificates shall be conducted during working hours. This provision, however, does not extend to Class C driver's licenses.

It is the employee's responsibility to immediately notify their supervisor or the Fire Chief if any of the following required licenses or certificates has expired, been suspended, or been revoked.

Firefighter:

Not required to apply, test and be placed on eligibility list, but must possess to be considered for hire as vacancies occur:

- \* A valid Emergency Medical Technician 1
- \* A valid State of California Firefighter I Certificate

Possession of, or ability to obtain, within twelve (12) months of appointment:

- \* A valid Class B California Driver's License
- \* ETAD Certificate
- \* A valid Medical Examiners Certificate (CDL)
- \* A valid Hazardous Materials First Responder Operations Certificate (FRO)
- \* A valid Hazardous Materials First Responder Operations Decontamination Certificate (Decon)
- \* Defibrillation certificate (if not included with Emergency Medical Technician 1 certificate)

Fire Engineer (effective August 16, 1996):

In addition to those requirements for Firefighter:

- \* Successful completion of the Eureka Fire Department Apparatus Operator Program, including six shifts of supervised driving within the prescribed time period as determined by the Department.

Fire Captain (effective with the adoption of this successor MOU):

In addition to those requirements for Fire Engineer:

- \* Successful completion of the Eureka Fire Department Company Officer Program.

Note: Candidates on the current Fire Captain eligibility list expiring June 5, 2004, do not have to meet this requirement.

- B. All employees are required to maintain the physical standards of the job. Should any non-industrial illness, injury, or other condition occur that a reasonable person would consider serious enough to affect the employee's ability to safely perform their job, it is the employee's responsibility to notify their immediate supervisor of the illness, injury, or condition.

## ARTICLE 40 - SUBSTITUTE APPOINTMENTS - EFL

- A. A substitute appointment is defined in the City's Personnel Rules (Section 9.6) as a person who is appointed to fill the position of a regular employee who is on an approved leave of absence.
- B. A person hired on a substitute appointment basis shall be afforded all the salary and benefits provided by this agreement, except that no substitute employee shall have employment rights or appeal rights greater than a probationary employee.

## ARTICLE 41 - PROFESSIONAL FIRE SERVICE ENHANCEMENT - EFL

Effective July 1 of each year, the City will provide up to a \$1,000 salary advancement for each EFL employee desiring to purchase equipment, training, or other professional enhancing opportunities or situations. Employees serving their initial probationary period following hire are not eligible for participation in this program until after they have completed probation.

The salary advance must be paid back in equal payroll deductions by the following June 30th. For purchases made in the months of May or June, an employee may request to extend the period of payback from June 30 to December 31 of that calendar year. Each employee requesting a salary advance and/or a payback period extension pursuant to this provision must have the approval of the City Manager before the advancement may be received.

## ARTICLE 42 - CABLE TV/NEWSPAPER - EFL

EFL and the City agree to jointly write a letter to the Times Standard Newspaper and to Cox Cable requesting the donation of cable TV service and newspapers to each of the three (3) Fire Stations. The letters referenced above will be prepared and sent during the term of this MOU upon the specific written request of the EFL President.

## ARTICLE 43 - MOU COPIES - EFL

Within 30 days of approval of this agreement by the City Council, one copy of this MOU shall be provided to each station. The City will bear the cost of paper and printing and EFL will do the work, if any, of compiling and distributing the document. In addition, the City will post the MOU on the City's personnel public share internal network site and/or on a specified website. Upon request, an EFL member shall be provided with either a written copy or digital copy (i.e., CD).

## ARTICLE 44 - DEPARTMENTAL REORGANIZATION - EFL

Effective April 4, 1995, the Eureka Fire Department reorganization was approved by the City Council. City and EFL agreed to the following provisions concerning the departmental reorganization (revised December 5, 2003).

- A. Truck staffing - EFL and the City agree that the City will be in compliance with Memorandum of Understanding Article 25, Staffing, Section A2, whenever a Duty Officer responds to an incident from their home.
- B. In-House Duty Officer - EFL understands the reorganization of the Fire Department will result in times when no Duty Officer is on duty at a Fire Station. EFL accepts this practice and understands that the assigned Duty Officer will, in these circumstances, be responding from home.
- C. Collateral Duties - EFL and the City acknowledge that all EFL represented employees perform collateral duties as a regular part of their normal responsibilities.

Collateral duties stay with the current position performing those duties as of the date of the Agreement, April 4, 1995, between the parties. An employee who fills a position vacancy, whether through promotion, demotion, transfer, new hire, etc., assumes the collateral duties of that position. With the approval of the Fire Chief, employees may swap collateral duties, in which case, they become a permanent part of the respective positions.

The following list details most, but not all, of those collateral duties:

- Boat Operator
- Muster Team
- JOC
- SCBA Maintenance
- CPR/First Aid Instructor
- Fire Pals
- Volunteer Training
- Investigator
- Knox Box Lists
- Sprinkler Lists
- Target Hazards
- Inspection Program
- Prevention Captain
- Plan Checks
- Radios
- Electrical Equipment
- EOC
- Buildings and Grounds
- Hydrants

EMS Equipment  
Calendars  
Apparatus  
Tools and Equipment  
Defibrillator Program  
Hose  
Protective Equipment  
Graphic Artist  
Scheduling

Additions or deletions to the list of collateral duties may be made from time to time, based on the needs of the Fire Department. It is understood, however, that collateral duties as described in this Article are of a supporting or subordinate and limited nature, and are not intended to address Department-wide functions or new Department services.

## ARTICLE 45 - TERM OF MEMORANDUM OF UNDERSTANDING - EFL

The term of this Memorandum of Understanding shall commence at 12:01 a.m. on July 1, 2003, and shall continue in full force and effect until 11:59 p.m. on June 30, 2004, unless otherwise specified herein.

## ARTICLE 46 - SCOPE OF AGREEMENT - EFL

- A. It is understood that not everything pertaining to the employment relationship between the parties is included in this Agreement. However, it is the intent of the parties that the provisions of this Memorandum of Understanding shall supersede all prior and existing written agreements, Memorandums of Understanding, Memorandums of Agreement, contrary salary or Personnel Resolutions and Ordinances oral or written, expressed or implied between the parties.
- B. It is agreed by the parties that any section or part of this Agreement that is in conflict with any City or department rule, regulation, ordinance, code, resolution, practice or procedure oral or written, expressed or implied existing as of this date shall be resolved in favor of the provisions in this Agreement.
- C. Nothing in this Agreement is intended to conflict with or supersede the Eureka City Charter, State, or Federal Law.
- D. Nothing in this agreement shall be considered a waiver by EFL of its right to Meet and Confer on any proposed changes by the City on matters within the scope of representation.

## ARTICLE 47 - ACKNOWLEDGMENTS - EFL

- A. Except as specifically provided herein, it is agreed and understood that each party hereto agrees that the other shall not be required to negotiate with respect to any subject or matters covered herein or with respect to any other matters within the scope of Meet and Confer during the term of this Memorandum of Understanding without mutual consent.
- B. Any agreement, alteration, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the City Council.
- C. The waiver of any breach, term or conditions of the Memorandum of Understanding by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

## ARTICLE 48 - SEPARABILITY - EFL

- A. Should any provision of this Agreement be found to be inoperative, void, or invalid by a court of competent jurisdiction, or by reason of any existing or subsequent enacted legislation, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, unless otherwise specified herein.
- B. This Agreement shall be binding upon the successors and/or assigns of both City and EFL to the extent permitted by law.
- C. Except as provided in the above preceding paragraphs, the parties hereto agree this Memorandum of Understanding cannot be modified, changed or altered in any way whatsoever except by mutual written consent of said parties.
- D. If any Article or section of this Memorandum of Understanding should be found invalid,unlawful, or unenforceable by reason of any existing or subsequently enacted State or Federal legislation or by judicial authority, all other Articles and sections of this Memorandum shall remain in full force and effect for the duration of this Agreement unless otherwise specified herein. In the event of invalidation of any Article or section, the City and the Union agree to meet within thirty (30) days for the purpose of renegotiating said Article or section.

## ARTICLE 49 - RATIFICATION AND EXECUTION - EFL

- A. The City and EFL acknowledge that this Memorandum of Understanding shall not be in full force and effect until ratified by the EFL general membership and adopted in the form of a resolution by the City Council.
- B. This Agreement constitutes a mutual recommendation by the parties hereto, to the City Council, that one or more ordinances and/or resolutions be adopted accepting its provisions and effecting the changes enumerated herein relating to wages, hours, fringe benefits, and other terms and conditions of employment for the EFL bargaining unit.
- C. Subject to the foregoing, this Memorandum of Understanding is hereby agreed to be recommended for approval by the authorized representatives of the City and EFL and entered into December 5, 2003.

CITY OF EUREKA

EUREKA FIREFIGHTERS=LOCAL #652

By \_\_\_\_\_  
David W. Tyson  
City Manager

By \_\_\_\_\_  
Chris Jelinek  
EFL President and Chief Negotiator  
Fire Captain

By \_\_\_\_\_  
Randy Nickolaus  
Asst. City Manager

By \_\_\_\_\_  
Tod Reddish  
Co-Negotiator  
Fire Captain

By \_\_\_\_\_  
Susan Christie  
Chief Negotiator  
Personnel Manager

By \_\_\_\_\_  
Ed Laidlaw  
Co-Negotiator  
Fire Engineer

By \_\_\_\_\_  
Eric Smith  
Co-Negotiator  
Fire Chief

By \_\_\_\_\_  
Ken Weaver  
Co-Negotiator  
Fire Engineer

By \_\_\_\_\_  
Danette Demello  
Co-Negotiator  
Personnel Analyst II