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IDnum 278 **Language** English **Country** United States **State** CA

Union AFSCME (American Federation of State, County and Municipal Employees) AFL-CIO

Local 2190

| Occupations Represented |
|----------------------------------|
| Multiple occupations represented |
| |

Bargaining Agency City of Burlingame

Agency industrial classification (NAICS):

92 (Public Administration)

BeginYear 1997 **EndYear** 2001

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Notes

Contact

Full text contract begins on following page.

MEMORANDUM OF UNDERSTANDING

between

LOCAL 2190, COUNCIL 57
AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO

and the
CITY OF BURLINGAME

JULY 1, 1997 - JUNE 30, 2001

***** THIS CONTRACT PRINTED AT UNION EXPENSE *****

PREAMBLE

This Memorandum of Understanding is entered into by the City of Burlingame, hereinafter designated as the "City", and the American Federation of State, County and Municipal Employees, Local 2190, AFL-CIO, hereinafter designated as the "Union", as a mutual agreement in accordance with Section 26 of those wages, hours and other terms and conditions of employment which are to be in effect during the term of this Memorandum, for those employees working in classifications in the representative unit referred to in Section 1 hereof.

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act and has been jointly prepared by the parties.

1. RECOGNITION

The City of Burlingame recognizes, as provided in the City's Employer-Employee Relations Resolution, the American Federation of State, County and Municipal Employees, Local 2190, AFL-CIO, as the majority representative employee organization for the employees assigned to the following classifications as well as such classifications as may be added to this representation unit the City during the term of this Memorandum.

- | | |
|---|--------------------------------|
| Automotive Mechanic | Street and Sewer Lead Worker |
| Assistant Automotive Mechanic | Street and Sewer Maint. Worker |
| Assistant City Electrician | Street and Sewer Supervisor |
| Grounds Equip Repair Worker | Street Sweeper Operator |
| Laborer | Traffic Sign/Paint Lead Worker |
| Maintenance Electrician | Tree Supervisor |
| Maintenance Worker | Tree Trimmer |
| Park Maintenance Worker I | Water Maintenance Lead Worker |
| Park Maintenance Worker II | Water Maintenance Worker |
| Park Maintenance Lead Worker (Landscape and Maint. Crew) | Water Meter Reader |
| Sprinkler Repair Specialist | Water Meter Repairer |
| | Water Service Worker |
| | Water Supervisor |

Job descriptions - for information only - are being revised per ADA.

2. **NO DISCRIMINATION**

The City agrees not to discriminate against any employee because of membership in the Union or because of any activities on behalf of the Union. Union activities shall not interfere with the normal operation of the City. Neither the City nor the Union shall discriminate for or against any employee or applicant for employment on account of race, color, creed, national origin, age, sex, sexual preference, or physical or mental handicap which does not prevent an employee from meeting the minimum standards established.

3. **UNION SECURITY**

3.1 Dues Deduction - The Union shall be entitled to have the regular dues of its members deducted from their paychecks, in accordance with the procedures set forth herein.

3.2 Maintenance of Membership - Employees shall be entitled to have dues deducted by filling out, signing and filing with the City an authorization form provided by the City. Any employee who signs such an authorization shall not revoke such authorization except during the following time periods.

3.2.1 His/her first thirty (30) calendar days of employment;

3.2.2 The first thirty (30) calendar days following approval of this Memorandum by City Council:

3.2.3 The thirty (30) calendar day period between ninety (90) calendar days preceding the expiration of this Memorandum of Understanding.

Revocation during said period shall be by a written, signed statement furnished to the City.

3.3 Conditions for Deduction - The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of the dues checkoff authorized. When a member in good standing of the Union is in a non-pay status for the pay period when his/her dues would normally be withheld, no dues withholding will be made to cover the withholding from future earnings nor will the member deposit the amount with the City which would have been withheld if the member had been in a pay status during that period. In the case of an employee who is in a non-pay status during only a part of the pay period and the salary

is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions have priority over Union dues.

- 3.4 **Transmittal** - Dueswithheld by the City shall be transmitted monthly to the officer designated in writing by the Union as the person authorized to receive the funds, at the address specified.
- 3.5 **Indemnification** - Union shall indemnify, defend, and hold the City harmless against any claims made and against any suit instituted against the City on account of checkoff of Union dues. In addition, Union shall refund to the City any amounts paid to it in error upon representation of supporting evidence. The City will pay to the Union any amounts which were not deducted in accordance with the procedures prescribed in this Section.
- 3.6 **Use of Facilities** - The Union may, with the prior approval of the City Manager, or his/her designee, use City facilities during non-work hours for meetings of City employees provided space is available, and provided further such meetings are not used for organizational activities or membership drives of City employees.
- 3.7 **Equipment** - The use of City equipment other than items normally used in the conduct of business meetings, such as desks, chairs and blackboards, is strictly prohibited, the presence of such equipment in approved City facilities notwithstanding.
- 3.8 **Bulletin Boards** - The Union may use portions of City bulletin boards under the following conditions:
- a. All materials must receive the approval of the Department or Division head in charge of the department bulletin board.
 - b. All materials must be dated and must identify the organization that published them.
 - c. The City reserves the right to determine where bulletin boards shall be placed.
- 3.9 **Right to Representation** - Any employee who is directed to attend a meeting at which one of the issues is the proposed discipline of said employee shall be entitled to Union representation at such meeting; provided, however, such representation shall include no more than one (1) City employee in addition to the

employee being disciplined. The limitations of this Section shall apply to employees on paid release time and not to Union staff or witnesses who may be necessary to the meeting.

- 3.10 **Notification of Discipline** - The City will notify the Union of any pending disciplinary action prior to such action being taken against a bargaining unit member; and if the Union does not represent the unit member in the disciplinary action, the Union will be notified of the disposition of the matter.

4. **STEWARDS AND OFFICIAL REPRESENTATIVES**

- 4.1 **Access by Representatives** - Reasonable access to employee work locations shall be granted officers of recognized employee organizations and their officially designated representatives, for the purpose of contacting members of the bargaining unit concerning business within the scope of representation. Such officers or representatives shall not enter any work location without the consent of the department head or the City Manager or his/her designee. Access shall be restricted so as not to interfere with the normal operations of the department or with established or security requirements.
- 4.2 **Activities Prohibited** - Solicitation of membership and activities concerned with the internal management of an employee organization such as collecting duesholding membership meetings, campaigning for office, conducting elections and distributing literature shall not be conducted during on-duty hours.
- 4.3 **Designation of Representatives** - The Union shall designate in writing to the City Manager or his/her designee the names of the representatives listed above. In no event shall there be more than four (4) such representatives.

5. **ACCESS TO PERSONNEL FILES**

An employee or, upon presentation of written authorization from the employee, an employee's representative shall have access to the employee's personnel file upon request. No written reprimand or performance evaluation shall be placed in an employee's personnel file until the employee has been given the opportunity to review and a reasonable opportunity to respond in writing to such a document.

"Written reprimand" as used herein is defined as a written communication to the employee formally notifying the employee of conduct or omission which is the basis for discipline.

6. **LIST OF EMPLOYEES**

The City shall furnish the Union with the names, classifications and date of hire of employees assigned to classifications in the bargaining unit; provided, however, the City shall not be required to provide such information in any format other than one already utilized by the City.

The City agrees to notify the Union of any new regular full-time employee hired within thirty (30) days of hire.

7. **ADVANCE NOTICE**

Except in cases of emergency, the Union shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet with management representatives prior to adoption.

8. **SALARY PLAN**

8.1 **Increases During Term of Agreement**

Salary ranges for represented classifications, effective July 1, 1997, shall be as set forth in Exhibit "A", which is attached hereto and made a part hereof. Salary increases for classifications covered hereinunder shall be as follows for the term of this Agreement:

8.1.1 **Effective 6/22/98** - An increase equal to the change in the San Francisco-Oakland-San Jose Area Consumer Price Index for Urban Wage Earners and Clerical Workers from April 1997 - April 1998 with a minimum increase of two percent (2%) and a maximum increase of four percent (4%). The resulting increase shall be reduced by one percent (1 %) to compensate for the addition of the PERS 2% at Age 55 retirement benefit in 1997.

8.1.2 **Effective 6/21/99** - An increase equal to the change in the San Francisco-Oakland-San Jose Area Consumer Price Index for Urban Wage Earners and Clerical Workers from April 1998 - April 1999

with a minimum increase of two percent (2%) and a maximum increase of four percent (4%).

- 8.1.3 **Effective 6/19/00** - An increase equal to the change I in the San Francisco-Oakland-San Jose Area Consumer Price Index for Urban Wage Earners and Clerical Workers from April 1999 - April 2000, with a minimum increase of two percent (2%) and a maximum increase of four percent (4%).
- 8.1.4 **Change to Index** - Should the specific index cited above be revised during the term of this Agreement as to reporting, formula, components or method of calculation, the parties shall immediately meet and confer regarding a substitute method of determining the wage and benefit increases not yet implemented.
- 8.2 **Base Salary** - Employees occupying a position in a classification covered by this Memorandum shall be paid a base salary within the range established for that position's classification.
- 8.3 **Placement Within Range** - The salary for a new employee entering City employment shall be the minimum salary step for the classification to which the employee is appointed unless the City determines that appointment to another step is in the best interests of the service.
- 8.4 **Progression Within Range** - Each employee who is promoted or employed shall receive a salary increase to the next higher step within the range of the assigned classification upon the anniversary of the individual employee's original employment date. A step increase shall only be denied for cause.
- 8.5 **Adjustments to Salary Range** - Salary range adjustments for a classification will not set a new salary anniversary date for employees serving in that classification.
- 8.6 **Retention of Step** - Whenever the schedule of compensation for a classification is revised, each incumbent in a position to which the revised schedule applies shall be paid at the same step in the revised range as the step at which the employee was paid in the previous range.

- 8.7 **Salary Step on Promotion** - When employees are promoted, they shall normally receive the first step in the salary range for their new position. However, if such step results in a salary increase of less than five percent (5%), they shall receive a minimum of five percent (5%) increase.
- 8.8 **Salary Step on Demotion** - When an employee is demoted, that employee's compensation shall be adjusted to the salary which most closely approximates the employee's salary in the higher classification; provided, in no event shall that new salary be above the fifth (5th) step of the lower classification. If a vacancy exists in a position in a lower classification, an employee who has previously held that vacant position, may voluntarily choose to demote to, fill the vacancy ,
- 8.9 **Paychecks** - Employees shall be paid biweekly. Routine paychecks shall be for the purpose of compensating for regular and overtime hours. Other compensation or reimbursement shall be separately identified and shall not include withholding for tax purposes, except as required by law.
- 8.10 **Work in a Higher Classification** - An employee when assigned to perform the duties of a higher classification shall receive the pay of the higher classification for each full day so assigned. The City may at its option assign only one (1) position for each employee of a higher classification that is absent. The City shall not make assignments or reassignments to avoid paying such higher amounts.
- 8.11 **Mileage Reimbursement** - An employee who is required to provide transportation for the performance of his/her job shall be compensated at a rate of twenty-five cents (.25) for each mile. It is understood that such reimbursement does not apply to commuting by employees to or from their residence.
- 8.12 **Training and Educational Reimbursement** - An employee shall be reimbursed for the cost of books, supplies and tuition, and shall not lose pay for time attending class if: 1) the course is required by the City, or 2) the department head provides written approval prior to the taking of the course.
- 8.13 **Street Sweeper Assignment and Pay** - The City shall pay a seven and one-half percent (7.5%) premium pay for employees regularly assigned to Street Sweepers. Separate job classification of Street

Sweeper to be deleted. Premium pay shall not be reduced for normal employee leave or equipment breakdowns. Employees regularly assigned to sweepers shall only be removed for cause or a reduction in number of sweepers.

9. INSURANCE

9.1 Medical Insurance Plans

Effective July 1, 1997 the maximum monthly City medical contribution shall be \$455.00 toward any of the PERS health plans. Thereafter, in any year that the full-family premium for the Kaiser North or Aetna Health Plan effective January 1 increases and exceeds \$455, the City's medical premium contribution shall increase by the change in the San Francisco-Oakland-San Jose Area Consumer Price Index for Urban Wage Earners and Clerical Workers from April of the prior calendar year to April of the current year.

9.2 Dental Plan

Effective July 1, 1996, the City agrees to pay forty-seven dollars (\$47) per month per employee and ten dollars (\$10) per month dependent coverage under the Dental Plan. Thereafter, the monthly City contribution toward the Dental Plan shall be:

July 1, 1997 - \$50 plus \$10 dependent coverage

July 1, 1998 - \$53 plus \$10 dependent coverage

July 1, 1999 - \$55 plus \$10 dependent coverage

July 1, 2000 - \$57 plus \$10 dependent coverage

9.3 **Life Insurance**

During the term hereof, the City agrees to provide life insurance to the extent of fifty thousand dollars (\$50,000) coverage for members of the bargaining unit.

9.4 **Vision Care Plan**

During the term hereof, the City agrees to provide under the City self-funded vision plan, with a City contribution of ten dollars (\$10) monthly.

9.5 **Disability Insurance Plans**

9.5.1 **State Disability Insurance**

During the term hereof, the City agrees to provide State Disability Insurance (SDI) for employees in the bargaining unit. The employees will pay for such insurance through automatic payroll deduction.

9.5.2 **Long-Term Disability Insurance**

The City will provide long-term disability insurance to all AFSCME members at the same levels currently provided to general employees, with a sixty (60) day waiting period. Maximum monthly benefits shall be two-thirds (2/3) of the first two thousand two hundred fifty dollars (\$2,250) of employee's basic monthly earnings.

It is understood that the parties are seeking improved coverage for bargaining unit employees within the current City expenditure limit for this insurance, and that the carrier for such insurance may therefore change during the term of this Agreement.

9.5.3 **Insurance Coverage While Disabled**

The City will allow any employee, who has been disabled and is collecting benefits under the Long-Term Disability Plan, or under State Disability Insurance, to participate in the health insurance plan by payment of premium cost to the City, except as otherwise required by the Family and Medical Leave Act.

9.7 **Plan Descriptions**

Descriptions of the insurance plans provided herein are contained in Appendix B of this Memorandum. Those descriptions are for informational purposes only and do not affect the obligations hereunder.

9.8 **Retirement**

9.8.1 **2% at Age 55 Benefit**

Effective no later than 7/1/97, the City shall implement the provisions of the PERS 2% at Age 55 retirement benefit for miscellaneous employees.

9.8.2 **Deferred Compensation**

Full-time regular employees are eligible, subject to IRS regulations and the terms and conditions thereof, to participate in the deferred compensation plan made available to all City employees.

9.8.3 **Deferred Compensation Incentive**

The City shall continue to provide a contribution to an employee's deferred compensation account in an amount equal to the employee's contribution, to a maximum of ten dollars (\$10) per biweekly pay period. This shall not imply any City endorsement or responsibility for the performance of any deferred compensation account or instrument selected by the employee.

9.8.4 **414 (H) 2**

Effective July 26, 1993 the City implemented IRS Section 414(H)(2) for the full seven percent (7%) employee-paid portion of PERS retirement. Continued implementation of this provision is subject to IRS and PERS regulations which are subject to change.

9.9 **Continuation of City Insurance Contributions**

During the term of this Memorandum, the City agrees to pay for increases in the premiums for insurance, as described herein, up to the dollar amounts listed above. Upon expiration of this Memorandum, the City will continue paying the dollar amount of premiums then being paid, unless and until there is an agreement to pay a higher amount, or the City Council takes unilateral action in the absence of agreement.

10. **HOURS OF WORK. OVERTIME, PREMIUM PAY**

10.1 **Work Schedule and Adjustments** - The regular work week for employees occupying full time positions shall consist of five (5) consecutive eight (8) hour workdays beginning on Monday at the regularly scheduled starting time for each department. If the City adjusts a shift starting time for a specific temporary assignment, the employee shall have the choice of overtime or time off for the shift adjustment. Upon notification of the Union and within the above limitations, the City will assign starting and ending times for the various departments during the term of this Memorandum. Exceptions to this Section for individuals may be made by agreement between the City and the employee.

10.2 **Lunch and Breaks** - A one-half (1/2) hour unpaid lunch period shall be observed each day. One (1) fifteen (15) minute rest break with pay shall be observed during each one-half (1/2) of the workday.

10.3 **Overtime**

10.3.1 **Definition and Compensation**- Authorized work performed in excess of forty (40) hours in one (1) week shall constitute overtime. Authorized work performed in excess of eight (8) consecutive hours in one (1) day (exclusive of lunch period) shall constitute overtime. An employee required to work in excess of the regularly scheduled hours of work, as defined in the preceding paragraph, shall be compensated for each overtime hour so worked at the rate of one and one-half (1-1/2) times the employee's regular straight-time rate of pay, except that all hours worked in excess of twelve (12) in any workday shall be compensated at two (2) times the employee's regular straight-time rate.

10.3.2 **Assignment of Overtime** - Whenever possible, overtime shall be assigned on a volunteer basis. However, if there are no qualified volunteers, overtime shall be assigned according to reverse order of seniority by classification.

- 10.3.3 **Relief Time** - If an employee is required to work overtime for four (4) or more hours of the eight (8) hours immediately preceding the start of the employee's regular shift, then paid relief time shall be granted by the supervisor up to a maximum of four (4) consecutive hours at the end or beginning of the next regularly scheduled shift. The extent of relief granted and the timing of such relief time is within the discretion of the supervisor.
- 10.3.4 **Choice of Compensation** - Payment for overtime work will be either cash or compensatory time off at the employee's option. In no event shall payment for overtime be less than the rates established in this Section.
- 10.3.5 **Compensatory Time Maximum** - Employees may accumulate a maximum of one hundred twenty (120) hours of compensatory time off, which may be used at times chosen by the employee and approved by the appropriate supervisor.
- 10.4 **Callback** - An employee recalled to work outside of and not continuous with regularly scheduled hours shall be paid a minimum of two (2) hours at the rate of one and one-half (1-1/2) times the employee's regular straight-time rate of pay. An employee shall be considered on the job from the time he/she leaves home until returning to his/her home. The minimum of two (2) hours shall apply to the first call back and to any subsequent call back after two (2) hours has expired from the original call. For purposes of this Section 10.4, an employee shall be on call back status if a request for work is made five (5) minutes or more after his/her regularly scheduled hours.
- 10.5 **Standby**
- 10.5.1 **General Provisions** - An employee will be considered on standby duty only when assigned to answer calls outside of regularly scheduled hours and provided a City "beeper". Employees on standby will have the

option of using a City vehicle; however, such vehicle cannot be used for any private or personal purposes.

10.5.2 **Response Requirement** - An employee on standby should be able to respond to the corporation yard within thirty (30) minutes of the call. If an employee's regular residence is not within the thirty 30-minute reporting time, then the employee must place on file with the department head a written statement as to how the employee will meet the 30-minute reporting requirement when on standby.

10.5.3 **Compensation**

a. An employee assigned to be on standby shall receive two (2) hours pay at the straighttime rate for each week night of standby time. Standby on Saturday or Sunday shall be compensated at eight (8) hours pay at one and one-half (1-1/2) times the employee's regular rate of pay for each day of standby worked.

b. Night standby on weekends or holidays will be compensated by two (2) hours at the straight-time rate. Standby on any holiday shall be compensated by eight (8) hours at one and one-half (1-1/2) times the employee's regular rate of pay in addition to holiday pay. Standby on Saturdays, Sundays or Holidays, for which eight (8) hours pay at one and one-half (1-1/2) times regular pay is received, is understood to be time spent on duty at the corporation yard.

10.5.4 **Implementation** - The City will adopt reasonable regulations in order to implement the above provisions.

10.5.5 **Compliance** - Failure to comply with the thirty (30) minute rule will result in discipline and automatic loss of standby privileges.

11. **HOLIDAYS**

11.1 **Holiday Pay** - Regular full-time employee shall be entitled to observe all authorized holidays at full pay, not to exceed eight (8) hours for any one (1) day.

11.2 **Holidays Listed** - The following are the authorized holidays:

| | |
|-------------------------------|----------------------------|
| New Year's Day | (January First) |
| Martin Luther King's Birthday | (3rd Monday in January) |
| Washington's Birthday | (3rd Monday in February) |
| Memorial Day | (Last Monday in May) |
| Independence Day | (July Fourth) |
| Labor Day | (1st Monday in September) |
| Admission Day | (September Ninth) |
| Columbus Day | (2nd Monday in October) |
| Veteran's Day | (November Eleventh) |
| Thanksgiving Day | (4th Thursday in November) |
| Day after Thanksgiving | (4th Friday in November) |
| Christmas Day | (December Twenty-Fifth) |

Two Floating Holidays Per Calendar Year

11.3 **Observance** - If a holiday falls on a Sunday, such holiday shall be observed on the Monday following. If a holiday falls on a Saturday, such holiday shall be observed on the preceding Friday. For the purposes of this Article 11, unit members shall be entitled to fourteen (14) holidays per calendar year.

11.4 **Work on a Holiday** - Any regular full-time employee who is required to work on any of the holidays specified in Subsection 11.2 above shall, in addition to receiving regular pay for such holiday, be paid one and one-half (1-1/2) times the employee's regular straight-time rate of pay for all hours actually worked on such holiday.

11.5 **Work on Thanksgiving or Christmas Day** - Any regular full-time employee who is required to work on Thanksgiving and/or Christmas Day shall in addition to receiving regular pay for such holiday, be paid two (2) times the employee's regular straight-time rate of pay for all hours actually worked on Thanksgiving or Christmas Day.

11.6 **Vacation** - In the event any of the holidays specified in Subsection 11.2 above occurs while an employee is on vacation, the holiday shall not be charged to vacation.

12. **VACATIONS**

12.1 Represented employees shall be entitled to vacation pay in accordance with the following provisions:

12.1.1 **Eligibility** - Eligibility for vacation allowance shall start when an employee has served continuously for the calendar year in which the vacation is requested. The term "calendar year" is defined as a twelve (12) month period beginning in any month.

12.1.2 **Vacation Schedule**

Vacation shall be accrued as follows:

From completion of 1st year of continuous employment through completion of 5th year
- 10 days per year.

From beginning of 6th year of continuous employment through completion of 10th year
- 15 days per year.

During 11th year of continuous employment
- 16 days per year.

During 12th year of continuous employment
- 17 days per year.

During 13th year of continuous employment
- 18 days per year.

During 14th year of continuous employment
- 19 days per year.

During 15th year of continuous employment
- 20 days per year.

During 16th year of continuous employment

- 21 days per year.

During 17th year of continuous employment

- 22 days per year.

During the 18th and each year thereafter of continuous employment

- 23 days per year.

12.2 **Accrual Maximum** - Earned vacation time may be accumulated, but the employee shall not be allowed to have an accumulation of more than two (2) years' credit at any time.

12.3 **Scheduling** - Vacations shall be scheduled yearly by employees with the approval of the division head. Preference in scheduling shall be based on seniority.

12.4 **Separation** - When an employee is separated from the service after continuous employment for at least twelve (12) calendar months, his/her earned vacation allowance shall be prorated and added to or subtracted from his/her final compensation.

13. **SAFETY**

13.1 **Committees**

13.1.1 **Composition**

a. The Public Works Department Safety Committee shall consist of two (2) representatives from the Street and Sewer Division, two (2) representatives from the Water Division, one (1) representative of the Shop Division, one (1) representative of the Electrical Division, and two (2) representatives from the City.

b. The Park Department Safety Committee shall consist of one (1) representative from each park crew, the Park Maintenance Lead worker, Assistant Park Director, and Director of Parks.

13.1.3 **Meetings** - Safety committees shall meet monthly.

13.2 **Safety Equipment**

The City shall continue to supply employees with safety equipment required by the City and/or CAL-OSHA. All employees furnished such equipment shall use the equipment and their use shall only be for the purposes and uses specified under applicable safety rules and regulations.

13.3 **Class B Driver's License**

13.3.1 **Requirement and Accommodation** - The Union acknowledges that the City and employees must comply with state law. The City agrees to pay for required medical exams and grant reasonable work time for taking required exams. The City may reassign an employee to other duties if the employee has: 1) not passed a required exam for a Class B license; 2) been unable to maintain or re-qualify for the license due to medical reasons; or 3) temporarily lost use of the license for six (6) months or less.

13.3.2 **Premium** - The City will pay the sum of one hundred dollars, annually on July 1, to each employee who has been required by the City to obtain and maintain the Class B license, and who has fulfilled that requirement.

13.4 **Training** - The City will seek to expand training availability in job related skills and certifications when applicable and appropriate within budget limitations.

13.5 **Drug-Alcohol Testing** - The City and the Union have met and agreed upon an Alcohol and Drug Testing Procedure for commercial drivers in compliance with federal regulations.

14. **UNIFORMS**

14.1 **Committee** - The City and the Union shall appoint a joint committee for the purpose of establishing procedures for accounting for uniforms. The committee shall be comprised of one (1) appointee of the City, one (1) appointee of the Union, and one (1) from the uniform laundering company. The report shall be made to the City Manager and the Union.

14.2 **Safety Shoe Reimbursement** - The City will reimburse each employee required to wear safety shoes, as determined by each department safety committee, up to one hundred thirty dollars (\$130) per employee per fiscal year. That amount shall be increased during the term of this Agreement in the following manner: effective 7/1/98, to \$140; effective 7/1/99, to \$150; effective 7/1/00, to \$160. Employees whose work requires special safety footwear for tree climbing shall be reimbursed up to two hundred dollars (\$200) per fiscal year, such amount to be increased by \$10 per year effective 7/1/98, and in each subsequent year of this Agreement.

15. **PROMOTION**

15.1 **Filling of Vacancies** - All vacancies in higher positions in the classified service shall be filled by promotion from within if the following conditions are met:

a. The Civil Service Commission formally meets to determine that the best interests of the City will be served by promoting from within.

b. The person to be promoted meets the minimum qualifications of the promotional position.

c. The Civil Service Commission shall determine whether any examination shall be promotional or otherwise.

d. Any promotional examination shall comply with the rules and regulations governing competitive examinations set forth in the Civil Service Rules.

15.2 **Employment Lists** - Employment lists shall become effective upon the approval thereof by the Civil Service Commission. Employment lists shall remain in effect for one (1) year, unless sooner exhausted, and may be extended, prior to their expiration dates, by action of the Civil Service Commission for additional one (1) year periods, but in no event shall an employment list remain in effect for more than two (2) years. The name of any person on an employment list may be removed by the City Manager if the eligible person requests in writing that his/her name be removed, or if the employee fails to respond to a written offer of employment within five (5) business days next succeeding receipt of the mailing of the

notice, which shall be by regular mail. A candidate who rejects an offer of employment shall be removed from the employment list.

- 15.3 **Time for Promotional Examinations** – Promotional examinations scheduled by the City during an employee's regular working hours may be taken without any loss in compensation.
- 15.4 **Probationary Period** -The probationary period for a new City employee shall be twelve (12) months. The probationary period for an existing employee who accepts a promotion shall be six (6) months.
- 15.5 **Extension** - The City may extend the probationary period for an equal period of time in case of absence of thirty (30) days or more for extended sick or accident leave.
- 15.6 **Refection From Probation** - Any employee who is in a probationary status may be rejected during the probationary period without cause. Any employee who has gained permanent status and thereafter accepts a promotion may be rejected during the probationary period without cause; provided, however, said employee shall retain all other rights of a permanent employee in the position held prior to promotion. Those rights can only be affected for cause.
- 15.7 **Grievance Rights** - An employee who believes that a promotion according to this provision has been improperly denied, may file a grievance regarding such denial. However, such grievance cannot under any circumstances be appealed beyond the level of the City Manager.

16. **LEAVE PROVISIONS**

16.1 **Sick Leave**

Sick leave with pay shall be granted to all regular full-time employees at the rate of one (1) day for each month of service. In order to receive compensation while absent on sick leave, the employee shall notify the appropriate management personnel prior to the regularly scheduled shift starting time if reasonably possible.

- 16.1.1 **Physician's Certificate** - When absence is for more than four (4) workdays, or whenever appropriate, management personnel have a bona fide question about the propriety

of a request for sick leave the employee shall file a physician's certificate with the appropriate management personnel stating the cause and reasons for the absence.

- 16.1.2 **Sick Leave Restriction** - If an employee has been warned by the department head regarding any inappropriate use of sick leave, then such an employee will be placed on restricted sick leave for a period of six (6) months. During this period of restricted sick leave the employee: 1) will be required to remain at the employee's residence, except when obtaining medical assistance or for hospitalization, and except for other necessary sustenance activities; and further, 2) such employee shall receive telephone calls from the City in order to verify the illness; and 3) shall provide a physician's report prior to returning to work in order to verify the illness. Finally all sick leave requests, verification and documents shall be signed under penalty of perjury by employees placed on restricted sick leave.
- 16.1.3 **Maximum Accumulation** - Unused sick leave shall be accumulated to a maximum of one hundred eighty (180) days.
- 16.1.4 **Family Illness** - An employee shall be able to use up to three (3) days sick leave with pay each calendar year when serious illness of a member of the employee's immediate family necessitates such absence. The definition of "immediate family" shall be as set forth in Section 15.3 herein. "Serious illness" as defined herein is an illness severe enough to require the presence of the employee. The definition does not include instances where the primary purpose is convenience to the family, such as assisting family members with routine medical visits or attending family members other than infants with common illnesses such as colds or flu. The birth of a baby, hospital visits, bringing the baby home is covered under this section.
- 16.1.5 **Payoff Upon Retirement** - Upon retirement, an employee shall be paid twenty-five percent (25%) of his/her accrued, unused sick leave up to a maximum payment for thirty-seven and one-half (37-1/2) days.

16.1.6 **Sick Leave Incentive** - Any employee who uses three (3) days or less of sick leave including family leave, during a calendar year, shall receive one (1) day of additional pay or vacation, as the employee determines. Any employee who uses one (1) day or less of 22 sick leave including family leave, during a calendar year, shall receive two (2) days of additional pay or vacation, as the employee determines.

16.1.7 **Catastrophic Leave** -

Leave credits may be transferred from one or more donating employees to another receiving employee under the following circumstances:

a. The receiving employee - or his/her immediate family member - has sustained a serious illness or injury expected to last 30 days or more, and the employee has exhausted, or is anticipated to exhaust, all his/her paid accrued leave.

b. The receiving employee has requested participation in Catastrophic Leave in order to continue in pay status, and this request has been approved by the employee's Department Head, who may require medical verification of the condition and expected period of absence.

c. Other employees have applied to donate vacation, compensatory time and/or holiday time to the employee, by submission of Catastrophic Leave Time Donation Form. Donations must be in increments of four hours or more.

d. The City will transfer such time from the donating employees, converting it to the receiving employee's sick leave balance on an hour-for-hour basis, to be paid out at the receiving employee's pay rate.

e. Transfer of such time will be irrevocable, except in the event of the untimely death of the receiving employee, in which case, donated time will be returned to donating employees on a last-donated, first returned basis.

- 16.3 **Disability Leave** - Disability leave is absence from duty granted because of a disability caused by illness or injury arising out of and in the course of his/her employment. Disability leave shall be in accordance with the provisions of the workers' compensation laws of the State of California and the benefits and allowance provided under it, except as specifically provided herein.
- 16.3.1 **Conditions and Duration of Leave** - For days of absence as a result of illness or injury arising out of and in the course of an employee's assigned duties and through no fault of his/her own, an employee shall receive disability pay for one (1) year to the extent that his/her loss of earnings is not covered by the benefits granted under the provisions of the workers' compensation laws of the State of California, unless he/she is terminated earlier. The total amount received from Workers' Compensation benefits and disability pay shall not exceed eighty percent (80%) of the employee's regular rate of pay. The City will notify the employee that he/she has the option of using accumulated sick leave to pay the residual, and unless the employee notifies the City otherwise, the residual will be paid by use of accumulated sick leave until such time as accumulated sick leave is exhausted.
- 16.3.2 **Light Duty** - In an attempt to accommodate requests from employees who have suffered injury or illness arising out of and in the course of assigned duties and through no fault of the employee, the City will develop a schedule for graduated light duty according to the needs of the individual employee and the City. The City will notify a designated representative of the Union when an employee has been placed on graduated light duty.
- 16.4 **Bereavement Leave** - In the event of a death in an employee's immediate family, absence from duty shall be allowed not to exceed three (3) days. In the event of the death of a relative, not a member of the immediate family, absence from duty shall be allowed not to exceed one (1) day. Such absences shall not be charged to sick leave. For the purposes of this Section, "immediate family" means father, mother, husband, wife, son, daughter, sister, brother, grandparent, mother-in-law, or father-in-law of the employee.

- 16.5 **Leave Without Pay** - The City Manager may grant a permanent employee a leave of absence without pay or benefits not to exceed one (1) year. Request for such leave shall be in writing and shall be approved by the City Manager in writing. Leave requested under this Section shall not be routinely denied.
- 16.6 **Return to Work and Reinstatement Rights** – Upon expiration of a regularly approved leave, or within a reasonable period of time after notice to return to duty, the employee shall be reinstated in the position held at the time the leave was granted.
- 16.7 **Maternity, Parental and Adoptive Leaves** - Employees may use accumulated sick leave as set forth in Section 15.1 for pregnancy related disability as such disability is certified by the employee's physician. Leave without pay shall be provided according to Section 16.4 herein for purposes of postpartum care of an infant child or for adoption of an infant child, provided, however, that upon the employee's request, up to ten (10) days of accrued sick leave may be utilized upon arrival in the employee's home of an adoptive child. Should both adoptive parents be City employees, the total accrued sick leave available to the couple for this purpose shall be ten (10) days.
- 16.8 **Applicable Law** - Notwithstanding any provision of Section 16.1.4 or 16.6 above, the granting of family and medical leave shall be as provided by state and federal law.
- 16.9 **Military Leave** - Military leave shall be granted in accordance with applicable State and Federal laws.

17. **TRANSFER**

An employee may be transferred from one position to another position in the same or comparable classifications upon approval of the affected department heads.

18. **LAYOFF AND RECALL**

- 18.1 **Layoff** - Permanent employees may be laid off, without prejudice, due to lack of funds or curtailment of work. No permanent employee, however, may be separated while there are temporary employees serving in the same class or position in the City service, unless that employee has been offered the temporary work.

18.2 **Procedure** - When a department head is instructed by the City Manager to reduce the number of employees, layoff shall be made in accordance with the following rules:

18.2.1 **Order** - Layoffs shall be by job classification according to reverse order of seniority as defined by total City service.

18.2.2 **Displacement Rights** - The employees to be laid off may displace the least senior employee in the lateral or next lower classification in which he/she previously held permanent status, provided the displaced employee has less total City service.

18.2.3 **Vacancies** - An employee may demote or transfer to a vacant position for which he/she possesses the necessary skills as determined by the minimum qualifications and job specifications for position.

18.2.4 **Re-Employment List** - The name of each employee laid off shall be entered on a re-employment list in order of seniority for three (3) years.

18.2.5 **Benefits Upon Re-Employment** - Former employees appointed from a re-employment eligible list shall be restored all rights accrued prior to being laid off, such as sick leave, vacation credits, and credit for years of service. However, such re-employed employees shall not be eligible for benefits for which they received compensation at the time of or subsequent to the date they were laid off.

18.2.6 **Notice** - At least fourteen (14) calendar days notice shall be given to the employee prior to the date of layoff.

19. **RESIGNATION**

Any employee wishing to resign from employment shall file with the department head a notice of intention to leave at least two (2) weeks in advance. Said notice will state the effective date of departure. Upon completion and signing of a form disclosing the reasons for leaving, the resigning employee shall be entitled to his/her final paycheck.

20. **REINSTATEMENT**

A permanent employee who has resigned in good standing may request reinstatement and the City Manager may reinstate such employee to a vacant position, if the City Manager determines reinstatement will be in the best interest of the service. Following a one (1) year period after resignation, the City Manager may request such employee to submit to a physical examination and may require the employee to serve a new probationary period.

21. **DISCIPLINE**

21.1 The City retains the right to impose disciplinary action upon an employee of this unit; however, the penalty for such action shall be limited to:

a. written reprimand,

b. suspension from work, or partial suspension from work opportunities,

c. demotion, in class and/or pay step

d. discharge.

21.2 **Administrative Leave** - The City may also place an employee on administrative leave with pay pending and investigation into alleged misconduct.

21.3 **Grievance Rights** - Disciplinary actions may be imposed upon any permanent employee only for cause. Any disciplinary action or measure may be processed through the grievance procedure described herein, except that written reprimands and suspensions of one (1) day or less may not be grieved beyond Step 3 of the grievance procedure.

21.4 **Method of Reprimand** - If the City has reason to reprimand an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

21.5 **Notice** - The City agrees to give any employee who is being discharged at least five (5) days' notice of such disciplinary action, except in cases of aggravated misconduct.

22. **GRIEVANCE PROCEDURE**

22.1 **Definitions:**

- 22.1.1 "Days" as used herein shall be days when the City Hall of the City of Burlingame is open for business.
- 22.1.2 "Grievance" is any dispute over the interpretation or application of any provision of this Memorandum by any employee adversely affected thereby.
- 22.1.3 "Grievant" is an individual employee or employee organization adversely affected by any dispute over the interpretation or application of any provision of this Memorandum. It is agreed that the Union can only grieve disputes over Sections 1, 2, 3, 4, 6 and 7 of this Memorandum.

22.2 **Steps:**

- 22.2.1 **Step 1** - Grievant shall discuss the grievance with his/her appropriate management personnel within fifteen (15) days of actual or constructive knowledge of the existence of the grievance. If the issue is not resolved, grievant shall be entitled to proceed to Step 2.
- 22.2.2 **Step 2** - Within ten (10) days of the conclusion of the Step 1 meeting, grievant shall file with his/her department head a written grievance setting forth the following:

Name

Classification

Supervisor

Section or Sections of the Memorandum allegedly violated

Remedy sought

Union

Within ten (10) days of receipt of the written grievance, the department head will meet with the grievant and his/her representative to reach a satisfactory resolution.

22.2.3 **Step 3** - If the grievance is not resolved at Step 1 or Step 2, it may be appealed to the City Manager within ten (10) days of the conclusion of the meeting described in Step 2. Said appeal shall be in the form of a written request to proceed to Step 3, along with the written grievance. The City Manager or designee shall respond to the grievance within ten (10) days of receipt of the written appeal. The determination of the City Manager shall be final, except as provided in Step 4.

22.2.4 **Step 4** - If not satisfied with the decision at Step 3, the grievant, within five (5) days after receipt of the Step 3 response, may request in writing that the Union submit the grievance to arbitration. Within ten (10) days of the grievant's receipt of the decision at Step 3, the Union shall inform the City of its intent as to whether or not the grievance will be arbitrated.

Arbitration and Selection Process - The Union, by written notice to the City Manager within fifteen (15) days of the Step 3 response, may submit a grievance to an arbitrator who shall be selected by mutual agreement. If no agreement can be reached within five (5) days of the notice, the parties shall request of the State Conciliation Service a list of five (5) names of persons experienced in hearing grievances. Each party shall alternately strike a name until only one (1) name remains. The order of strike shall be determined by lot.

Decision - In each dispute, the arbitrator shall, as soon as possible, hear evidence and render a decision on the issues) by referring to the written grievance and the answers thereto at each step. After the hearing, and after both parties have been given the opportunity to make written arguments, the arbitrator shall submit, in writing, his/her findings and award to the Union and the City.

The award of the arbitrator shall be final and binding.

Arbitrator's Authority - The arbitrator will have no power to add to, subtract from, or modify the terms of the Memorandum or the written policies, rules, regulations, and procedures of the City; nor shall the arbitrator be empowered to render a decision on issues not before the arbitrator or on facts not supported by the evidence.

Arbitration Costs - The fees and expenses of the arbitrator and each hearing shall be borne equally by the City and the Union; or if an individual pursues arbitration without the Union's consent, said individual shall share equally in the cost with the City, provided, however, that no grievance involving interpretation of this Memorandum of Understanding may be advanced to arbitration without the concurrence of the Union. All other expenses shall be borne by the party incurring them.

Questions of Arbitrability - If any question arises regarding the arbitrability of a grievance, the party raising the question of arbitrability may, upon request, have such question first ruled upon and decided by an arbitrator prior to any other hearing on the merits of the grievance which would thereafter be conducted by a second and different arbitrator. The fees and expenses of the separate arbitrator deciding the issue or arbitrability shall be borne by the party which raised the question of arbitrability.

Waiver of Other Remedies - By submitting the grievance to arbitration, the grievant expressly waives any right to statutory remedies or to the exercise of any legal process other than as provided by this grievance/arbitration procedure. The processing of a grievance beyond Step 3 shall constitute an express election on the part of the grievant that the grievance/arbitration procedure is the chosen forum for resolving the issues contained in the grievance, and that the grievant will not resort to any other forum or procedure for resolution or review of the issues. The parties do not intend by the provisions of this paragraph to preclude the enforcement of any arbitration award in any court of competent jurisdiction.

22.3 **Failure to Pursue**

22.3.1 **Grievant** - Any failure by grievant to pursue his/her grievance within the time limits to the next step shall be a voluntary abandonment of the grievance, and grievant shall not thereafter be entitled to pursue said grievance. Such settlement in favor of the City shall not prejudice the rights of the Union or other employees to pursue a similar grievance, provided all other requirements of this Memorandum are met.

22.3.2 **City** - Any failure by the City to respond within the time limits set forth shall entitle grievant to pursue his/her grievance to the next step.

22.4 **Representation**

22.4.1 Grievant shall be entitled to be represented by his/her Union and/or his/her attorney at any grievance meeting or discussion described in any one (1) of the steps of the grievance procedure; provided, however, in no event shall more than one (1) City employee, in addition to grievant, attend such grievance meetings. The limitations of this Section shall apply to employees on paid release time and not to Union staff or witnesses who may be necessary to the grievance.

22.4.2 Neither grievant nor his/her representative shall suffer loss of pay for attending the meetings described in the steps of the grievance procedure.

22.4.3 Except for grievance meetings described in the steps of the grievance procedure, neither grievant nor any representative of grievant shall be entitled to use regular work time to process the grievance.

22.5 **Other Procedures**

The grievance procedure set forth herein shall supersede and replace any other grievance or appeal procedures otherwise available to represented employees and are deemed sufficient to satisfy procedural due process requirements for such hearings and/or appeals.

23. **CONCERTED ACTIVITIES**

It is agreed and understood that there will be no strike, work stoppage, slow down or refusal to perform job functions during the term of the Memorandum. However, this provision will not require an employee to cross a picket line of a sanctioned strike if such crossing might reasonably lead to direct harm to the employee.

24. **CITY RIGHTS**

The City hereby retains and reserves unto itself, without limitation, all powers, rights, authority, duties and responsibilities conferred upon and vested in it by the Constitution of the United States, the Constitution of California, the laws of the United States, the laws of California, the ordinances and resolutions of the City of Burlingame and shall be limited only by the express and specific terms of this Memorandum.

25. **EFFECT OF AGREEMENT**

This Memorandum shall supersede any prior Memoranda of Understanding, rules, regulations or ordinances in direct conflict with the provisions hereof.

26. **MODIFICATION**

There will be no alteration or modification of any provision contained in this Memorandum without the written consent of all parties hereto.

27. **TOTAL AGREEMENT**

This Memorandum constitutes a full and complete agreement by the parties and contains all of the matters upon which the parties reached agreement. Any matter not contained in this Memorandum has not been agreed upon and, if raised in negotiations, was dropped by the party raising it as part of a good faith attempt to reach agreement.

28. **NEW WORK**

In the event the City introduces new work which the Union believes does not fall within any of the existing classifications, the City and the Union shall, upon written request, meet and confer with respect to the assignment or classification of such work.

29. **SEPARABILITY OF PROVISIONS**

Should any Section, clause or provision of this Memorandum be declared illegal by final judgment of a court of competent jurisdiction, such invalidation of such Section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this Memorandum. In the event of such invalidation, the parties agree to meet and confer concerning substitute provisions for provisions rendered or declared illegal.

30. **TERM**

Except as specifically provided herein, this Memorandum shall remain in effect for those employees employed in the classifications which comprise the AFSCME bargaining unit for the period from July 1, 1997, to and including June 30, 2001.

For AFSCME, Local 2190:

For City of Burlingame:

Date: _____

Date: _____

Linda Gregory

Dennis Argyres

Vicente Quintana, President

Shawn Bowler, Committee

Peter Gaines, Committee
