

Memorandum of Agreement (MOA)

Between the

**San Diego County Regional Airport Authority**

3225 North Harbor Drive

San Diego, California 92101

and

CALIFORNIA TEAMSTERS,

PUBLIC, PROFESSIONAL, & MEDICAL EMPLOYEES UNION

LOCAL 911

Long Beach, California

**AIRPORT TRAFFIC OFFICER UNIT**

October 1, 2008 through September 30, 2013

This Memorandum of Agreement (MOA) is made and entered effective October 1, 2008, by and between the San Diego County Regional Airport Authority (hereinafter referred to as the “Authority”), and The California Teamsters, Public, Professional & Medical Employees Union, Local 911 (hereinafter referred to as “Union”).

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and  
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## **PREAMBLE**

It is the purpose of this Memorandum of Agreement (hereinafter referred to as “Agreement”) to promote harmonious relations, cooperation, and understanding between the Authority and the employees covered by this Agreement; to clarify Authority standards and guidelines and provisions (which deal with all personnel and employment matters), thereby providing an orderly, peaceful, and equitable means of resolving any misunderstanding or differences that may arise under this Agreement; and to set forth the entire understanding of the parties reached as a result of good faith meeting and conferring regarding the wages, hours, and other terms and conditions of employment of the employees covered by this Agreement.

Additionally, any provision of this Agreement requiring action by the Authority President/CEO, shall allow for the President/CEO to delegate said authority.

## **DEFINITIONS**

The following terms as used in this Agreement shall, unless the context clearly indicates otherwise, have the respective meanings herein set forth:

**“Active Status”** means time spent working in the employee’s classification to include all paid leave except injury leave for which worker’s compensation is being paid.

**“Appointing Authority”** shall mean an individual who has the ability to appoint eligible persons to SDCRAA’s positions, assess performance, demote, suspend, reduce salary or dismiss employees.

**“Authority”** shall mean the San Diego County Regional Airport Authority.

**“Board”** shall mean the San Diego County Regional Airport Authority Board.

**“Emergency”** shall mean an unforeseen circumstance requiring immediate action, a sudden unexpected happening, an unforeseen occurrence or condition, a pressing necessity.

**“Employee”** shall mean a person employed by the Authority and covered by terms of this Memorandum of Agreement.

**“Full-Time Employee”** shall mean an employee employed in one or more regular positions whose normally assigned work hours equal those of a full 40 hour workweek or work period.

**“Injury Leave”** means absence from work status with compensation and insurance benefits as a result of a job-connected injury.

**“Limited Employee”** shall mean an employee who works for a specified period of time or until the completion of a special project. The job assignment, work schedule, and expected duration of the position are determined by the Appointing Authority/manager in concert with a representative of Human Resources prior to or at the time of employment. Limited term employees typically are eligible for benefits based on the number of hours worked, subject to the terms, conditions, and limitations of each benefit program.

**“Night shift”** means an assigned schedule of work hours of which at least one-half (1/2) of this shift is after 6:00 p.m. and before 8:00 a.m. Classifications authorized for night premium rate shall be only those defined.

**“Permanent Appointment”** means appointment of a person to a position established without limitation as to duration of employment.

**“Period of Absence”** as applied to the completion of the initial probationary period shall mean any continuous or intermittent period totaling forty (40) hours or more where an employee is away from work and not in active status, including but not limited to periods of leave without pay, military leave, and injury leave for which workers’ compensation is being paid. The total cumulative hours of all periods of absence shall not be considered in determining the completion of the probationary period.

**“Permanent Employee”** means any employee who has successfully served a probationary period of one (1) year of active status in any permanent appointment or combination of permanent appointments to similar positions.

**“Position Seniority”** shall mean regular, uninterrupted service from date of appointment to a specific class and may be considered when shift bidding.

**“Probationary Employee”** shall mean an employee who is serving an applicable probation period prior to permanent employment and is employed in a regular position.

**“Promotion”** shall mean the movement of a regular or probationary employee from one class to another class having a higher designated maximum rate of pay. A promotion results in an increase in base compensation, duties, and responsibilities.

**“Regular Position”** shall mean a position established on a permanent basis requiring work on a regular schedule of forty (40) hours per week, on average.

**“Regularly Recurring Fixed Shift”** shall mean a shift where, for at least thirty (30) consecutive calendar days, the employee is required to work the same scheduled hours during each shift and where this schedule is determined prior to commencement of the first of the thirty (30) consecutive calendar days.

**“Service Seniority”** shall mean regular uninterrupted service from date of hire by the San Diego Unified Port District (“SDUPD”) and 1/1/03 transfer to the Authority, or continuous service with the Authority.

**“Similar Positions”** means two or more job classifications wherein the essential functions of two or more positions are primarily the same. The Director, Human Resources or designee shall determine on a case-by-case basis if two or more positions are similar.

**“Temporary Employee”** is an employee who is hired for a specified short-term assignment or in response to an unforeseen situation or an emergency need for staffing. Seasonal employees are considered temporary employees. Temporary employees generally are not eligible to receive benefits.

**“Transfer”** is the movement from a position in one class to a different classification in the same pay grade (lateral transfer).

**“Union Representative”** shall mean those representatives of the Union or officers of the Union who are not in any manner paid employees or agents of the Authority.

ARTICLE 1

**RECOGNITION AND AGENCY SHOP**

The Authority recognizes the Teamsters Union Local 911 as the exclusive representative for those employees in the following position classifications:

**Airport Traffic Officer**  
**Lead Airport Traffic Officer**

Pursuant to California Government Code § 3502.5, there exists an agency shop arrangement between the Authority and the Union with regard to the above-referenced positions. Accordingly, and pursuant to California Government Code § 3502.5(b), the Union shall indemnify and hold the Authority harmless against any and all liability arising from any claims, demands, or other action relating to the Authority's compliance with the agency fee obligation.

ARTICLE 2

**IMPLEMENTATION**

The provisions of this Agreement represent a mutual understanding of both parties in accordance with the provisions of the Meyers-Milias-Brown Act, California Government Code § 3500 *et seq.* The provisions as contained in this Agreement shall not be binding on either party until this Agreement is approved by the Authority Board through the adoption of appropriate resolutions and ratified by Union membership.

ARTICLE 3

**TERM**

The term of this Agreement shall commence October 1, 2008, and shall expire and otherwise be fully terminated at 12:00 midnight on September 30, 2013.

ARTICLE 4

**RENEGOTIATION**

**SECTION 1 - SCHEDULE FOR SUCCESSOR AGREEMENT**

In the event the Union desires to meet and confer in good faith on the provisions of a successor agreement, it shall serve upon the Authority, no later than June 30, 2013, its written request to commence meeting and conferring in good faith as well as its full and entire written proposal for such successor agreement. Upon receipt of such written notice and proposals, meet and confer shall begin no later than August 1, 2013 or in accordance with a mutually agreed to date.

In all other instances where engaging the meet and confer process is a lawful condition precedent to the changing of matters within the scope of representation, the party desiring to initiate the meet and confer process shall serve a written proposal in this regard not later than thirty (30) calendar days prior to the anticipated implementation date of the change in terms and conditions of employment. The notice requirements set forth herein shall not be applicable in cases of emergency as that term is defined in California Government Code § 3504.5.

## **SECTION 2 - DURATION OF THIS AGREEMENT**

This Agreement may remain in full force and effect for one (1) year from the date it would have terminated as set forth in Article 3, Term, and from year-to-year thereafter if expressly agreed to in writing by each of the parties each year. Nothing herein contained is intended to preclude the parties from meeting and conferring as specified in Section 1 of this Article or at any other time on matters provided for in the Meyers-Milias-Brown Act.

## **SECTION 3 - REOPENERS**

Between September 1 and 15 of the years 2009, 2010, 2011 and 2012, either party can reopen the MOA on the issue of wages only, by providing written notice of its intention to do so to the other party during these time frames. If such notice is provided, the parties will meet and confer on the subject of the wages to be paid for the following contract year, October 1 through September 30. There will be no automatic wage increase or decrease. Any wage increase or decrease for the contract years 2009 through 2012 will be determined by the meet and confer process if either party reopens wage negotiations for that contract year.

Other than the above, the parties can reopen the MOA only by mutual written agreement of the Authority and the Union.

## ARTICLE 5

### **NON-DISCRIMINATION**

The Authority and the Union agree that the provisions of this Agreement shall be applied equally to all employees covered hereby without favor or discrimination by reasons of race; color; national origin or ancestry; gender; religion or religious creed; age; mental or physical disability; veteran status; medical condition including genetic characteristics; marital status; domestic partner status; sexual orientation; and pregnancy, childbirth, or related medical condition.

## ARTICLE 6

### **HOURS OF WORK**

#### **SECTION 1 - DEFINITIONS**

The normal work day within a consecutive twenty-four (24) hour period shall be defined as eight (8) consecutive hours of work exclusive of a meal period.

The payroll workweek commences on Friday of each week at 12:01 a.m. and ends on the following Thursday at midnight.

The normal workweek shall consist of five (5) scheduled work days and two (2) scheduled days off in any seven (7) consecutive day period. However, the two (2) days off shall not necessarily be consecutive days off in each workweek.

A scheduled workweek shift for an employee will be based upon the workweek as set forth above; however, the scheduled shift may vary in days and hours. An employee's scheduled workweek shift may begin on any day of the payroll workweek. This does not preclude use of split workweek shifts such as a combination of days and nights.

## **SECTION 2 - SCHEDULING OF WORKWEEK SHIFTS**

Employees shall have their workweek shift scheduled so that they receive at least two (2) days off, which shall not necessarily be consecutive days off, in each payroll workweek except that they shall receive two (2) consecutive days off after five (5) consecutive days of work. During scheduled shift changes, schedules may reflect workweek shifts that are four (4) days on, two (2) days off; four (4) days on, one (1) day off; three (3) days on, two (2) days off; three (3) days on, one (1) day off; two (2) days on, one (1) day off; one (1) day on, two (2) days off; and one (1) day on, one (1) day off. However, the workweek shift must have at least two (2) scheduled days off in every seven (7) days of the payroll workweek.

## **SECTION 3 - SHIFT SELECTION**

All newly hired Airport Traffic Officers shall be ineligible to select for the current shift preference selection process until their one-year probationary period has expired. Airport Traffic Officers on probation shall be placed at the bottom of the list of the shift preference selection until their probation has expired. When all non-probationary (permanent) Airport Traffic Officers have selected from the shift preference selection, then probationary Airport Traffic Officers will select from the remaining shifts.

## **SECTION 4 - FIXED STARTING AND QUITTING TIMES**

Employees shall be scheduled to work on regular work shifts, having regular and fixed starting and quitting times. These work schedules shall be made known to all employees, and shall not, insofar as practical, be changed without a five (5) calendar days written notice to the employee, with the following exception:

Should it be necessary to change these work schedules without the customary five (5) calendar days written notice to the employee, then the first consecutive eight (8) hours worked on the new work schedule shall receive compensation at time and one-half the employee's regular rate of pay.

## **SECTION 5 - CLEANUP**

Members of the Airport Traffic Officer Unit shall be permitted fifteen (15) minutes prior to the end of each work shift to perform such activities as cleaning up a work area, putting away tools, personal washing up, and changing clothes.

## ARTICLE 7

### **OVERTIME**

## **SECTION 1 - OVERTIME WORK AND COMPENSATION**

Overtime is understood to be work in addition to forty (40) hours per workweek. Eligibility for overtime compensation is established and shall be allowed only in accordance with the employee's Fair Labor Standards Act (FLSA) status, unless otherwise required by law.

It is agreed that work schedules will not be modified solely to eliminate or avoid overtime; however, an employee may volunteer to modify his/her work schedule to avoid overtime. When mutually agreed between the employee and supervisor, overtime may be traded hour-for-hour for time off within the employee's workweek. Absent mutual agreement, the employee is entitled to work the full assigned schedule, and the supervisor is entitled to decline a request to trade for time off.

Extra compensation shall be paid at time and one-half the employee's regular rate of pay. The regular rate for the purpose of computing extra compensation shall include any and all paid differentials to which such employee is entitled.

All time paid for annual leave, sick, injury, court, military leave, and holidays shall count as time worked toward the basic forty (40) hour workweek of employees in the payment of overtime.

## **SECTION 2 - REQUIRED OVERTIME**

When overtime work is required and there is no qualified volunteer to perform such work, the selection of those to work shall be based on reverse order of seniority within the same classification, except those persons who have a waiver for education or another prearranged schedule change as approved by the supervisor or designee.

### ARTICLE 8

#### **CALLBACK**

#### **CALLBACK**

Callback time is limited to required work and shall not include activities scheduled in advance such as training, hearing tests, etc. To qualify for this callback provision, an employee must actually leave the work facility and then report back to a work site.

- a. An employee who has departed the work facility after completing his or her normal work shift and is then asked, at least three (3) hours prior to his/her next scheduled shift by the supervisor or designee, to return to a worksite to perform necessary work shall be entitled to callback pay. In all such cases, the employee shall receive a minimum of three (3) hours at time and one-half his/her regular rate of pay.
- b. In the event an employee is called back to work less than three (3) hours prior to the commencement of his/her normal work shift, the employee shall be compensated at one and one-half times his/her regular hourly rate for each hour or portion of an hour thereof worked prior to his/her regular work shift.
- c. Reasonable transportation time to and from the employee's work location shall be considered as time worked in recording callback time (from portal to portal).

### ARTICLE 9

#### **HOLIDAYS**

#### **SECTION 1 - DESIGNATED HOLIDAYS**

- a. Authority holidays shall include the following days:
  1. Veterans' Day
  2. Thanksgiving Day
  3. Day after Thanksgiving Day
  4. Christmas Eve

5. Christmas Day
6. New Year's Eve Day
7. New Year's Day
8. Martin Luther King, Jr. Day
9. Presidents' Day
10. Cesar Chavez Day
11. Memorial Day
12. Independence Day
13. Labor Day

The Authority shall determine, on an annual basis, the precise date of each holiday.

- b. When a designated holiday falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. If Christmas Day and New Year's Day fall on a Monday, the preceding Friday will be observed as the Christmas Eve and New Year's Eve Day holiday.
- c. When a designated holiday falls on a Saturday, the preceding Friday shall be deemed to be the holiday in lieu of the day observed. If Christmas Day and New Year's Day fall on a Saturday, the following Monday will be observed as a holiday.

## **SECTION 2 - ELIGIBILITY FOR HOLIDAY PAY**

- a. When a designated holiday falls on a regularly scheduled day off, an employee may elect to receive holiday pay in cash or may elect to accrue eight (8) hours of annual leave, subject to subparagraph "e" below.
- b. When an Authority designated holiday falls within an employee's normal payroll workweek and the employee is scheduled to work, the employee will be credited with eight (8) hours toward his/her regular forty (40) hour week. In addition, the employee required to work on a designated holiday during his/her regular work week will be compensated at a rate of time and one half their regular base rate of pay for the number of hours worked.
- c. Any employee who is regularly scheduled to work on an Authority designated holiday but does not work because of illness, and/or does not work the full assigned shift, shall be paid only for the holiday pay and any hours actually worked on the holiday. No compensation shall be paid for sick leave or other paid leave during the eight (8) hours of holiday pay.
- d. Paid holidays immediately preceding, immediately following, or wholly within the annual leave period shall not be regarded as part of the annual leave period except where the employee does not return to work following such annual leave period.
- e. An employee on leave without pay is not entitled to holiday pay unless s/he is in paid status for a full regularly assigned shift either immediately preceding or immediately following the holiday, except that an employee on approved military leave without pay is entitled to holiday pay regardless of paid status.
- f. For any full-time employee who has reached the annual leave accrual maximum, the choice of cash payment or paid time off for holidays as defined in this Section is restricted to a cash payment only until the accrual drops below the maximum.

ARTICLE 10

**JURY DUTY/COURT LEAVE**

Any permanent employee who has passed the initial probationary period and is required by court order to serve as a juror or as a witness and is not a party to a court action, shall be granted leave for such purpose upon presentation of proof of the period of his/her required attendance to their supervisor or designee.

- a. No jury duty pay is due on an Authority designated holiday.
- b. All employees shall be granted jury duty leave, provided the procedure for obtaining leave is followed.
- c. All permanent, full-time employees shall receive regular pay of no more than eight (8) hours per day for the hours served in court in lieu of their regularly scheduled workday.
- d. Any employee approved for jury duty leave who is regularly scheduled to work a night shift will be given jury duty leave as if s/he was a day shift employee. Employees shall be treated as if they are working an 8:00 a.m. to 5:00 p.m. shift until their jury duty ends.
- e. Employees assigned work schedules other than Monday through Friday may request that their workweek be rescheduled to Monday through Friday during jury duty leave. Such requests must be made to the supervisor or designee as soon as the employee receives notice from the court. The supervisor will grant the request.
- f. Should the court release an employee early in the day on a scheduled workday s/he may be required to report to work. The employee shall contact their supervisor or designee for guidance. And if, after considering commuting time, the supervisor or designee determines that at-least one and one-half hours of the employee's scheduled workday remains, the employee shall be directed to return to work to complete his/her workday.
- g. Employees are entitled to keep the court's payment for services and expense reimbursements.
- h. Upon receiving a subpoena or Notice For Trial Jury Service from a court, the employee shall immediately complete a Personnel Action Form showing the first date of service, attach a copy of the subpoena or notice and deliver it to his/her supervisor or designee for approval, disapproval, and/or scheduling.
- i. During jury orientation on the first day of service, the employee shall select the option of calling in for assignment for all subsequent days unless the court instructs otherwise or does not offer this option.
- j. The employee must obtain a Court Attendance Time Sheet showing proof of attendance and "clock in" and "clock out" at the courthouse for all time spent in court service. If the court attendance time sheet is not turned in to the employee's supervisor or designee upon completion of service, the employee may be considered to be on leave without pay for all time absent due to court service.

## ARTICLE 11

### **SENIORITY**

A probationary employee shall have no seniority until the employee has completed the probationary period. Upon the completion of the probationary period, the employee will acquire seniority from the date of hire.

A permanent employee transferred (moving from a position in one class to a different classification in the same pay grade) or promoted shall accrue no position seniority in the new position until completion of a six (6) months probationary period from the date of such promotion to the new position. The employee's service seniority shall continue and be credited from the date of hire. A reassignment within a class within a department from one job to another does not interfere with accumulation of position or service seniority.

Any disagreement over the application of any method of applying service and/or position seniority utilized by any department may be subject to the grievance procedure. In case of a tie, the decision will be made on the basis of service seniority.

## ARTICLE 12

### **PERSONNEL PRACTICES**

#### **SECTION 1 - PERFORMANCE REVIEW SYSTEM**

The Authority shall develop and administer a performance review system for the purpose of measuring employee performance. Such system shall measure, objectively, such factors as the quantity and quality of work, the manner in which the performance is rendered, and the observance of regulations and procedures.

#### **SECTION 2 - PERFORMANCE RATINGS**

The President/CEO shall require the Appointing Authority or designee to submit performance ratings of all permanent employees covered by this Agreement, annually, on the prescribed forms and in a prescribed manner.

- a. Performance ratings shall be based upon the judgments and data collected by the immediate supervisor subject to the review of the next higher level of supervisor/ Appointing Authority or designee. Input may be sought by others and used by the immediate supervisor.
- b. The rating factors shall be the same for all employees in the same class and shall bear fair relationship to the duties and responsibilities of the employees to be rated and shall be prepared in accordance with any procedures established by the President/CEO or designee.
- c. The employee shall receive an identical copy of his or her performance rating and any narrative or special report pertaining thereto three (3) working days in advance of signature and/or appeal.

#### **SECTION 3 - PERFORMANCE RATINGS DURING PROBATION**

Employees with probationary appointments shall receive performance ratings according to the following schedule:

- a. For a 180-day probation, at least two performance ratings, one before the end of three months of

active status and one before the last day of probation.

- b. For one-year probation, at least four performance ratings, one before the end of each three-month period of active status, and one before the last day of probation.

#### **SECTION 4 - UNSATISFACTORY PERFORMANCE RATING**

When an employee's performance does not meet the Authority's standards, such performance including the employee's ratings must be documented. An employee with any rating not meeting Authority standards shall be given appropriate counseling in a timely manner. All such actions are subject to review by the Vice President or designee. Two consecutive overall performance ratings not meeting Authority standards may constitute grounds for reduction in pay. Employees must be given a minimum of thirty (30) days between performance reviews.

#### **SECTION 5 - APPEAL PROCESS**

- a. Any employee, upon presenting supporting facts and evidence that his or her performance rating was not determined in accordance with this provision, may appeal to the Director, Human Resources or designee, who shall have the power after a conference with the Appointing Authority concerned, to change a performance rating when, upon investigation, it appears that the rating was not determined in conformity with the provisions.
- b. All appeals must be in writing and submitted to the Appointing Authority or designee no later than thirty (30) days after the review was given to the employee. The Appointing Authority or designee shall forward the appeal promptly to the Director, Human Resources.

#### **SECTION 6 - TIME LIMIT ON ADVERSE PERSONNEL REPORTS**

The Authority will provide the employee with a copy of all written disciplinary action (including suspensions, letters of reprimand, letters of warning, written counselings) imposed on that employee. The employee will be required to date and sign for the disciplinary action notice, without agreeing to its contents. Any written public complaint that leads to disciplinary action against the employee will be provided to the employee.

An employee can make a written request to the Director, Human Resources, that letters of reprimand, letters of warning, and/or written counselings (but not suspensions) that are over two (2) years old be removed from his or her personnel file. The employee's request will be granted if there has been no recurrence of a similar nature during the two (2) year period since the imposition of the disciplinary action about which the request has been made. The Director, Human Resources shall determine if there has been a recurrence by reviewing the employee's personnel file and reviewing the request with management of that employee's department.

#### **SECTION 7 - DEMOTION**

The Authority will grant every reasonable effort to honor a request for a voluntary demotion. An involuntary demotion of an employee may be made upon the written recommendation of the Appointing Authority or designee with a statement giving the specific reasons for the request. Any employee involuntarily demoted shall be entitled to a hearing, if the employee so desires. The hearing and appeal procedure affecting such demotion shall be the same as that prescribed for removal.

## **SECTION 8 - REMOVAL FOR CAUSE OR OTHER DISCIPLINARY ACTION**

### **Subsection 1 - Basis for Discipline**

The Authority shall not discipline employees who have successfully completed their probationary period without just cause. Just cause for discipline shall include, but is not limited to, violation of any of the Authority's Human Resources Standards & Guidelines for employees, including the Authority's Employee Standards of Conduct as revised on 6/14/04. The Authority shall provide the Union with written notice of any new or modified Standards & Guidelines adopted or modified subsequent to the effective date of this Memorandum of Agreement, which new or modified Standards & Guidelines shall not be effective with respect to any employee covered by this Memorandum of Agreement until fifteen (15) working days subsequent to such written notice to the Union.

### **Subsection 2 - Demotion, Suspension and Termination**

- a. Prior to disciplining a non-probationary employee by demotion, unpaid suspension, or termination, the Authority shall serve the employee with written notice of the proposed discipline, the basis for the proposed discipline, and any documents directly relating to the basis for the proposed discipline.
- b. Within three (3) working days of the service of the written notice, the Authority shall provide the employee with the opportunity to schedule a response to the proposed discipline, either in writing or orally, to the Authority's Director of Human Resources or the Director's designee. The employee may, at his or her own expense, be represented by counsel or other representative in making his or her response. Within ten (10) working days of the employee's response (or within ten (10) working days of the written notice if no response is made by the employee), the employee shall be served with written notice of the discipline to be imposed (if any).
- c. Any non-probationary employee who is disciplined by demotion, unpaid suspension, or termination shall be entitled to appeal the discipline to arbitration in accordance with the Article 23, Section 3 of this Memorandum of Agreement. The Arbitrator's determination of the appeal will be final and binding in accordance with Article 23, Sections 6 and 7.
- d. The timelines referenced above may be tolled for a reasonable amount of time upon mutual written agreement by the parties.
- e. The following are examples of misconduct that may result in the removal of a permanent employee from employment, suspension, and/or reduction in pay. Removals, suspensions, and reductions in pay may be based on causes other than those listed below.
  - (1) The employee has engaged in dishonesty or theft involving the Authority.
  - (2) The employee has engaged in insubordination, which may include, but is not limited to, failure to follow legal orders and direct disobedience.
  - (3) The employee has engaged in harassment of any nature (sexual, racial or otherwise) or discrimination contrary to the Authority policies/guidelines on Equal Employment Opportunity and Diversity, and Harassment and other prohibited conduct.
  - (4) The employee, through negligence or willful conduct, has caused damage to public property or waste of public supplies.

- (5) The employee is incompetent or inefficient in the performance of his or her duty.
- (6) The employee has been offensive in conduct toward his or her fellow employees, customers, or business contacts of the Authority, or the public.
- (7) The employee has violated any lawful or official regulation or order or failed to obey any lawful and reasonable direction given him/her by his/her Appointing Authority, supervisor or designee when such constitutes insubordination or a serious breach of discipline which reasonably may be expected to result in lowering morale in the organization or to result in loss, inconvenience, or injury to the Authority.
- (8) The employee has solicited or accepted a fee, gift, or other item of value in the course of the employee's work or in connection with it when such fee, gift, or other item of value so solicited or given the employee by any person in the hope or expectation of receiving a favor or better treatment than that accorded to other persons.
- (9) The employee has been convicted of a criminal offense involving moral turpitude. The term moral turpitude shall mean any act of baseness, vileness, or depravity; or any act contrary to justice, honesty, modesty, or good morals; or any act done with deception or through corrupt motive.
- (10) The employee has been absent without leave contrary to the rules of the Authority or has failed to report to work after an authorized leave of absence has expired, or after such leave of absence has been disapproved, revoked, or canceled.
- (11) The employee has hindered the regular operation of the department or division because of excessive absenteeism.
- (12) The employee has violated any policy or provision of the Authority.
- (13) The employee has violated any safety and/or security rule.
- (14) The employee has engaged in employment outside the Authority which creates/gives the impression of cheating, an impropriety, or results in a conflict of interest.

### **Subsection 3 - Recommendation and Approval**

Any employee who has completed the probationary period may be removed, suspended from employment, and/or have a reduction in pay for proper cause by recommendation of the Appointing Authority and approval of the President/CEO or designee.

### **SECTION 9 - REQUIRED NOTICE**

Prior to incurring any disciplinary action set forth under this Agreement, an employee shall be served with a notice of intent and a notice of the proposed action, the reasons therefore, a copy of the proposed charges, and any materials on which the action is based.

## **SECTION 10 - REQUIRED MEETINGS**

Within ten (10) calendar days thereafter, or a mutually agreed to date, a meeting will be set up between the employee and the Director, Human Resources or designee. The employee shall be provided the opportunity to respond to the proposed action either orally or in writing, or both. The employee may, at his or her own expense, be represented by the Union, counsel or other representative at that time and shall be permitted to introduce any relevant evidence to support his or her claim. After this meeting, a written decision either modifying, upholding, or vacating the proposed action shall be served upon the employee. Such written decision shall be delivered to the employee within ten (10) calendar days of the required meeting except in unusual circumstances.

## **SECTION 11 - APPEAL PROCEDURE FOR REMOVALS, SUSPENSIONS, DEMOTION, OR REDUCTION IN PAY**

Any permanent employee shall have the right to appeal relative to any disciplinary action, removal, demotion, or alleged violation of pertinent provisions of any Authority written processes, policies, codes, standards and/or guidelines except in instances where the right of appeal is specifically precluded by the Authority, or otherwise provided by law. Any appeal shall be taken by filing a grievance and proceeding through the Grievance and Arbitration Procedure in Article 23.

A probationary employee shall not have the right to appeal or grieve any form of disciplinary action issued by the Authority, but a probationary employee can grieve under Article 23, the Authority's failure to comply with non-disciplinary provisions in the MOA (e.g., incorrect payment of wages by the Authority).

## ARTICLE 13

### **VACANCIES, APPOINTMENTS, AND SELECTION**

#### **SECTION 1 - VACANCIES**

- a. No Authority management representative shall intimidate or encourage qualified eligibles on a certification list to waive appointment. Waivers shall be an employee decision only and shall be submitted in writing by the employee. Violations of this section shall be subject to the grievance procedures covered in this Agreement.
- b. Authority management representatives shall not in any manner intimidate or discourage any employee from applying for any position vacancy for which the employee chooses to apply. The determination as to whether an employee qualifies will be made in accordance with applicable Authority recruitment practices and guidelines to include, but may not be limited to, meeting education, experience, and/or supervisory requirements.
- c. The Director, Human Resources or designee shall establish criteria and make the determination whether to hold an open or a promotional recruitment.
- d. Promotional recruitments for any job classification covered by this Agreement shall be open to any qualified employee who has completed at least six (6) months of Authority service immediately preceding the final date for filing applications and whose last performance rating was at least satisfactory or, at the discretion of the President/CEO or designee, may be limited to employees who have completed one (1) or more years of satisfactory Authority service.

- e. The Appointing Authority or designee shall select from the list of eligible applicants, certified by the Director, Human Resources or designee, the number of persons required to fill the vacancy(ies) in the department unless such action conflicts with such factors as equal employment opportunity and diversity considerations.
- f. All appointments of new hires, and those promotions and transfers where the recruitment announcement so requires, will be contingent upon the successful completion of a physical examination. The Authority shall designate the physician to conduct post-offer and pre-employment examination. One of the purposes of the examination is to determine whether the individual can perform the essential functions of the position safely and efficiently without posing a direct threat to the health or safety of self or others.
- g. The Director, Human Resources or designee may require the reexamination of any employee as the law requires and/or permits; and if the Director, Human Resources or designee deems the re-examination to be in the best interests of the Authority and that the purpose is job-related and consistent with business necessity.

## **SECTION 2 - EXAMINATIONS AND PROMOTIONS**

Except as otherwise provided, vacancies in the higher classes of positions shall be filled, as practicable and consistent with the best interest of the Authority, by promotion following competitive assessments.

## **SECTION 3 - PROBATIONARY APPOINTMENT**

- a. All probationary periods shall be regarded as a significant part of the recruitment process. This period shall be utilized for closely observing and documenting the employee's performance; providing an effective adjustment period; and for taking the appropriate action when, in the opinion of the Appointing Authority or designee, any employee does not meet required employment standards or expectations.
- b. A permanent Authority employee covered by this Agreement who does not meet employment standards or expectations during the probationary period following promotion, voluntary demotion, or transfer shall be returned to the employee's previous position or class during said probationary period by the Appointing Authority, subject to the approval of the Vice President or designee. On a permanent employee's return to a previous position, if another employee represented by the Union has been appointed as the successor, the latter shall be returned to his/her previous position. Such "bumping" shall continue only where the successor is a permanent employee.
- c. An Authority employee who has not attained permanent status in any class, and who does not successfully pass his or her probationary period, or is "bumped," shall be terminated.
- d. Any individual who is not an Authority employee who accepts appointment to a permanent position from an open eligible list shall serve a probationary period of one (1) year of active status in the position from the date of his or her employment in the permanent position. The probationary period shall not include the time served as a limited or temporary employee but shall date from the time of appointment to a permanent position covered by this Agreement. Periods of absence without pay shall not be credited towards the completion of the probationary period.
- e. An Authority employee who has not attained the status of a permanent employee in any class and who is promoted or transferred (moving from a position in one class to a different classification in the

same pay grade) to a similar position may be eligible to reduce his/her probationary period to no less than one hundred eighty (180) calendar days of active status in the new position provided the total probationary period in consecutive similar positions total one (1) year or more. Periods of absence without pay shall not be credited toward completion of the probationary period.

- f. A permanent Authority employee covered by this Agreement who is promoted from an open eligible or promotional list shall serve a probationary period of one hundred eighty (180) calendar days of active status in the position from the date of such promotion. Periods of absence without pay shall not be credited toward the completion of the probation period.
- g. A permanent Authority employee covered by this Agreement and who is transferred (moving from a position in one class to a different classification in the same pay grade) shall serve a probationary period of ninety (90) calendar days of active status in his or her new position. Periods of absence without pay shall not be credited toward completion of the probationary period.

#### **SECTION 4 - LIMITED APPOINTMENT**

When it is necessary to fill a position of limited duration, or to fill a permanent position during an emergency and that position is one covered by this Agreement, the President/CEO or designee may approve a limited appointment from the appropriate eligible list. Said limited position may not be posted.

- a. Acceptance or declination of appointment with limited status shall not affect the right of a fully qualified eligible certification to a permanent position.
- b. The services of a limited appointee may be terminated at any time, and such action is not subject to review.
- c. If a limited position created for this purpose becomes permanent, said service shall be credited towards seniority.

#### **SECTION 5 - FILLING A VACANCY AT LOWER CLASSIFICATION**

Where there exists a vacancy in an authorized position, in lieu of filling the vacancy at the class level established, the Appointing Authority or designee may fill the vacancy at a lower paid class level.

The following conditions must be satisfied:

- (1) The typical tasks, duties, and responsibilities required of the higher class of position include those required of the lower class of position.
- (2) The typical tasks, duties, and responsibilities of the vacant position have been so modified as to only consist of the typical tasks, duties, and responsibilities of a position of the lower classification.
- (3) The President/CEO or designee grants approval after determining that the foregoing conditions have been met.

The Appointing Authority may subsequently fill such position at the established class level, provided such action will not result in the removal of an employee covered by this Agreement with permanent status other than for cause.

## **SECTION 6 - DISMISSAL DURING INITIAL PROBATION**

It is understood that an employee is not entitled to any advance notice of dismissal, but that the Authority may give some notice or warning at its discretion, through performance evaluations or otherwise.

## **SECTION 7 - RECLASSIFICATION**

Positions where the duties have changed materially may be reclassified at the Authority's discretion to the more appropriate classification. However, reclassification shall not be used for the purpose of avoiding restrictions surrounding promotions and demotions.

## **SECTION 8 - PROMOTED PERMANENT EMPLOYEES**

In the event any such promoted employee fails the probationary period as prescribed, the employee shall retain his/her rights as a permanent employee of the Authority represented by the Union and be returned to his/her former position in accordance with the probationary provisions contained in this Agreement.

## **SECTION 9 - PROMOTION PAY**

- a. Upon promotion, an employee shall immediately be entitled to receive at least the next higher rate he or she would have received if the employee had remained in the former class, provided the position held immediately prior to the promotion was held with other than temporary or limited status. The employee shall be paid at a rate, which is, at least as high as s/he would receive if the employee was entering the Authority service in the class to which s/he is promoted so long as that amount is at least a five percent (5%) increase.
- b. If an employee is transferred (moving from a position in one class to a different classification in the same pay grade) to a class with the same rate of pay as that in which the appointee was initially employed, such employee shall immediately be entitled to receive the same rate of pay s/he would have received if the employee had remained in the former class provided the former position was not temporary or limited in nature.
- c. An employee who is at or above the established maximum for his/her class shall not be eligible to receive more than Step E in the new class to which s/he is promoted or appointed until satisfactory completion of any probationary period.
- d. Under special circumstances, the Vice President or designee, upon the Appointing Authority's recommendation, may authorize more than "Step E" if the employee would otherwise receive less than the next higher rate of pay following a promotion.

## ARTICLE 14

### **DRUG-FREE WORKPLACE**

#### **SECTION 1 - DRUG AND ALCOHOL-FREE WORKPLACE**

The Union agrees to support the Authority's drug-free workplace standards and guidelines and to work with the represented employees to ensure compliance.

- a. The Authority has a strong commitment to providing a safe, healthful, productive, and drug-free work

environment for all employees. Maintaining a work environment that is free of any drug or alcohol problems is shared by each Authority employee.

- b. To meet its commitment, the Authority maintains the right to conduct drug-testing whenever there is reasonable suspicion that an employee has violated Authority drug-free workplace standards and guidelines.
- c. All employees shall be governed by the Authority's drug-free workplace standards and guidelines. The purposes of these standards and guidelines are:
  - (1) To establish and maintain a safe, healthy, and productive working environment for all employees.
  - (2) To reduce the incidence of accidental injury to persons or property.
  - (3) To reduce absenteeism, tardiness, and indifferent job performance.
  - (4) To provide assistance towards rehabilitation for any employee who seeks the Authority's help in overcoming addiction to, dependence on, or problems with alcohol or drugs.
  - (5) To maintain a work environment free of alcohol and drug-related performance problems, accidents, and injuries.
  - (6) To comply with the statutory obligations of the Federal Drug Free Workplace Act.
- d. All employees of the Authority are expected to report to work with no illegal drugs, metabolites, or alcohol in their bodies. Employees must not have illegal drugs or metabolites or alcohol in their bodies at any time while on the job, except when moderate consumption of alcohol is authorized by the President/CEO or designee. Compliance with these rules is considered an essential job qualification for all employees.
- e. In accordance with the provisions of the Federal Drug Free Workplace Act of 1988, any employee convicted of violating a criminal drug statute in the workplace must inform the Authority of such violation (including pleas of guilty and *nolo contendere*) in writing within five calendar days of the conviction.

## **SECTION 2 - ILLEGAL DRUGS**

The sale, offer to sell, purchase, use, transfer or possession of illegal drugs while on Authority business or on Authority premises, owned or leased, is prohibited. Violation of this provision will result in disciplinary action, up to and including termination. Termination is likely for a violation of this policy, even for a first offense.

- a. Illegal drugs are those which are not legally obtainable or which are legally obtainable but have not been legally obtained. The term includes marijuana. It includes prescribed drugs not legally obtained and prescribed drugs not being used for prescribed purposes. It also includes any substance that a person holds out to another as an illegal drug. It also includes controlled substances as that term is defined in Schedules I-V of Section 202 of the Controlled Substances Act, 21 U.S.C. 812, and as further defined by regulation at 21 C.F.R. 1308.11-1308.15.

- b. No employee shall bring drug paraphernalia onto Authority premises, owned or leased, or into Authority vehicles. Drug paraphernalia includes pipes, bong, rolling papers as related to drug paraphernalia, and other items used in the ingestion or consumption of illegal drugs. Bringing such items into the workplace may result in a drug test and in disciplinary action to include termination.

### **SECTION 3 - LEGAL DRUGS**

- a. Legal drugs include prescribed drugs and over-the-counter drugs that have been legally obtained and are being used for the purpose for which they were prescribed and manufactured.
- b. No prescription drug shall be brought upon Authority premises, owned or leased, by any employee other than the person for whom the drug is prescribed by a licensed medical practitioner, and shall be used only in the manner, combination, and quantity prescribed. The use, possession, sale, offer to sell, transfer, or purchase of legal drugs, except under the conditions specifically permitted herein, is prohibited. Violation of these provisions will result in disciplinary action, up to and including termination, even for a first offense.
- c. If an employee has any question or concern as to his/her ability to safely or efficiently perform his/her job while taking a prescription drug or other medication, the employee has an affirmative obligation to:
  - (1) Report to his or her supervisor that s/he may be impaired by taking a drug or other medication. The nature of the drug need not be disclosed to the supervisor.
  - (2) The employee will provide all necessary information directly to the Authority's physician, who will advise the Director, Human Resources on whether the employee is able to safely and efficiently perform his/her job. In this case, an employee may continue to work, even while taking a legal drug, if the Authority has determined, after consulting with its physician, that the employee does not pose a threat to his or her own safety or the safety of co-workers or others and that the employee's job performance is not significantly affected by the legal drug. Otherwise, the employee may be required to take a leave of absence or comply with other appropriate action determined by the Appointing Authority.
- d. Failure to report legal drugs which have the potential of interfering with work performance or safety, as required by these provisions, to the supervisor so that a determination of fitness to work can be made will result in disciplinary action, up to and including termination.

### **SECTION 4 - ALCOHOLIC BEVERAGES**

During an employee's working hours, no alcoholic beverages may be brought onto or consumed on Authority premises, owned or leased, except that moderate consumption of alcohol at designated Authority gatherings or under circumstances expressly authorized by the President/CEO will be permitted. Otherwise, the use of alcoholic beverages on Authority premises, owned or leased, or while on Authority business is prohibited. Violation of this rule will result in disciplinary action, up to and including termination, even for a first offense.

### **SECTION 5 - REASONABLE SUSPICION SCREENING**

- a. When the Authority has a reasonable suspicion that an employee or group of employees is, or may be, impaired or affected on the job by alcohol or illegal drugs, and when the Authority has a reasonable suspicion that alcohol or illegal drugs are, or may be, present in an employee's bodily system in

violation of the provisions set forth above, an employee will be required to submit to an alcohol/drug screen test immediately upon demand by the Authority. Refusal to submit to such a test amounts to insubordination and shall be sufficient grounds for dismissal. Any employee failing such a test will be subject to disciplinary action up to and including termination.

- b. A reasonable suspicion may arise from such circumstances as noted in section 6 of this Article as well as other conditions.
- c. Any employee operating Authority vehicles, tools or machinery (including trucks, forklifts, etc.) who becomes involved in an accident will be required to submit to an alcohol/drug screen test unless the employee's actions can, with a high level of certainty, be discounted as a contributing factor to the accident. Any employee who sustains a serious injury on the job may be required to submit to an alcohol/drug screen test as part of the physician's examination of that employee for the injury, unless the employee's actions can be completely discounted as a contributing factor to the injury sustained. Refusal to submit to a test amounts to insubordination and may be sufficient grounds for dismissal.
- d. Certain employees may also be subject to alcohol and/or drug screenings as required by the Department of Transportation, if applicable, and other federal agencies. Such affected employees will be notified in writing of the additional circumstances under which alcohol and/or drug testing may occur.
- e. When reasonable suspicion exists that the employee is under the influence of alcohol or drugs which impairs the employee's ability to safely and effectively perform his or her job function, a supervisor should approach the employee allowing an opportunity for the employee to explain the behavior, including providing evidence of a valid prescription which may be affecting performance, before further action is taken. The employee shall be given an opportunity to voluntarily submit to alcohol or drug testing. The employee shall be advised that refusal to submit to alcohol or drug testing upon reasonable suspicion constitutes grounds for disciplinary action.
- f. Any supervisor who requests an employee to submit to alcohol or drug testing shall document in writing, at the earliest possible opportunity, the facts supporting the existence of reasonable suspicion that the employee is under the influence of alcohol or drugs and shall describe specifically the supervisor's basis for concluding that such employee appears unable to effectively and safely perform the duties of his or her job. Such report may include statements from witnesses who also should document in writing facts constituting suspicion of alcohol or drug use which impairs the employee's ability to effectively and safely perform the functions or duties of the job.
- g. The supervisor shall immediately arrange for alcohol and drug screening through the Director, Human Resources or designee. If a screening is required after normal business hours, the supervisor immediately will inform the Director, Human Resources and will make direct contact with the clinic designated for such screening.
- h. Employees who must undergo alcohol and drug screening during routine business hours shall be transported within a reasonable time to the designated medical clinic by an individual so designated by the Director, Human Resources or designee. Employees who must undergo alcohol and drug screening during non-routine business hours shall be transported within a reasonable time to the designated medical clinic by the supervisor or designee. In the event that no one is available to transport the employee within a reasonable time, the supervisor or designee shall arrange for transport via commercial cab.

- i. After the alcohol and drug screening is provided, the individual arranging transportation will arrange for the employee's safe transport home. The employee will not return to work until informed to do so by the Director, Human Resources or designee.
- j. If an alcohol or drug test is positive for alcohol or drugs, the Authority shall conduct an investigation to gather all facts. All testing shall be kept confidential except as otherwise required by law.
- k. Any employee who provides false information in connection with a urine and/or blood test administered under this policy, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution, shall be subject to discipline, up to and including termination of employment.
- l. All actions taken and all written records kept regarding alcohol or drug tests shall be held in confidence by the Authority and only divulged to others on a need-to-know basis. The employee's supervisor shall maintain confidentiality on a need-to-know basis of all advice or recommendations given in the course of the incident or from any resultant employee assistance program activities.
- m. The Authority shall maintain a process whereby the Union can advise the employee's Appointing Authority, Director, Human Resources, or designee that reasonable suspicion exists; that impairment or reduced job performance is related to a drug or alcohol problem or that an employee has violated this provision and therefore the Union recommends that such employee participate in an Employee Assistance Program (EAP). For purposes of this provision, EAP may include referral to a drug and/or alcohol rehabilitation program. The Authority shall cooperate in the rehabilitation efforts of an employee while enrolled in an EAP.

## **SECTION 6 - EXAMPLES OF REASONABLE SUSPICION**

An employee could be tested whenever there is reasonable suspicion that the Authority's drug-free workplace standards and guidelines have been violated. Reasonable suspicion may include, but is not limited to, the items listed below.

An employee may be asked to submit to a test if he or she exhibits more than one of the following:

- (1) Slurred or thick speech
- (2) Alcohol on breath or general alcohol odor; odor of marijuana
- (3) Inability to perform work properly
- (4) Involved in a fight where blows are exchanged
- (5) Unsteady gait (problems walking) or other loss of physical control; poor coordination
- (6) Very unusual, anti-social behavior
- (7) Possession of alcohol, drugs, or drug-related paraphernalia
- (8) Blank, glassy-eyed stare; dilated or constricted pupils or unusual eye movement; bloodshot or watery eyes
- (9) Wide and severe mood swings; highly excited or nervous
- (10) Involved in an accident with Authority property
- (11) Unexplained significant deterioration in job performance or behavior such as excessive absenteeism
- (12) Employee admissions regarding drug or alcohol use
- (13) Irregular or difficult breathing
- (14) Excessive sweating or clamminess to the skin
- (15) Flushed or very pale face

- (16) Nausea or vomiting
- (17) Dry mouth (frequent swallowing/lip wetting)
- (18) Dizziness or fainting
- (19) Shaking hands or body tremors/twitching
- (20) Irregular or difficult breathing
- (21) Inappropriate wearing of sunglasses
- (22) Apparent puncture marks or “track”

It is recognized that some medical problems may cause symptoms similar to those identified above. Testing may not be done automatically. Individual circumstances may be considered before a decision to test is made. Supervisors shall be trained periodically with respect to the provisions of this Article.

## **SECTION 7 - EMPLOYEE ASSISTANCE FOR DRUG & ALCOHOL ABUSE**

Any employee who feels that he or she has developed an addiction to, dependence on, or problem with alcohol or drugs, legal or illegal, is encouraged to seek assistance through the Employee Assistance Program through their Human Resources Department representative. Subsequently, the Authority will provide reasonable accommodation to any employee who voluntarily decides to participate in an alcohol or drug rehabilitation program, as long as the accommodation does not impose an undue hardship on Authority operations.

- a. To be eligible for continuation in employment following rehabilitation, the employee must provide certification to the Director, Human Resources or designee that s/he was continuously enrolled in a treatment program and actively participated in that program. Any employee suffering from an alcohol or drug problem who rejects treatment or leaves a treatment program prior to being properly discharged will be dismissed from employment with the Authority. The reoccurrence of an alcohol or drug problem may be cause for dismissal.
- b. An employee participating in a rehabilitation program may use any accrued but unused Paid Time Off (PTO) for a portion or the entire period of absence. Any additional period of absence will be recorded as “Unpaid Leave.”
- c. All employees returning to active employment from rehabilitation will be required to sign a “Return to Work Agreement” providing:
  - (1) For unannounced testing for a period of twelve (12) months to ensure that the employee has freed himself/herself from the alcohol or drug problem.
  - (2) That failure of such a test during this period shall be grounds for immediate dismissal.
  - (3) That the employee must maintain an acceptable attendance and performance record and comply with all other Authority policies upon his or her return to work.
  - (4) That substance abuse, including an employee’s inability to perform assigned job duties safely as the result of intoxication or incapacitation, will not be tolerated and is grounds for corrective action or disciplinary action, up to and including termination of employment.
- d. No disciplinary action will be issued against any employee who comes forward to the Authority with his/her problem prior to the Authority learning of a violation of the drug-free workplace policy.

- e. However, should the Authority learn of an employee's violation of the drug-free workplace policy prior to and without the employee coming forward, the Authority is not obligated to grant the employee rehabilitation leave. Disciplinary action up to and including dismissal may be imposed regardless of whether the employee is offered or accepts rehabilitation.

## ARTICLE 15

### **SEARCHES**

In order to ensure the safety of the workplace and the work force, and to protect and preserve Authority property, the Authority may from time to time inspect Authority vehicles, toolboxes, lockers, and file cabinets. These searches may not be announced and employees should have no expectation of privacy with respect to items brought onto Authority property and/or stored in such Authority facilities. It is a condition of employment for employees to cooperate with these searches. Refusal to consent to such a search amounts to insubordination and may constitute cause for termination.

Unannounced searches will not be made without the express consent of the Vice President of Administration, or other vice president as designated by the President/CEO, who will stipulate the manner in which the search will be conducted.

### **INSPECTING PERSONAL PROPERTY**

When the Authority has a reasonable suspicion that an employee or group of employees may be in possession of drugs or alcohol in violation of Article 14 or unauthorized possession of Authority property or contraband, on Authority premises owned or leased or while on Authority business, such employee or group of employees may be required, as a condition of employment, to submit to reasonable searches of their person, clothing, purses, lunch boxes, briefcases or other containers, computer disks, cassette tapes or other electronic or magnetic storage media, or personal vehicles which have been brought onto Authority premises. Refusal to consent to such a search amounts to insubordination and may constitute cause for termination. Such searches shall only be conducted with the express consent of the Vice President of Administration, or other vice president as designated by the President/CEO, who will stipulate the manner in which the search will be conducted.

No part of this provision shall overrule any existing applicable code or law.

## ARTICLE 16

### **LEAVES WITH AND WITHOUT PAY**

#### **SECTION 1 - INJURY LEAVE POLICY**

Injury leave is offered to provide continuity of salary and insurance benefits in conjunction with and as a supplement to workers' compensation benefits as a result of a job-connected injury, subject to the conditions described in this section.

While employees are on approved workers' compensation leave, the Authority will supplement their workers' compensation payments in amounts necessary to match their base salary in effect at the time of injury or illness, without any additional differentials.

## **SECTION 2 - ELIGIBILITY FOR INJURY LEAVE**

Full-time permanent employees who sustain a work-related injury or illness will receive paid workers' compensation benefits provided their claim is determined to be compensable by the Authority's workers' compensation insurance carrier.

In the event of verified occupational injury or illness, the Authority provides continuity of compensation and insurance benefits in conjunction with and as a supplement to workers' compensation benefits. If workers' compensation benefits are denied, the appeal process shall be as determined by the Authority's workers' compensation insurance provider and otherwise as provided by law.

## **SECTION 3 - REASONS FOR INELIGIBILITY**

An employee may not be entitled to injury leave compensation if any of the following reasons apply:

- a. The employee was performing work with physical demands substantially different from and not reasonably related to employee's position or classification.
- b. The employee was performing work for which the employee had been physically disqualified by the workers' compensation carrier ruling.
- c. A determination was made that it was the employee's gross negligence or willful misconduct was the proximate cause of the injury.
- d. The employee's injury was the result of an aggravation, reoccurrence, or sequela of a preexisting non-service connected physical or mental disability or any physical or mental condition existing prior to employment by the Authority.
- e. The injury to the employee has not been accepted as compensable by the Authority's workers' compensation insurance carrier.
- f. The employee failed to follow safety rules, regulations, or instructions.
- g. The employee failed to wear prescribed safety and/or personal protective equipment.

## **SECTION 4 - GRANTING INJURY LEAVE**

- a. Upon learning that an employee may have sustained a work-related illness or injury, the employee and/or his/her supervisor or designee shall immediately inform Human Resources and complete the appropriate accident/incident report.
- b. The Human Resources Department will manage and administer the workers' compensation claim process and Human Resources also will communicate in a timely manner with the disabled employee (or designee), supervisor or designee or other appropriate manager.
- c. The Director, Human Resources or designee shall ensure all necessary information and documents are received and processed.
- d. Injury leave pay shall commence when the injured employee's claim has been accepted by the Authority's workers' compensation carrier.

- e. Time cards reflecting the injury leave will be handled by the Director, Human Resources or designee.

## **SECTION 5 - WAIT PERIOD**

Should an employee suffer a work-related injury, as accepted by the workers' compensation carrier, workers' compensation generally is paid by the workers' compensation carrier beginning the fourth (4<sup>th</sup>) calendar day from the date of injury.

Should an employee be absent due to a work-related injury for less than fourteen (14) calendar days, the first three (3) days are not compensated by the workers' compensation carrier. (Should the employee be absent for fourteen (14) or more calendar days, the carrier generally compensates the employee retroactive to the first day of the work-related injury.)

Days four (4) and more are compensated by the carrier.

The first three (3) work days ("wait period") during which an employee is absent from work due to an industrial injury shall be considered special leave without pay, if applicable, except that any accrued sick or annual leave hours ("accrued hours") may be used during the wait period. If workers' compensation benefits are granted by the carrier effective the first day, the accrued hours used shall be reinstated. The amount of the reinstatement is calculated using the portion of the workers' compensation payment paid for the wait period. The Authority will convert the dollars to equivalent hours using the employee's regular rate. The reinstatement amount is the difference between the hours paid by workers' compensation and the accrued hours used.

## **SECTION 6 - EMPLOYEE CONDITIONS**

As a condition for injury leave being granted, and to continue on injury leave, the employee must:

- a. Do all that is reasonably necessary to expedite full recuperation.
- b. Not engage in any physical activities that might interfere with or impede the rehabilitation process.
- c. During the first year an employee is on disability leave and receiving workers' compensation benefits, the employee may not work in any capacity outside Authority employment during the hours for which the employee regularly would have been working for the Authority if the employee was not on disability leave without first receiving permission of the Authority in writing.
- d. Should the employee have an approved request to work in another capacity, during the first year an employee is on disability leave and receiving workers' compensation benefits, the supplemental wages paid by the Authority will be offset by any sums earned by the employee during normal working hours and/or the employee will be required to reimburse the Authority an amount equal to the wages earned through outside employment during normal working hours.
- e. Seek to return to work as soon as the employee is mentally and physically capable of performing the essential functions of the job, with or without reasonable accommodation, or light or modified duties, if available.

## **SECTION 7 - DURATION AND COMPENSATION**

- a. Any employee receiving emergency medical treatment authorized by the Authority for work-related injury/illness shall be compensated at his/her regular rate for any and all time spent traveling to and from and at the medical facility during regularly scheduled work hours. Medical treatment other than emergency or first treatment shall be scheduled outside regular work hours and shall not be compensated unless there is an unavoidable situation (which is subject to verification).
- b. The duration of such injury leave pay shall not exceed one (1) year for each injury, including any reoccurrence, aggravation, and/or sequela of any injury previously approved for injury leave with compensation. Injury leave shall be terminated at any time the injury is determined, by a competent medical authority, to be permanent and stationary in character.
- c. An employee who has been absent on injury leave and who is still receiving workers' compensation benefits after the maximum duration is reached may be entitled to use any sick leave or annual leave credits as a supplement to workers' compensation benefits with the approval of the Director, Human Resources. However, in no event may an employee be paid more than s/he would have been paid had the employee been working his/her regular work schedule.
- d. No employee absent due to an industrial injury shall be paid more than s/he would have earned had the employee been working his/her regular work schedule. Further, nothing contained in this section shall be deemed to affect the employee's entitlement to medical, surgical, and hospital treatment as provided in the Labor Code, and nothing contained in this section shall be deemed to affect the employee's right to receive temporary disability insurance benefits, if eligible, when injury leave has not been granted.
- e. Any employee on approved injury leave shall not be entitled to the accrual of annual leave benefits while on said status.
- f. Any holiday falling during the period of granted injury leave to an employee shall be charged as injury leave and not paid as a holiday.

## **SECTION 8 - TIME OFF ENTITLEMENTS**

The use of injury leave generally qualifies as family and medical leave under the Family Medical Leave Act (FMLA). If qualified, FMLA and injury leave run concurrently.

Failure to comply with injury leave rules may result in termination of injury leave benefits and disciplinary action, up to and including termination of employment.

## **SECTION 9 - PREGNANCY DISABILITY LEAVE**

All female employees who are disabled on account of pregnancy, childbirth, or a related medical condition shall be granted a pregnancy disability leave in accordance with applicable California state law.

All requests for pregnancy disability leave shall be submitted on Authority-approved forms and shall include a transmittal letter stating the nature of the leave (for example, personal leave, medical leave, etc.) All doctors' requests, documentation, and verification shall be furnished to the Human Resources Department upon the Authority's request. Consideration for transfer and/or light duty will not be considered until the Human Resources Department representative is in possession of this documentation.

## **SECTION 10 - EMERGENCY LEAVE**

The term Emergency Leave is used to make a clear differentiation between the use of accrued sick leave used by the employee for personal illness and sick leave used for a family emergency concerning either a serious illness and/or death of an employee's immediate family member. Employees with no available accrued sick leave may use any Paid Time Off (PTO) leave available.

- a. In interpreting the emergency leave definition, the Authority shall construe the meaning as an employee's necessary absence from work because of a serious illness/death of a member of his or her immediate family when substantiated in writing by a competent medical authority, if requested by the Director, Human Resources. Attendance of the employee may include the necessary presence with a critically ill, injured, or disabled immediate family member.
- b. "Immediate family" as used shall mean husband; wife; son; daughter (including stepson and stepdaughter); mother, father, or recognized legal guardian; brother and sister, grandparents; mother-in-law; father-in-law whether or not they are living in the employee's household and other relatives who are currently residing in the employee's household; and domestic partners as that term is defined in California Family Code § 297.
- c. Emergency leave may be sick leave, Paid Time Off (PTO), or time off without pay. An eligible employee may be granted emergency leave with pay, chargeable as sick leave, not to exceed a total of forty (40) hours for each instance of emergency illness or death in his or her immediate family. Employees with no sick leave accrued may use any PTO leave available, subject to the forty (40) hour maximum. In the case of illness followed by death, an employee may be granted a maximum of eighty (80) hours of emergency leave.
- d. Emergency leave may qualify as family and medical leave; once so qualified, it will run concurrently with the employee's family and medical leave entitlement under state and federal laws.

## **SECTION 11 - BEREAVEMENT LEAVE**

Employees are eligible to take five (5) days with no charge against annual leave in the event of the death of a family member as defined in Section 10, subsection b, above.

## **SECTION 12 - LEAVE WITHOUT PAY**

Any employee who is unable to perform the essential functions of his/her work, or who, for any valid reason, may be granted special leave of absence without pay for a period not exceeding one (1) year.

- a. An employee requesting special leave without pay shall submit his/her request on prescribed forms with a transmittal letter, stating his/her reasons for the request.
- b. The Appointing Authority who endorses said request shall recommend, and the Vice President shall determine, whether the employee shall be entitled to his/her former position on his/her return from such leave, and the period of said entitlement, or whether the employee's name shall be placed on the eligible list for the class, subject to passing the prescribed Authority medical examination, if appropriate.
- c. For good cause, such leave may be extended upon recommendation of the Appointing Authority and approval by the Vice President.

- d. Unless otherwise required by law, special leave without pay shall not be granted in cases where the employee qualifies for paid leave status, with the exception that sick leave accrued need not be exhausted at the time the request is made.
- e. Any Authority holiday falling during the period of special leave without pay shall not be paid to the employee as a holiday. However, if the employee is in a paid leave status for either the workday preceding or the workday following the holiday, the employee shall be entitled to receive holiday pay.
- f. Except where otherwise required by law, loss of rights during leaves without pay may include loss of seniority for purposes of annual leave scheduling, layoff and reemployment after layoff, and job assignment. For other legal restrictions and entitlements that may apply, see “family and medical leave” and “pregnancy disability leave” provisions contained herein, or contact the Director, Human Resources or designee.
- g. If an employee obtains a leave based on false representations regarding the need for a leave without pay, the employee will be considered for termination for cause.
- h. Any unusual use of absence without pay, when compared to like employees within the department or similar departments, may be deemed excessive and appropriate measures may be taken to address the abuse.
- i. Unless the law requires otherwise, any full-time employee granted special leave without pay for more than forty (40) hours during any biweekly pay period may continue to participate in medical, dental, vision care, retirement, life insurance, long-term disability, and similar employee health and welfare plans by reimbursing the Authority the amount of the Authority’s costs.
- j. For retirement plans, no plan payments will be made by the Authority during the leave period. However, the employee may make contributions in accordance with the terms of the applicable plan.
- k. For all health and welfare plan premiums payable, the amount due shall be determined by the Director, Human Resources or designee and provided to the employee in writing before the special leave without pay begins. Amounts not paid by the due date, as determined by the Director, Human Resources, shall cause the coverage to be stopped immediately.
- l. If an employee chooses not to participate in the health and welfare plans while on leave without pay, the non-participation (non-payment of premiums) does not constitute a break in service for purposes of seniority under any employee benefit plan. However, once an employee is disenrolled from the Authority’s benefit plans, the employee shall not be eligible to re-enroll and participate in any Authority’s benefits plan until the next scheduled open-enrollment period following his/her return to work from the leave without pay.
- m. Authority payment of medical plan premium costs may continue if the employee qualifies for family and medical leave.
- n. Any employee on an approved leave without pay shall not be entitled to the accrual of annual leave benefits while on said status.

## **SECTION 13 - FAMILY AND MEDICAL LEAVE ACT (FMLA)**

FMLA allows eligible employees to take up to twelve (12) weeks of unpaid leave annually for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition. The program shall be managed in accordance with applicable federal laws and guidelines. This leave entitlement shall be calculated on a twelve (12) month rolling year basis.

All requests for FMLA, shall be submitted on Authority-approved forms and shall include a transmittal letter stating the nature of the leave (for example, personal leave, medical leave, etc.). All doctors' requests, documentation, and verification shall be furnished to the appropriate Human Resources Department representative upon the Authority's request.

## ARTICLE 17

### **SCHEDULING OF ACCRUED PAID TIME OFF**

#### **SECTION 1 - SCHEDULING**

Eligible employees may take accrued personal time off (PTO) on the first day of the pay period following the pay period in which it is earned. The minimum amount of PTO accrued that may be used shall be one-quarter (1/4) hour. However, PTO in excess of that which has been earned and recorded as of the last day of the prior pay period may not be taken.

Scheduled periods of PTO shall be posted by the Authority, and such schedules shall reflect the needs and desires of Authority employees when practical.

Employees shall be entitled to take authorized PTO in accordance with the following procedures:

- a. At least annually management shall prepare and post, in each work facility, a PTO schedule for all employees.
- b. The employee with the greatest seniority will be given the opportunity to request first choice of schedule, with the other employees being given their choice of schedules in descending order of seniority.
- c. Having once made such a choice, no employee may change his or her schedule if such change will conflict with the choice of any other employee or unless the affected employee, with supervisor or designee written approval, agrees to such a change.
- d. For the purposes of this Article, employees waive any seniority rights they may have had until the next scheduled PTO selection period once the schedule has been prepared and posted.
- e. For the purpose of this Article, seniority shall be defined as the total amount of continuous service within a classification within the department (e.g., position seniority).
- f. All PTO requests are subject to approval by the Appointing Authority or designee as evidenced in writing.
- g. If operational requirements permit, the Appointing Authority or designee will consider requests for PTO on short notice for good cause.

- h. Designated holidays that occur during an employee's paid time off will not be considered as PTO chargeable days unless the employee fails to return to work following such PTO.
- i. Upon separation from service for any cause, the employee shall be entitled to pay for all accrued but unused PTO time.
- j. Full-time employees shall be paid at their current rate of pay at the time of PTO payout.

**SECTION 2 - NINETY-DAY CASH OUT PERIOD**

Once the employee has accrued more annual leave than the maximum (cap) as outlined below, an automatic 90-day cash out period will begin. Accrual continues during the cash out period, except that the hours accrued for holiday work, as provided, must be taken in cash, and is not accrued. If the employee has not reduced his/her annual leave balance to five days under the cap after 90 calendar days, automatic cash payoff resulting in a balance that is five days under the cap will be made.

**SECTION 3 - ACCRUAL RATE**

An employee shall accrue annual leave while on active service, except when absent on unpaid military leave, or paid or unpaid injury leave, provided such employee returns to work following such absence. The accrual rate for a reinstated employee returning from military leave shall be determined by including the period of military leave in the calculation of active service time as if the employee had not been absent.

Eligible employees as defined in this Agreement shall earn personal time off (PTO) credits at the following rates:

<b>Full-Time Employees</b>		
<b>Years of Active Service</b>	<b>Annual Hours or Number of Days</b>	<b>Maximum (Cap)</b>
<b>0-5</b>	144 hours (18 days)	432 hours (54 days)
<b>6-15</b>	184 hours (23 days)	552 hours (69 days)
<b>16-Up</b>	224 hours (28 days)	672 hours (84 days)

Note: Employees who have accrued sick leave "on the books" as of the date of this Agreement shall retain such leave until depleted and/or "drawn down."

ARTICLE 18

**TEMPORARY ASSIGNMENT DIFFERENTIAL/ACTING PAY**

**SECTION 1 - TEMPORARY ASSIGNMENT DIFFERENTIAL (WORKING OUT OF CLASS)**

An employee accepting and performing a temporary assignment in a class with a higher grade shall be paid at a rate approximately five percent (5%) higher than the employee's regularly assigned rate.

The differential shall be paid in increments of not less than one (1) hour periods. Employees receiving a differential under the provisions of this section shall not receive the differential for any paid time off nor for time worked while in a Return-to-Work Program.

When a crew of two (2) or more persons is assigned to work at night, one is to be appointed as the lead person and will receive the extra compensation as described, in addition to the night general lead person.

Assignment is at the discretion of the Appointing Authority or designee; however, payment may not be waived so long as the employee is assigned and qualified.

**SECTION 2 - ACTING PAY**

- a. Acting pay may be granted in lieu of the differential if the assignment is expected to be over thirty (30) calendar days, and paid at either the rate of compensation of such acting assignment or at least five percent (5%) higher than the employee's regularly assigned rate.
- b. When a crew of two (2) or more persons is assigned to work at night, one is to be appointed as the lead person and will receive the extra compensation as described, in addition to the night general lead person.

ARTICLE 19

**COMPENSATION AND BENEFITS**

**SECTION 1 - THE ESTABLISHMENT OF COMPENSATION RATES**

- a. The Authority approved compensation plan shall reflect approximately unadjusted base salary increases for employees in all classifications in the Airport Traffic Officer Unit for which the Union is the exclusively recognized representative, as follows:

In addition to any compensation increase resulting from the annual performance review, each Airport Traffic Officer will receive a three (3%) percent wage increase, effective October 1, 2008. The scale below reflects the step structure adjusted by three (3%) percent for the October 1, 2008 wage increase.

<b>Airport Traffic Officers' Salary Structure (Pay Grade 51)-October 2008 (Includes 3% Adjustment)</b>							
	<b>Step A</b>	<b>Step B</b>	<b>Step C</b>	<b>Step D</b>	<b>Step E</b>	<b>Step F</b>	<b>Step G</b>
<b>H</b>	\$18.362	\$19.281	\$20.245	\$21.257	\$22.322	\$23.437	\$24.608
<b>B</b>	\$1,469.00	\$1,542.50	\$1,619.64	\$1,700.59	\$1,785.73	\$1,874.96	\$1,968.65
<b>Y</b>	\$38,193.98	\$40,105.12	\$42,110.62	\$44,215.30	\$46,428.86	\$48,748.85	\$51,184.95

In addition to any compensation increase resulting from the annual performance review, each Supervisor/Lead Airport Traffic Officer will receive a wage increase as reflected in the step structure below. The scale below reflects the step structure adjusted by the three percent (3%) wage increase agreed effective October 1, 2008.

Lead Airport Traffic Officers' Salary Structure(Pay Grade 50)-October 2008 (Includes 3% Adjustment)							
	Step A	Step B	Step C	Step D	Step E	Step F	Step G
H	\$24,800	\$26,106	\$27,480	\$28,854	\$30,296	\$31,811	\$33,402
B	\$1,984.03	\$2,088.46	\$2,198.38	\$2,308.30	\$2,423.71	\$2,544.90	\$2,672.14
Y	\$51,584.91	\$54,299.90	\$57,157.79	\$60,015.68	\$63,016.46	\$66,167.29	\$69,475.65

- b. The Authority will pay into the retirement system an amount not to exceed seven percent (7%) of each employee’s gross wages (the “Offset”) for members of the unit as prescribed.
- d. The method of calculations of overtime shall be as described by applicable federal laws and regulations.

**SECTION 2 - TIME OF PAYMENT OF SALARIES**

The salary and compensation of all employees covered by this Agreement shall be paid as follows:

- a. Salary or compensation specified as biweekly, hourly, *per diem* or per unit basis shall be paid biweekly. Cash payment for overtime, standby premium pay, and night premium pay is in addition to the basic salary for a position and shall be paid biweekly in the same manner as the base salary.
- b. An employee shall, upon separation, whether voluntary or involuntary, from the Authority service, be paid compensation in full by check in accordance with applicable laws and regulations. The check will include the monetary value of all compensation to which s/he is entitled.
- c. The monetary value of annual leave shall be computed on the basis of the employee’s rate of pay at the time of his or her separation from the Authority and shall not include any increase in pay which would have occurred had the annual leave been granted nor shall payment include any holidays occurring subsequent to the last day of employment.
  - d. 1. No employee hired on or after October 1, 1979, shall be entitled to any compensation for earned but unused sick leave, as provided for below, nor shall such an employee acquire any vested rights thereto.
  - 2. Upon retirement, an employee may be entitled to the monetary value of twenty-five percent (25%) of his or her accrued unused sick leave at the employee’s current straight-time hourly rate of pay or salary up to a maximum of two (2) days [sixteen (16) hours] for each year of continuous service with the Authority.

**SECTION 3 - COMPUTATIONS**

Pursuant to the provisions of the Federal Fair Labor Standards Act, the compensation shall be based upon a standard forty (40) hour workweek.

- a. If a work day other than eight (8) hours is adopted for any class, the computations shall be adjusted on a *pro rata* basis for all affected employees for all areas where the number of hours is used to compute wages or benefits.
- b. Entitlement to pay for any portion of a pay period shall be computed in accordance with all applicable

laws.

- c. Any non-exempt employee, pursuant to the provisions of the Federal Fair Labor Standards Act, who in the interest of the efficiency of his or her department, works in excess of the standard forty (40) hour work-week, shall be compensated at a rate one and one-half (1-1/2) times his or her regular rate of pay (base pay) for all hours worked in excess of said forty (40) hours.
- d. All time paid for annual leave, injury leave, court leave, military leave, and holidays shall be considered as pay status time. All pay status time shall count as time worked for the purpose of calculating overtime compensation. Non-pay status shall not be considered for the purpose of overtime compensation.
- e. For each workday, all hours shall be recorded in units of time rounded to the nearest one quarter (1/4) hour. Amounts smaller than one quarter (1/4) hour shall not be accumulated from day to day in order to total the minimum of one quarter (1/4) hour.

#### **SECTION 4 - REIMBURSEMENT FOR MEALS**

An employee who works extended workday overtime, including emergency callback overtime, shall be reimbursed for the actual cost of his/her meal not to exceed \$10.00, provided such extended work day overtime includes five (5) hours of overtime on any single shift. Such extended day overtime may be performed before or at the end of a work day. To qualify, the five (5) hours must be interrupted by an unpaid meal break, following which the employee returns to the work site to work for at least one of the five (5) hours.

#### **SECTION 5 - COMPENSATION FOR EMERGENCY, FIRST VISIT OR FIRST AID TREATMENT - - JOB-RELATED INJURIES / ILLNESSES**

For emergency, first visit, or first aid treatment, any employee receiving such medical treatment authorized by the Authority for job-related injuries and illnesses shall be compensated at his/her regular rate for any and all time spent for such treatment including travel to and from the medical facility during regularly scheduled work hours. Medical treatment that is other than emergency, first visit, or first aid treatment shall be scheduled outside of the employee's regularly scheduled work hours and no compensation will be due.

#### **SECTION 6 - NIGHT PREMIUM ELIGIBILITY**

When at least fifty percent (50%) of an employee's shift falls between the hours of 6:00 p.m. and 8:00 a.m., the employee shall receive an hourly shift differential in the amount of \$1.50.

#### **SECTION 7 - DIFFERENTIAL FOR BILINGUAL ABILITY**

Subject to the limitations and prerequisites for eligibility set forth below, any full-time qualifying employee, who has been determined by the Appointing Authority or designee to be eligible for bilingual compensation, shall receive compensation at the rate of 2.5% above the employee's unadjusted base salary. Said compensation shall be provided during all payroll periods for which the employee maintains the following eligibility requirements. The eligibility requirements for bilingual compensation are:

- a. Qualification for bilingual compensation shall, in part, be based upon a demonstrated requisite proficiency in Spanish or any other language where bilingual capability is a "necessary aspect" of the job and where the requisite proficiency is in such additional language as approved by the Authority

President/CEO or designee.

- b. The recipient of bilingual compensation shall demonstrate periodically as may be determined appropriate by the Authority President/CEO or designee, proficiency in written and/or verbal expression of the secondary language as measured by the Authority utilized testing procedure.
- c. In defining the term “necessary aspect,” the parties acknowledge and agree that the ability of any individual to utilize a second language in a proficient manner, shall not necessarily qualify that employee to receive bilingual compensation. Likewise, the parties acknowledge and agree that evidence of any given employee periodically utilizing bilingual ability in the course and scope of employment shall not necessarily render such individual eligible for bilingual compensation. For example, the fact that an individual in the “Maintenance” classification may periodically be called upon to aid in translation does not necessarily render the individual eligible for bilingual compensation. Rather, the agreement of the parties requires that bilingual eligibility be conditioned upon bilingual skill being a “necessary aspect of the job.” Therefore, each particular classification and/or assignment within a classification must be individually analyzed in terms of the actual job description. Only then is a determination made as to whether or not the necessary duties of the classification/assignment have bilingual ability as a necessary aspect. It is not necessary to be bilingual to perform any of the requisite duties.

## **GENERAL ELIGIBILITY**

The Appointing Authority or designee will determine the eligibility for bilingual compensation based on customer service demands. Customer service demand exists when an employee is called upon to use a second language in performing his/her duties and responsibilities.

- a. The employee must be in a direct public contact position where his/her work setting requires the use of bilingual skills to meet the needs of the public.
- b. Any employee covered by this Agreement may request to be considered for Bilingual Compensation.
- c. An employee’s ability to speak a second language does not necessarily mean s/he will receive bilingual compensation.

## **PROCEDURE**

- a. If an employee believes it is necessary to use a second language in performing his/her duties, the employee shall complete a “Request for Bilingual Compensation” form and submit the completed form to his/her Appointing Authority or designee.
- b. The Appointing Authority or designee will complete and sign the request form, approving or disapproving the request, and forward the form to their Human Resources Department.
- c. In the case where there are more requests for bilingual compensation than the need exists in a department, the decision will be based on the amount of, or the opportunity for, customer interaction. If customer interaction is equal, the decision will be based on Authority seniority.
- d. The Human Resources Department will review the request for consistency with regard to all employees to whom this Memorandum of Agreement applies.
- e. If the Appointing Authority or designee disapproves the employee’s request, the Human Resources

Department will sign the form to indicate it was reviewed for consistency purposes and then forward a copy of the form to the Appointing Authority or designee. The Appointing Authority or designee will notify the employee that his/her request was denied and provide the employee with a copy of the signed request form.

- f. If the employee's request is approved, the Human Resources Department will contact the employee to schedule an examination to determine competency in a second language.
- g. The test results will be sent to the Authority's Human Resources Department. Employees must score at or above the second level in the Interagency Language Roundtable (ILR) scale of language proficiency.
- h. The Human Resources Department will communicate the results of the examination to the employee and the Appointing Authority, or designee.
- i. Employees who take the examination and do not meet the minimum fluency level must wait at least one hundred eighty (180) days [six (6) months] before they can submit another request for bilingual compensation.
- j. If the employee meets the minimum fluency level, Human Resources will initiate the process by which payroll is notified to begin the premium pay which will begin at the start of the pay period subsequent to the date of the proficiency certification.
- k. The names of the designated employees will be available to other departments who may call upon them with permission of the employee's Appointing Authority or designee.
- l. If an employee transfers to another department or is promoted to another position, the employee may lose bilingual compensation. The employee, however, may apply for bilingual compensation once he/she is in the new department or new position.
- m. The Appointing Authority or designee, with concurrence from the Director, Human Resources, retains the right to withdraw an employee's bilingual compensation at any time.
- n. If bilingual compensation is to be withdrawn, the employee will be given at least a one (1) pay period notice prior to the implementation of such withdrawal.
- o. A designated employee may be retested for bilingual proficiency at any time.
- p. When situations arise for the use of a second language for a specific period of time (non-recurring), the provisions of this procedure may be waived at the discretion of the Appointing Authority or designee.

## **SECTION 8 - PAY INCREASES**

Every full-time employee who holds a permanent or limited appointment, except as otherwise provided in the applicable salary plan, shall be eligible to be considered for pay increases within the established salary range of his/her class based exclusively on job performance. Advancement through the salary structure will be made upon approval of the Appointing Authority or designee.

- a. For the purpose of this section, “service” shall include time spent working in the employee’s classification and all paid leave, except injury leave, as required by applicable state and federal laws shall be considered service.
- b. Advancements through the wage structure may be granted upon completion of service as follows:
  - (1) At least fifty-two (52) weeks at each step---one (A) through seven (G).
- c. Exceptional advancements through the salary structure may be granted either simultaneously with a normal step increase or at any time, at the recommendation of the Appointing Authority or designee and with the approval of the Vice President or designee.
- d. Nothing in these provisions shall be construed to interfere with the right of either the Appointing Authority or designee to postpone or deny granting a normal or exceptional merit step increase if the employee’s performance so warrants. The Appointing Authority’s decision shall be final and not subject to a hearing or review.

## **SECTION 9 - HEALTH, LIFE & AD/D, VISION, AND DENTAL INSURANCE BENEFITS**

### **a. HEALTH INSURANCE BENEFITS**

The Authority shall pay the entire premium cost for any Authority authorized health insurance plan for eligible employees represented by the Union. The Authority shall also pay fifty-five percent (55%) of the difference between the employee premium cost and the dependent coverage premium cost for any Authority-authorized HMO or PPO health insurance plan.

Any benefit changes to be made from year to year during the term of this Agreement will be subject to meet and confer, as set forth below under the heading ‘Benefits Changes.’

- b. For the health plan year January 1 through December 31, 2009, the health plans offered by the Authority will be as set forth on the Summary of Benefits documents provided by the Authority to the Union on September 3, 2008, which are the Anthem/Blue Cross PPO P7 Prudent Buyer 250/15/90/70 Plan, and the Anthem/Blue Cross HMO California Care H15 Plan, and the Anthem/Blue Cross RX 22 Plan.
- c. In addition, for the health plan year of January 1 through December 31, 2009, the Authority will offer a Health Risk Assessment for employees. For each employee who obtains a complete Health Risk Assessment from the Authority authorized provider during the annual benefits enrollment period, the Authority will contribute \$250 to the individual employee’s Authority-provided Medical Flexible Spending Account (“FSA”) for him or her to use according to the terms of the FSA plan. Each employee who completes the Health Risk Assessment will receive a confidential report of the results of the assessment. The Authority will not be advised of any employee’s individual assessment results. The Authority will receive notice of the name of employees who participate as well as aggregate data from the company providing the Health Risk Assessment regarding overall employee health information.
- d. The Authority will offer the same benefit as described in paragraph c above, on the same conditions, for the health plan year of January 1 through December 31, 2010.

- e. For the remaining health plan years during the term of the new MOA agreed to by the parties, the Authority will offer the same benefit as described in paragraph c above, on the same conditions, subject to the additional condition that this benefit will be provided only if at least 80% of the then-existing employees in the three Teamster bargaining units at the Authority obtain a complete Health Risk Assessment from the Authority authorized provider during the annual benefits enrollment period. For purposes of computing whether the 80% requirement has been met, the Authority will determine whether 80% of the combined employees in the three bargaining units have completed the assessment. For each plan year during the term of the new MOA, the Authority will advise the Union of the number of employees who completed the assessment and the total number of bargaining unit employees.

### **LIFE & AD/D INSURANCE**

The Authority shall pay the premium on the Authority sponsored basic term life and AD/D coverage at a value equal to the employee's annual base compensation. The Authority shall make supplemental coverage available at the employee's cost. Such supplemental coverage will be in accordance with all laws governing such programs and in keeping with the Authority's current supplemental life insurance program.

### **DENTAL INSURANCE**

The Authority shall pay the entire employee premium cost for any Authority authorized dental plan. The Authority shall also pay fifty-five percent (55%) of the difference between the employee premium cost and either the employee and one or employee and family premium costs for any Authority authorized dental plan as provided. The parties agree that the Delta Dental HMO and PPO Plans outlined at the September 3, 2008 meeting between the parties will be the dental plans applicable to bargaining unit employees for the plan year January 1 through December 31, 2009.

### **VISION CARE**

The Authority shall contribute an amount per year, not to exceed \$96.00, for certain expenses incurred by the employee for any vision care program.

### **BENEFITS CHANGES**

In the event the Authority proposes to change any of the benefits available, the Authority shall meet and confer concerning said proposed changes in accordance with the provisions of the Meyers-Milias-Brown Act and other appropriate provisions of law prior to implementing any changes. Eligibility requirements, benefits provided, and other information can be obtained upon request to the Director, Human Resources or designee.

### **SECTION 10 - RETIREE HEALTHCARE**

The Authority will not provide retirement health, dental, life, vision or other benefits to an employee (or their dependents) hired by the Authority on or after October 1, 2008. Instead, the Authority will establish a Second Generation Retiree Healthcare Plan (the "Second Generation Plan"), in order to allow each employee to save for retiree health related expenses. The Second Generation Plan will be as follows:

- a. Establishment of Trust Account. By January 1, 2010, the Authority will have in place a health reimbursement plan ("HRP") that will allow the Authority to make tax-free contributions into a special trust account on behalf of participating Authority employees

intended for post-retirement healthcare expenses. These tax-free funds can then be used by the employee after retirement to pay for or obtain reimbursement of eligible out-of-pocket health care costs and premiums for the employee, the employee's spouse and qualified IRS dependents. The parties are currently contemplating the use of a VEBA (Voluntary Employees' Beneficiary Association) as authorized under the Internal Revenue Code for this purpose. However, it is agreed that the Authority will do further research with its consultants to determine the best structure for such a plan, and that the Authority will then propose to Local 911 the type of HRP to be used. The type of HRP to be used will be subject to the meet and confer process.

- b. Employees Hired On or After October 1, 2008. Beginning in 2010, the Authority will contribute an amount not to exceed \$600 annually per employee into the HRP for all Authority employees hired on or after October 1, 2008. This amount will be pro-rated based on the number of complete months of service for employees hired within a calendar year. The contribution to the HRP will be made by the Authority in December of each year. The employee must be employed by the Authority on December 1 of that year in order to be eligible for this contribution by the Authority. The first contributions by the Authority will be in December 2010 for the year 2010.
- c. Option for Employees Hired Before October 1, 2008. During the Authority's open enrollment period in the Fall of 2009, or during each yearly open enrollment period of the Authority thereafter, any Authority employee hired before October 1, 2008 that is eligible for the Authority's First Generation Retiree Healthcare Plan (the "First Generation Plan"), can elect to execute an agreement ("the HRP Agreement") whereby said employee will voluntarily waive the employee's right to participate in the First Generation Plan, and instead elect to participate in the Second Generation Plan. Once an employee who is eligible for the First Generation Plan elects to opt into the Second Generation Plan, the employee will be ineligible to return to the First Generation Plan. Each employee who executes the HRP Agreement will receive from the Authority: (1) an Authority contribution into the HRP on such employee's behalf of \$500 within 30 days of his or her execution of the HRP Agreement, and (2) a second Authority contribution into the HRP on such employee's behalf of \$500 one year after the first such contribution, provided such employee is still employed with the Authority, and (3) contributions each year as set forth in paragraph b above, subject to the terms of that paragraph.
- d. Use of Funds. The HRP selected shall not have a "use it or lose it" feature. In other words, each employee's unused funds in the HRP are carried over from year to year. In addition, whatever funds have been contributed to the HRP on behalf of an employee will remain in the HRP for the employee's use after the employee leaves employment with the Authority.
- e. Consideration of HSA/High Deductible Plan. The Authority agrees that, during its due diligence process in evaluating HRP options, it will consider adding a high deductible medical plan and Health Savings Account ("HSA") as an option for employees.
- f. Plan Termination. Subject to the meet and confer process, the Authority reserves the right to modify, amend and/or terminate the First Generation Plan or Second Generation Plan to the extent permitted under applicable law.

## **SECTION 11 - TRANSIT/COMMUTER PASS**

The Authority shall reimburse fifty percent (50%) of the cost of any public bus, commuter train, and/or trolley monthly pass used solely for commuting to and from the worksite to any employee who is not required to drive his/her private vehicle to the worksite, subject to the terms of any Transit and Commuter Pass Program established by the Authority. Effective January 1, 2009, the Authority will offer a Transportation Flexible Spending Account ("TFSA"), that employees can utilize to pay for certain transportation expenses using pre-tax dollars. Details of this program will be provided in a plan document that will be made available to employees.

## **SECTION 12 - TUITION REIMBURSEMENT**

The Authority agrees to reimburse an individual's costs for tuition, as long as the following conditions are met:

- a. The employee is a permanent full-time employee.
- b. Course content has been reviewed and approved by the supervisor and Appointing Authority or designee as a course that is directly related to the employee's current job or a course that would provide the employee with a new skill set that is necessary or desirable in pursuing opportunities within the Authority.
- c. Reimbursement of covered costs will be made only upon completion of the course with a grade "C" or better. If no grade is given, evidence of satisfactory completion must be obtained from the organization sponsoring the course.
- d. The maximum amount paid shall be \$2,000.00 per calendar year. Reimbursement shall be used to pay for tuition, mandatory registration fees, required textbooks and laboratory use fees. (Note: Some examples of fees not reimbursable are: parking fees, financing fees, etc.)
- e. For certificates, degrees or courses that are not directly related to the employee's current job, the employee will be required to pay back all fees paid by the Authority should the employee, at his or her option, cease Authority employment within two (2) years of completing a certificate, degree or courses. The employee will be required to sign a Memorandum of Understanding (MOU) acknowledging agreement with this provision prior to course approval. (Note: Based on IRS regulations, reimbursement may be taxable to the employee as wages.)
- f. For classes to prepare an employee for entry into a specific program (e.g., masters, bachelors, associates, etc.) and subsequent "test," the costs will only be reimbursed after the employee has passed any entry examination(s) and is registered in the specific program (e.g., MBA). Likewise, if an employee completes a course of study and needs to take an exam (such as a Bar Exam), the "preparation" course and exam fee will be reimbursed upon proof of passing the exam. A signed agreement between the Authority and employee may be required. (NOTE: Based on IRS regulations, reimbursement may be taxable to the employee as wages.)

## **SECTION 13 - EMPLOYEE PARKING**

The Authority shall provide employee parking at no cost to employees. The Authority is not responsible for the security of vehicles left in the employee parking area.

ARTICLE 20

**STEWARDS**

**SECTION 1 - STEWARDS**

The Union may designate stewards to represent employees covered by this Agreement in the processing of grievances, subject to the following guidelines:

- a. The Union shall have two (2) Union stewards plus one alternate for each steward. The Union may assign stewards to shifts or work areas as they deem necessary; however, no more than two stewards may be on any one shift. Alternates may perform functions of stewards only in the event of the absence from work of the duly appointed steward for which they are serving as alternates.
- b. The Union shall furnish management representatives with a written list identifying the name and the assigned work area of each steward and such list shall be kept current by the Union.
- c. The Union shall designate as stewards only employees who have passed an initial probationary period and have been designated as permanent employees.

**SECTION 2 - RIGHTS OF STEWARDS**

The Union shall have the right to appoint or elect stewards and their alternates to assist any employee covered by this Agreement who requests representation of his/her grievance for consideration by Authority representatives.

**SECTION 3 - HANDLING GRIEVANCES AND COMPLAINTS**

Stewards may receive and discuss, but not solicit, complaints and grievances of the Union member employees on Authority premises and on Authority time, but only to the extent that such activities do not neglect, retard, or interfere with the work and duties of the stewards, the employees, or the operations of the department.

**SECTION 4 - STEWARDS TO REQUEST PERMISSION**

Stewards or alternates being requested to assist any employee on such matters during working hours shall first request permission from their immediate supervisors or designees; such requests shall not be unreasonably denied.

**SECTION 5 - PAYMENT FOR REASONABLE TIME SPENT DURING WORKING HOURS**

The Authority shall pay the authorized stewards the applicable rate of pay for a reasonable amount of time spent in resolving such grievance during working hours.

**SECTION 6 - SUBJECT AND TIME LIMITATIONS**

With the exception of processing grievance matters and negotiating contracts, the Union agrees not to transact any business on Authority time. It is expected that the handling of grievances will take six (6) hours or less per month. If the provisions of this section are observed being violated, the Authority will contact the Union and discuss the problem prior to the steward being released from duty.

## **SECTION 7 - HANDLING GRIEVANCES**

- a. When requested by an employee, a steward, with permission of his/her supervisor or designee, may assist the employee on any alleged grievance in his/her assigned work area and assist the employee in its preparation and presentation.
- b. After notifying and receiving approval of the immediate supervisor or designee, a steward shall be allowed reasonable time off during working hours, without loss of time or pay, to contact an employee and prepare and present such grievance on behalf of an employee. The immediate supervisor or designee will authorize the steward to leave his/her work, unless compelling circumstances require refusal of such permission, in which case the immediate supervisor or designee shall inform the steward of the reasons for the denial and establish an alternate time when the steward can reasonably be expected to be relieved from his/her work assignment.
- c. When a steward desires to contact an employee at his/her work location, the steward shall first contact the employee's immediate supervisor or designee, advise him/her of the nature of the business, and obtain the permission from the supervisor or designee to meet with the employee. The immediate supervisor or designee will make the employee available promptly, unless compelling circumstances prohibit the employee's availability, in which case the supervisor or designee will notify the steward when he/she can reasonably expect to contact the employee.
- d. A steward's interview or discussion with an employee while on Authority paid time will be handled expeditiously.
- e. It is recognized by both parties that stewards' functions are necessary in maintaining sound employer-employee relations on the job.
- f. Stewards will be released with pay for up to one (1) day per year to attend Local 911 Steward Training [year is defined as the twelve (12) month period beginning October 1, 2008].

## ARTICLE 21

### **UNION REPRESENTATIVES**

#### **SECTION 1 - DEFINITION OF UNION REPRESENTATIVE**

The Union representative shall mean only those paid employees and consultants of the Union or officers of the Union who are not in any manner paid employees or agents of the Authority. The Union shall, within thirty (30) days of the effective date of this Agreement, give to the Authority a written list of all authorized representatives, which list shall thereafter be kept current by the Union. Access to work locations during non-working time will be granted only to representatives on the current list.

#### **SECTION 2 - NUMBER OF NEGOTIATING REPRESENTATIVES**

The Union shall have the right to have a maximum of four (4) Authority employees on the Union's negotiating team. The Union shall be permitted to rotate team members, if desired, during negotiations on a day-by-day basis.

ARTICLE 22

**PAYROLL DEDUCTIONS FOR DUES OR OTHER APPROVED DEDUCTIONS**

**SECTION 1 - AUTHORIZATION FOR DUES DEDUCTIONS**

Pursuant to the California Code § 3502, there exists an agency shop arrangement between the Authority and the Union's members of the Airport Traffic Officer Unit. Members of these units are required, as a condition of continued employment, to either join the Union or to pay the Union a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization. Said dues, fees, and/or assessments shall be deducted with his/her authorization from the unit members' compensation received on a bi-weekly pay period basis, and shall be remitted to the appropriate officer designated by the Union.

**SECTION 2 - INDEMNIFICATION**

The Union shall indemnify and hold the Authority harmless against any and all claims, demands, suits, or other forms of liability that shall arise out of or by reasons of the application of this Article 22 and Article 1.

ARTICLE 23

**GRIEVANCE AND ARBITRATION PROCEDURE**

**SECTION 1 - DEFINITION**

A "grievance" shall be defined for purposes of this Article 23 as any alleged violation of this Memorandum of Agreement; Authority Human Resources Rules, Regulations, Guidelines; and Authority past practices established on or after January 1, 2003; or dispute between an employee covered by the terms of this Memorandum of Agreement and the Authority; provided that no grievance may be filed or processed under this Article 23 if (1) the grievance seeks as a remedy the modification of an Authority policy or procedure established by the Authority Board or the Authority's President/CEO or designee, or (2) the grievance seeks a remedy that will infringe on the rights of management as prescribed by law such as, but not necessarily limited to: (a) application for changes in title, job classification, or compensation; (b) appeals arising out of job examinations or recruitments; (c) appeals from work performance evaluations; or (d) appeals pertaining to consideration of the merits, necessity, or organization of any service or activity established by the Authority.

- a. "Working day" shall be defined as a regularly-scheduled business day for the Human Resources Department, Monday through Friday. An Authority-recognized holiday falling on a Monday through a Friday will not count against the grievance time limits.
- b. The Authority and the Union agree to schedule the grievance meeting steps in a manner which is reasonable in an effort to accommodate the parties' calendar issues.

**SECTION 2 - GRIEVANCE PROCEDURES**

**STEP A: Meeting with Immediate Supervisor (Informal Step)**

Before a written grievance pursuant to Step B of the Grievance Procedure may be submitted to the Authority, the employee involved in the matter must first meet with his/her immediate supervisor to discuss the issue in dispute and to attempt to resolve the matter informally. The employee may have a union representative at

this step to help present the issues giving rise to the grievance. The Step A meeting must take place within five (5) working days of the date the employee knows or should have known of the events giving rise to the grievance. The immediate supervisor shall advise the employee within five (5) working days of the date of the Step A meeting as to what, if any, actions will be taken in response to the grievance. The response from the supervisor may be made orally with a follow-up memo documenting the supervisor's oral response.

### **STEP B: Meeting with Second-Level Supervisor**

If the grievance is not settled in Step A, the individual grievant or Union may submit a written grievance to the Authority. The written grievance shall include a statement of the facts or events giving rise to the grievance; the date upon which the events occurred; the provisions of the Memorandum of Agreement; Human Resources Rules, Regulations, Guidelines; or practice as defined above which is alleged to have been violated; and the remedy requested. The written grievance must be submitted within ten (10) working days of the grievant receiving the supervisor's documented oral response resulting from the Step A meeting. Within five (5) working days after the written grievance is filed, the Union and the Authority shall meet and attempt to settle it. For the purpose of this Step B meeting, the Authority's representative may be the employee's second-level supervisor. The Authority shall respond to the grievance in writing within ten (10) working days after the Step B meeting.

### **STEP C: Meeting with Department Head/Vice President**

If the grievance is not settled in Step B, the individual grievant or Union may make a further written appeal of the unresolved grievance to the employee's third-level supervisor (Department Head or Vice President). The written appeal to Step C must be filed within five (5) working days of receiving the second-level supervisor's response from the Step B meeting. Within ten (10) working days after the appeal is filed in writing by the aggrieved party, the grievant or the Union and the Authority shall meet and attempt to settle it. The Authority shall respond to the appeal in writing within five (5) working days after the Step C meeting.

Any grievance settlements or resolutions reached during the course of the procedures described in this Section 2 shall be without precedent and may not be used to establish a past practice binding in any way upon the Authority or the Union unless the settlement is specifically identified as establishing a precedent in writing signed by both the Authority and the Union.

## **SECTION 3 - REQUEST FOR ARBITRATION**

A grievance not resolved at Step C may, within fifteen (15) calendar days after the date of the written Step C response or expiration of the period in which the response is to be given, be referred to arbitration by the Union notifying the Authority in writing by certified mail of the decision to arbitrate. The original grievance as filed and processed shall not be enlarged or expanded during arbitration without the consent of the Authority. It shall be agreed by the parties, that the Union has the sole authority to move any grievance to arbitration.

#### **SECTION 4 - SELECTION OF THE ARBITRATOR**

The parties shall, within five (5) calendar days of the delivery of the request for arbitration, attempt to mutually agree upon the appointment of an Arbitrator who will hear the grievance. If the parties do not mutually agree upon the Arbitrator within said five (5) day period, the moving party shall request the Federal Mediation and Conciliation Service (FMCS) to nominate a panel of seven (7) persons, all of whom must be members of the National Academy of Arbitrators with offices in California and experienced in public sector cases. Each party may request one (1) additional panel from the FMCS within five (5) calendar days of the date of a prior panel. A true copy of such request shall be mailed to the other party. If the parties cannot agree on one (1) of the seven (7) nominees on the final panel received by the parties, or are unable to agree on an Arbitrator who is not named on the panel, they shall alternately strike names from the final FMCS panel until only one (1) name remains, and he or she shall be the Arbitrator. The expenses and salary incident of services of the Arbitrator, the reporting fees and transcript for the arbitration, and the expenses of the hearing location shall be shared equally by the Authority and the Union. Each party will be responsible for the costs of its own representation and witnesses.

#### **SECTION 5 - HEARING PROCESS**

Prior to commencing the Arbitration hearing process, the parties will mutually agree on the rules of hearing, whether pre-hearing or post hearing briefs will be required, and if a transcript will be generated. Any disputes in this section which arise between the parties shall be ruled on by the Arbitrator which will be final and binding on both parties.

#### **SECTION 6 - ARBITRATOR'S AUTHORITY AND DECISION**

The Arbitrator shall have jurisdiction and authority only to interpret, apply or determine compliance with the express language of the Memorandum of Agreement; Authority Human Resources Rules, Regulations, Guidelines; or practice as defined above and the issues submitted to him/her. The Arbitrator shall not have the power to add to, subtract from, or modify in any way the express language of the Memorandum of Agreement; Authority Human Resources Rules, Regulations, Guidelines; or practices as defined above. The Arbitrator shall have no authority to and shall not add to or modify in any way the Authority's responsibilities or duties under the Memorandum of Agreement, nor may the Arbitrator impose upon the Authority an obligation, responsibility or duty which is not expressly required of the Authority by an express provision of the Memorandum of Agreement. The Arbitrator shall have no authority to review management's exercise of its discretion in selecting the level of discipline imposed; the only issue before the Arbitrator in a discipline case shall be whether there was just cause for discipline. If the Arbitrator finds just cause for discipline, the level of discipline chosen by the Authority shall stand; if the Arbitrator finds no just cause for discipline, the disciplinary notice assessed shall be expunged and the grievant will be made whole (if applicable). The Arbitrator shall have no authority to award damages other than back pay and benefits required by the Agreement. No back pay or benefits may be awarded for any period of time prior to the Authority's violation of the Agreement (if so found by the Arbitrator), and shall be reduced by all interim earnings and benefits received by the grievant. Any decision within the jurisdiction and authority of the Arbitrator shall be final and binding on all concerned. The Arbitrator shall render his or her decision in writing thirty (30) days after the close of the arbitration proceeding (including filing of written briefs, if any). The parties may, by mutual agreement, request a bench decision, or that a written decision be issued within a shorter period of time, and may also agree to waive the filing of briefs.

## **SECTION 7 - NON-ARBITRABILITY**

No grievance shall be submitted to arbitration under this Article unless the grievance is proper under this Article and all time limits set forth in this Article have been strictly complied with. Any grievance not processed within the time limits established by this Article shall be deemed forfeited and waived by the aggrieved party. No grievance shall be considered by the Arbitrator unless all time limits and steps of the procedures provided herein have been followed or, if not, waived or extended by both parties in a signed writing. Should any party dispute the arbitrability of a grievance under this Agreement, it shall so notify the other party in writing within fourteen (14) calendar days of its receipt of notification of the other party's intention to submit the grievance to arbitration. Upon such notification, the other party may still require that the grievance be arbitrated; however, the party who has given notice shall have thereby reserved its right to challenge a finding of arbitrability by the Arbitrator in any subsequent court proceeding to review the Arbitrator's decision, which decision shall be subject to *de novo* review by the court. If the Authority believes any part of the grievance filed under this article is not grievable, the Authority agrees to submit the disputed issues to the Arbitrator for a decision.

## ARTICLE 24

### **SAFETY COMMITTEE**

The Authority agrees that the Union shall be authorized to appoint one (1) employee member from the Airport Traffic Officer Unit to any established Authority Safety Committee. Such employee member may provide input and discuss all agenda items which shall include new safety business. Hazardous materials questions may be raised at the committee and the committee shall receive a response as to the nature of such materials questioned in generic language.

## ARTICLE 25

### **UNIFORM ALLOWANCE**

#### **SECTION 1 - UNIFORMS**

The Authority and the Union agree that the Authority will provide and maintain one (1) clean work uniform daily, including the total cost thereof, for all Airport Traffic Officer Unit members, and the Union agrees that it shall be mandatory that all of its members wear such uniforms during working hours.

Uniforms will be provided by the Authority to each member of the Airport Traffic Officer Unit as follows: ten shirts including three polo shirts, eight pants including three pairs of cargo pants, one (1) sweater, one (1) jacket, one (1) hat, foul weather gear, and equipment routinely issued with the uniform.

#### **SECTION 2 - UNIFORM OWNERSHIP**

All uniforms shall remain the sole property of the Authority. Upon termination, all such property shall be returned to the Authority. If any such property is lost or damaged other than through normal wear and tear, an employee may be liable for compensating Authority for such loss or damage.

ARTICLE 26

**SAFETY EQUIPMENT**

**SECTION 1 - SAFETY CLOTHING AND EQUIPMENT**

The Authority, at its own cost and expense, shall furnish to all employees the appropriate special safety clothing, tools, safety devices, articles, and equipment (work shoes or other personal apparel not included) to perform their assignments. The employee shall be responsible for the reasonable care of all items furnished by the Authority.

**SECTION 2 - CLEAN AND SAFE WORK ENVIRONMENT**

The Authority will provide adequate heat and ventilation in all work areas; maintain clean and sanitary restrooms; and provide hot water, adequate toilet and washroom facilities, and safety eye wash equipment in areas where high levels of dust are present in Authority facilities.

**SECTION 3 - SAFE WORK HABITS**

The Authority and employees agree to comply with all lawful safety rules and regulations in effect and any subsequent rules and regulations that may be adopted by Authority.

**SECTION 4 - EMPLOYEES USE OF PROTECTIVE GEAR AND CLOTHING**

Each employee agrees to use and wear safety equipment provided which will protect the employee and promote his/her own health and safety.

**SECTION 5 - SAFETY SHOES AND INSERTS**

Any employee eligible for the Safety Equipment Reimbursement Program shall be reimbursed for the purchase of safety shoes and inserts in an amount not to exceed two hundred dollars (\$200.00) per fiscal year. The program requires that the shoes meet certain safety standards, and that the purchases are in accordance with the program requirements. For such employees, all shoes worn while on duty shall meet the specifications provided by the Authority's Manager, Employee Safety Programs.

Shoes may be inspected by Authority representatives periodically to ensure compliance with specifications.

ARTICLE 27

**RELEASE TIME**

The Authority, upon advance notification, agrees to permit each shift the opportunity to meet by extending the lunch period from one-half hour to one hour for the purpose of ratifying an Agreement with the Authority.

ARTICLE 28

**SPECIAL PROVISIONS**

**SECTION 1 - ACCESS TO WORK AREA**

Authorized Union representatives shall (unless such access is thought by the Director, Human Resources or designee to unduly interfere with operations) be granted access to work locations in which employees represented by the Union are employed for the purpose of contacting said employees represented by Union in matters of grievances and observing working conditions. Authorized Union representatives desiring entrance shall, prior to the visit, inform the Director, Human Resources or designee of the purpose of the visit. The Director, Human Resources or designee may deny access to the work location if, in his/her judgment, it is deemed that a visit would unduly interfere with the operations of the department or facility thereof, in which case the Director, Human Resources or designee will recommend an alternate time for the visit.

**SECTION 2 - BULLETIN BOARDS**

Space shall be made available to the Union on appropriate bulletin boards within the represented units, provided such use does not interfere with the needs of the department and the material posted is not derogatory to the Authority and its employees. The boards shall be used only for the following information:

- a. Information on Union elections and the results;
- b. Steward's reports and notices;
- c. Reports of official business of the Union including reports of committees or the Union's Executive Board;
- d. Scheduled Union meetings and Union news bulletins;
- e. Union membership benefits, programs, and promotions;
- f. Any other written material which first has been approved by the Director, Human Resources or designee;
- g. Postings in areas other than designated bulletin boards (e.g., bathroom doors) are prohibited.

**SECTION 3 - USE OF AUTHORITY FACILITIES**

The Authority agrees that the Union may utilize the PSA meeting room, located in the West Wing office building, under the terms, conditions, and procedures as set forth as follows:

- a. Utilization shall be permitted on a space available basis.
- b. Utilization shall be permitted for the purpose of meetings with members of the Authority bargaining unit(s) exclusively relating to matters involving employment by the Authority. Utilization shall not be requested or permitted for other purposes. Examples of other purposes for which utilization shall not be permitted include, but are not limited to, meetings involving Authority employees who are not part of a bargaining unit for which the Union is the exclusive representative, social functions, political functions, organizing functions, or commercial functions.
- c. Utilization is to be scheduled through the Authority's Director, Human Resources, hereinafter referred to in this section as "Director," or the Director's designee.
- d. The Union shall be responsible to reimburse the Authority for all expenses related to utilization of the

PSA meeting room, and shall also be responsible for any general fees that may be established through the Authority hereafter to allow utilization of the PSA meeting room by other groups or organizations. The Authority shall invoice the Union for such expenses/fees. The Union shall also indemnify the Authority for any and all claims arising from or in any way related to utilization, and for all costs and fees, including attorneys' fees, incurred by the Authority in the defense of such claims.

- e. The Union shall contact the Authority's Director at least ten (10) days prior to the date on which the Union wishes to utilize the PSA meeting room and shall advise of the date and time that the Union wishes to utilize the room and the purpose of the meeting. If ten (10) days notice is impossible due to circumstances beyond the Union's control, the Union shall give as much advance notice as is possible.
- f. The Director shall determine whether utilization is appropriate under the terms of this Agreement. If so, and provided that the PSA meeting room is available, utilization shall be authorized.
- g. These provisions and all rights or practices based hereon shall be subject to termination by the Authority upon ten (10) days written notice from the Director to the Union, which notice may be given with or without cause.

#### **SECTION 4 - BREAKROOMS**

The Authority will continue to provide break room facilities, as designated.

#### **SECTION 5 - EMPLOYEE RELATIONS MEETINGS**

The Authority agrees to meet with the Union representatives and stewards when necessary to discuss employee relations or this Agreement. The results of such meetings wherein any decisions may be considered shall be reduced to writing and submitted to the Union representative within thirty (30) workdays.

#### **SECTION 6 - PAYCHECKS**

The Authority shall make paychecks available by 10:00 a.m. on paydays, to the extent possible.

#### **SECTION 7 - APPLICATION AND PROCESS FOR SEMINAR TRAINING**

The Authority will convene an *ad-hoc* committee composed of two (2) Airport Traffic Officer Unit members, one (1) manager, and one (1) Human Resources representative. The *ad-hoc* committee duties include: assessing training needs, recommending to the Authority curriculum content and training frequency. The *ad-hoc* committee may meet on an "as needed" basis during the duration of this agreement.

#### **SECTION 8 - USE OF INDEPENDENT CONTRACTORS**

Nothing shall prevent the Authority from employing an independent contractor to provide services of a professional, scientific, or technical nature where the Authority has determined that it is impractical to have such service performed by a bargaining unit member. It shall be agreed that the use of an independent contractor will not require the removal, suspension, layoff, or transfer or any employee in the bargaining unit or the elimination of any classification allocated to the bargaining unit.

ARTICLE 29

**RIGHTS OF MANAGEMENT**

**SECTION 1 - RIGHTS OF MANAGEMENT**

The Authority retains any and all rights, powers or authority it had prior to the signing of this Agreement, except as those rights are or may during the term of this Agreement be directly or indirectly affected by this Agreement or applicable law. Such rights shall include, by way of example but not limitation, the right to manage its operations and direct its work force, including the right to hire, select, discipline (for proper cause), transfer, and assign work. Nothing in this provision shall be construed to restrict grievances concerning this Agreement or limit or waive the rights of the parties pursuant to this Agreement.

**SECTION 2 - MISSION OF AUTHORITY**

It is the exclusive right of the Authority to determine the mission of each of its constituent departments and divisions, set standards of services to be offered, and exercise control and discretion over its organization and operations. It is also the exclusive right of the Authority to direct its employees, take disciplinary action for proper cause, relieve its employees from duty because of lack of work or for other legitimate reasons, and determine the methods, means, and personnel by which the Authority's operations are to be conducted.

**SECTION 3 - NEW CLASSIFICATIONS**

It is the exclusive right of management to determine when new classifications are established and when existing classifications will be reclassified or deleted. Management will continue to meet its "meet and confer" obligations pursuant to applicable law.

**SECTION 4 - PROMOTION PROCEDURES AND SUPERVISORY RATIOS**

It is the exclusive right of management to determine procedures for promotions and to determine criteria for establishment of supervisory personnel, including the ratio of supervisory personnel to subordinates.

**SECTION 5 - AUTHORITY PARTICIPATION IN COMMUNITY PROGRAMS**

It is the exclusive right of management to cooperate and participate in community programs designed to provide work experience and on-the-job training so that they may compete in the labor market. It is agreed that the use of on-the-job-training will not replace regular employees, nor will they be permitted to perform tasks or use equipment that might endanger their own safety or the safety of Authority employees or others.

**SECTION 6 - PERFORMANCE REPORTS**

It shall be the exclusive right of management to determine employee performance evaluation and assessment procedures and the job-related criteria and/or standards for evaluating employee performance.

**SECTION 7 - RIGHTS SHALL BE REASONABLE**

The exercise of the above rights shall be reasonable and shall not preclude employees, stewards, or their Union representatives from consulting with management representatives about the effect these decisions may have on matters pertaining to wages, hours, and other items and conditions of employment.

ARTICLE 30

**EMPLOYEE RIGHTS**

The parties mutually recognize and agree fully to protect the rights of all employees covered under this Agreement to join and participate in the activities of the Union and all other rights guaranteed by applicable law. No employee shall be interfered with, intimidated, restrained, coerced, or discriminated against because of the exercise of these rights or any other rights prescribed by law.

Each individual employee shall have the following rights which s/he may exercise in accordance with applicable laws, standards, and guidelines:

- a. The right to form, join, and participate in the activities of employee organizations of his/her own choosing for the purpose of representation on matters of his/her employee relations with the Authority or to refuse to join or participate in the activities of any employee organization.
- b. The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal on the part of his/her Appointing Authority, his/her supervisor, other employees or employee organizations, or with respect to any lawful activity associated therewith which is within the scope of representation.
- c. The right to be represented during an investigative conference where a formal disciplinary action is being contemplated against the employee; however, this provision shall not apply to a meeting between management/employee intended for employee counseling, instruction, informal verbal admonishment, or unplanned meetings between management and an employee.

ARTICLE 31

**UNFAIR EMPLOYEE RELATIONS PRACTICES**

**SECTION 1 - UNFAIR EMPLOYEE RELATIONS PRACTICES BY AUTHORITY**

It shall be an unfair employee relations practice for the Authority and its management representatives:

- a. To interfere with, restrain, discriminate, intimidate, or coerce employees in the exercise of the rights recognized or granted in this Agreement.
- b. To dominate or interfere with the formation of any employee organization or contribute financial support to it, provided the rights recognized or granted to employee organizations in this Agreement shall not be construed as financial support.
- c. To refuse to meet and confer in good faith with representatives of recognized employee organizations on matters within the scope of representation.
- d. To refuse to furnish the Union in writing with a correct list of Authority representatives with whom the Union shall confer in good faith in the adjustment of grievances or hazardous working conditions.

**SECTION 2 - UNFAIR EMPLOYEE RELATIONS PRACTICES BY THE UNION**

It shall be an unfair employee relations practice for the Union, its representatives, or members:

- a. To interfere with, restrain, discriminate, intimidate, or coerce in the exercise of the rights recognized or granted in this Agreement.
- b. To refuse to meet and confer in good faith with Authority officials on matters within the scope of representation.
- c. To refuse to furnish the Authority in writing the names of the representatives, shop stewards, and/or their alternates.

ARTICLE 32

**NO PAST PRACTICES**

All past practices from the former employer are extinguished as of the date of the new Memorandum of Agreement.

ARTICLE 33

**ALTERNATE WORKWEEK TRIAL PERIOD**

The Authority agrees, during the term of the Memorandum of Agreement, to consider proposals from the Airport Traffic Officer Unit for alternate work schedules provided the alternate work schedules maintain or improve current levels of staff efficiency, customer service, cost, productivity and service to the community.

