

MEET AND CONFER AGREEMENT

**BY AND BETWEEN THE
HOUSTON ORGANIZATION OF PUBLIC EMPLOYEES
AS THE SOLE AND EXCLUSIVE
BARGAINING AGENT FOR AND ON BEHALF OF
MUNICIPAL EMPLOYEES
AND
THE CITY OF HOUSTON**

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MEET AND CONFER This Agreement (Agreement) was negotiated pursuant to the meet and confer provisions of Chapter 146 of the Texas Local Government Code (TLGC).

PARTIES The parties to the Agreement are the Houston Organization of Public Employees (HOPE), an employee association, as Sole and Exclusive Bargaining Agent for and on behalf of municipal employees of the City of Houston in the Bargaining Unit and the City of Houston (City), a home-rule municipality.

INTENT The City met and conferred with HOPE in order to recognize the positive roles of municipal employees, reflect the constructive influence employees can have on City government and acknowledge the critical roles that hard work, good faith, and commitment to public service play in the provision of City services as well as the effective and efficient administration of City departments. The parties demonstrated a mutual regard for achieving and maintaining harmonious working environments and relations, establishing expectations of performance and excellence, and developing standards for wages, hours, and other terms and conditions of employment for Bargaining Unit Members. This Agreement exemplifies the many efforts made to achieve positive results through many hours of discussion, collaboration and consideration that culminated in this Agreement to benefit municipal employees, the City, the taxpayers and the quality of life of all.

AUTHORITY Federal, state and local laws vest authority in the Mayor to administer, manage and set the direction for City-provided services with elected officials legislating and governing in support thereof. This Agreement abrogates none of this authority but recognizes that municipal employees can, do and should participate in their governance through participation, input, suggestion and recommendation.

EFFECTIVE DATE This Agreement, being made pursuant to Chapter 146 TLGC, shall become binding and enforceable upon the City, including its administrators, managers, supervisors and employees, and HOPE, and all municipal employees in the Bargaining Unit, only if ratified by a majority of HOPE members and adopted by the City through an ordinance. This Agreement becomes effective on the date the City Controller countersigns this Agreement after its adoption by an ordinance approving and authorizing this Agreement by the City Council.

Article 1 DEFINITIONS

1.01 **Agreement** Agreement shall mean this meet and confer Agreement entered into by and between the City and HOPE.

1.02 Bargaining Unit / Member of (UM)

The Bargaining Unit consists of all municipal employees of the City other than Department Directors and classified members of the Police and Fire Departments subject to Chapter 143 TLGC.

1.03 **Chapter 146** Chapter 146 shall mean Chapter 146 *et seq.* TLGC.

1.04 **City** City shall mean the City of Houston, a home-rule municipality, including its agents, employees, City officials and elected officials.

1.05 **City Business** City Business shall mean participation by City employees in official activities, events, functions or programs that benefit or advance the City's interests. All time spent in the official activity and reasonable travel time to and from such location are considered to be time spent in the furtherance of City Business and fully compensable.

1.06 **Department** Department shall mean any of the departments of the City established by the City Council and includes divisions of the Mayor's Office.

1.07 **Facilitator** Facilitator shall mean the City representative or designee appointed by the Mayor to coordinate and facilitate the meetings and activities of the Municipal Employee Consultation Committee (MECC).

1.08 **HOPE** HOPE shall mean the Houston Organization of Public Employees, an employee association within the meaning of Chapter 146 TLGC.

1.09 **HOPE Member / Member**

HOPE Member or Member shall mean a City employee who (1) has provided to the City a completed and executed HOPE membership designation and (2) pays HOPE dues through payroll deductions.

1.10 **HOPE Representative**

HOPE Representative shall mean a City employee who has been appointed or designated by HOPE to act in an official capacity or function as a representative of HOPE for a specified purpose. HOPE Representatives to the MECC or new employee orientation may, but need not, be City employees.

1.11 **Human Resources Director / HR Director**

Human Resources Director or HR Director shall mean the Director of the Human Resources Department of the City who is responsible for the implementation of the terms and provisions of this Agreement and the support services for compliance with them and the support of the MECC. The term HR Director also includes any designee(s) of the HR Director.

1.12 **Mayor** Mayor shall mean the duly elected Mayor of the City or his/her designee.

1.13 **Meet and Confer** Meet and Confer shall mean the statutorily created authorization that allows the City to meet with a recognized sole and exclusive bargaining agent to confer about compensation, non-pension benefits, hours, and other terms and

conditions of employment that affect UMs without a corresponding mandate that the parties agree to a contract or any terms.

1.14 Municipal Employee Consultation Committee (MECC)

The Municipal Employee Consultation Committee or MECC shall mean a committee of eight (8) persons composed of equal members of HOPE and City Representatives whose function is to review issues and recommend resolutions to the Mayor.

1.15 Sole and Exclusive Bargaining Agent (SEBA)

Sole and Exclusive Bargaining Agent or SEBA shall mean HOPE, which the City has recognized based on a petition showing that more than 50% of the Bargaining Unit designated HOPE as their SEBA.

Article 2 RECOGNITION; NO STRIKE, NO CALL

The City recognizes HOPE as the SEBA on behalf of all Members of the Bargaining Unit. Texas state law prohibits public employees from striking and HOPE, as the SEBA, affirms that it does not advocate illegal strikes by municipal employees, that it will not call a strike, and that it will take reasonable steps to attempt to stop any unauthorized strike by Members of the Bargaining Unit.

Article 3 NON-DISCRIMINATION

The City and HOPE agree and affirm that neither will discriminate nor retaliate against or harass UMs on the basis of race/color, religion, creed, national origin, sex/gender, age, disability or sexual orientation.

The City and HOPE further agree and affirm that neither will discriminate nor retaliate against or harass any UM on the basis of (1) membership or non-membership in HOPE; and/or (2) participation or non-participation in HOPE activities.

Notwithstanding the above, HOPE may deny UMs who are not members of HOPE those rights, privileges and benefits HOPE accords to HOPE Members only, including but not limited to the right to vote for HOPE officers, the right to vote on ratification of this Agreement, and union benefit programs provided to HOPE Members.

Article 4 MUNICIPAL EMPLOYEE CONSULTATION COMMITTEE (MECC)

4.01 **Committee** The City and HOPE shall establish jointly an advisory committee called the Municipal Employee Consultation Committee (MECC), which shall be composed of eight (8) members that meet on a regular basis to participate in a consultative process to review and dialogue about issues of mutual concern to the City and UMs. Regular meetings will be held every two (2) months beginning with the month that occurs forty-five (45) days after the effective date of this Agreement. More frequent or specially-called meetings may be scheduled by the Facilitator, if needed, and requested in advance.

4.02 HOPE MECC Representatives

Within thirty (30) days following the effective date of this Agreement, HOPE will designate up to a maximum of four (4) HOPE MECC Representatives to serve as working members of the MECC, one of whom shall be designated as the HOPE Co-Chair. HOPE MECC Representatives may, but need not, be City employees and may not exceed a maximum of four (4) members at any one time. HOPE Representatives can be designated from time to time by HOPE to serve indefinite or specified periods of time. HOPE Representatives that serve on the MECC must possess the necessary authority to speak on behalf of HOPE. Time spent by HOPE-designated MECC Representatives at MECC meetings and reasonable travel time, if necessary, shall be considered to be City Business if they are City employees without deductions of time from the HOPE Leave Pool.

4.03 Facilitator The Mayor will designate a City representative and an alternative designee to serve as the Facilitator of the MECC to convene meetings and guide the consultative process.

4.04 City MECC Representatives

Within thirty (30) days following the effective date of this Agreement, the City will designate up to a maximum of four (4) City Representatives to serve as working members of the MECC, one of whom shall be designated as the City Co-Chair who may, but need not be the Facilitator. The City Representatives can be designated from

time to time by the City to serve indefinite or specified periods of time, but may not exceed a maximum of four (4) members at any one time.

4.05 Resources The Facilitator may request the participation of other City employees as needed who will serve as resources from time to time to assist in the exploration of issues of concern or who may be helpful to reach a resolution of the issue under consideration as an agenda item. The HR Department will provide logistical, administrative and clerical support for the MECC meetings.

4.06 Sub-committees Subcommittees of MECC members and others may be appointed and commissioned by the Co-Chairs, upon mutual agreement, to review issues of concern for the duration necessary to explore or resolve each issue.

4.07 Closed Meetings All meetings of the MECC are informal and not open to the public or subject to Texas Open Meetings requirements. The Co-Chairs shall rotate presiding over meetings of the MECC in alternating meeting rotation. No formal minutes are required. Informal notes may be taken at each meeting to record assignments, work in progress, issue development, etc. All notes and documents made a part of the meetings are subject to public disclosure unless excepted from disclosure under the Texas Public Information Act.

4.08 Observers Members of the MECC may invite people to observe all or part of the meetings. Upon a majority vote of the MECC members present, observers may be

limited and/or excluded from all or part of the meetings if confidential, privileged or other protected information will be disclosed or they become too numerous, interfere or are disruptive. Observers are not members of the MECC and may not speak, provide input, or bring up issues, unless specifically invited by either Co Chair to do so. Observers who are City employees may not attend the meetings on City Business. HOPE or UMs who desire to observe and use HOPE Leave Pool hours (see 9.01 below) for reimbursement, must receive his/her supervisor's and HOPE approval in advance of such use.

4.09 Agenda Items The HOPE and City Co-Chairs will provide each other and the Facilitator with a list of those items each desires to have discussed at a regular or special called meeting at least fourteen (14) calendar days in advance of each meeting to allow each party sufficient time to get pertinent representatives to attend and/or to gather information necessary for meaningful dialogue. If an urgent need requires a meeting to be scheduled with less notice, or issues arise within fourteen (14) calendar days before the meeting, either Co-Chair may designate issues to the other and the Facilitator with as much advance notice as is feasible under the circumstances.

4.10 Issue Preclusion MECC meetings are not a continuation, resumption or re-opener of meet and confer negotiations and may not alter or amend any terms of this Agreement. Issues to be discussed should only be those that concern and affect more than an individual UM and/or affect one or more than one classification(s) of UMs or are systemic in nature and affect UMs.

4.11 Recommendations

The MECC is not a policy or decision-making body. Its purpose is limited to exploring issues and making recommendations to the Mayor. Any recommendations mutually agreed upon to be proposed through the MECC as resolutions or suggestions for action to be taken by the City or a specific department will be presented jointly to the Mayor. The two Co-Chairs will make joint recommendations for review and consideration and implementation as appropriate and approved at the Mayor's sole and exclusive discretion.

4.12 Departmental Employee Consultation Committee (DECC)

Since the City is committed to continuous improvement, efficiency and increased productivity for the benefit of its citizens, a Director of a Department with at least one hundred (100) UMs shall establish a similarly structured Departmental Employee Consultation Committee (DECC) for his/her department along the lines described above for the MECC. DECCs may mutually explore common interests, issues and concerns intrinsic to the department. The Department Director or his/her designee calls all meetings. DECCs shall meet every three (3) months, unless the parties mutually agree to waive this requirement. The first meeting of the DECC will be upon mutual agreement of both parties. HOPE shall designate two (2) HOPE Representatives from that department or in number equal to the number of management representatives, whichever is greater, to serve on the DECC. No DECC may be a decision making body itself. The DECC may only act in consultation with the Department Director who is the

final decision maker on all decisions pertaining to his/her department affecting department specific results, rules and/or policies. No DECC or Director may agree to or resolve issues that affect more than his/her department, alter this Agreement, contradict City-wide policies and/or procedures or local, state or federal laws. HOPE Representatives' time spent in DECC meetings, plus reasonable travel time, if necessary, will be considered to be City Business, without deduction of time from the HOPE Leave Pool.

Article 5 WELLNESS COMMITTEE

HOPE shall designate two (2) City employees to serve as HOPE Representatives on the Employee Wellness Advisory Committee (EWAC). Time spent at monthly EWAC meetings and reasonable travel time, if necessary, shall be considered to be City Business, without deduction of time from the HOPE Leave Pool.

Article 6 SAFETY COMMITTEE

HOPE shall designate two (2) City employees to serve as HOPE Representatives on the City's Safety Advisory Committee (SAC). Time spent at regular SAC meetings and reasonable travel time, if necessary, shall be considered to be City Business, without deduction of time from the HOPE Leave Pool.

Article 7 NEW EMPLOYEE ORIENTATION

One or more HOPE Representatives, who may, but need not be City employees, are authorized access to new City employees for up to twenty (20) minutes to make a

presentation to the new employees present at the group orientation sessions: (1) during in-processing of new employees at 611 Walker each time it is conducted, and/or (2) at each scheduled new employee orientation session held by Human Resources, or at each new employee orientation held elsewhere by other departments. The presentation by HOPE should be focused on HOPE matters to include information on SEBA issues or HOPE membership and should always be constructive in language, demeanor and tone consistent with the positive spirit of partnership exhibited by this Agreement. Unless participating on off duty hours, any City employee who conducts new employee orientations as a HOPE Representative must use HOPE Leave Pool hours or his/her own (non-sick) accrued leave time.

Article 8 BULLETIN BOARDS

HOPE shall be allowed to post meeting notices and a notice containing contact information on department bulletin boards. Notwithstanding, Department Directors may allow HOPE as the SEBA to post other items of interest to UMs, HOPE membership information, or other HOPE matters in or on any one or more existing or future bulletin boards in any or all facilities used by employees of his/her department. No department or Director is required to build, purchase or acquire any new bulletin boards for this purpose.

In order to maintain departmental control over the integrity of designated departmental bulletin boards for this or any other purpose or postings by employees or third parties including the SEBA, the Department Director may establish policies as to the length of time any posted material may remain before being discarded, outdated, etc. as well as

any departmental logistics or procedures for posting, including the size and location of any items posted within approved areas. However, no HOPE or other permitted postings may ever displace any federal, state, local or departmentally mandated employee notices. All notices posted by HOPE should be constructive in language, tenor and style consistent with the positive spirit of partnership articulated in this Agreement.

Article 9 UNION ISSUES

9.01 HOPE Leave Pool (HLP)

The City agrees that beginning with the first full pay period after June 1, 2008, and annually thereafter in each subsequent first full pay period in July of 2009, and July of 2010, it will deduct from each permanent, full time UM, who has been employed by the City for more than one year, one (1) hour of accrued vacation leave and credit the cash value of such leave to a HOPE Leave Pool (HLP). The HLP will be administered by the City and be available for designated HOPE Representatives to use to participate in HOPE or SEBA City related activities such as attendance at HOPE sponsored training, HOPE contract negotiation sessions, new employee orientation sessions, or limited special assignments that do not involve representation of individual employees against the position of the City. As limited above, HLP hours may also be utilized to conduct HOPE business associated with the administration and protection of this Agreement, including using City employees/HOPE Representatives at contract dispute or Alternative Issue Resolution proceedings only.

The accrued vacation leave in June of 2008, and July 2009, and July 2010, and credited to the HLP must be currently accrued and available for immediate withdrawal from the employee's accrued leave balance at the time it is credited.

If within the first thirty (30) days following the effective date of this Agreement, or in subsequent years of 2009 or 2010 during the month of May, any UM desires not to donate the one hour of vacation mandated above, the UM may revoke the donation by filling out a HLP Revocation Notice (an approved form to be provided by the City) and submitting it to his/her department payroll representative and a copy to HOPE.

Revocation of the HLP deduction will be accomplished before the first full pay period in June in 2008 and July 2009 or July 2010 following the submission of the HLP

Revocation Notice. Once an employee has revoked the donated leave, no further donations of leave will be deducted during the term of this Agreement unless a new deduction is authorized by the UM. A UM may voluntarily donate additional vacation hours and/or reapply to participate in donated vacation to the HLP at any subsequent time by filling out a vacation leave donation request and submitting it to HOPE and the departmental payroll representative.

All new employees hired by the City will be exempted from the HLP deduction for the first twelve (12) months of employment with the City. The first deduction of leave hours for new hires will occur the first full pay period in July immediately following the first anniversary after the completion of one calendar year of employment with the City, unless the employee submits an HLP Revocation Notice as set out above.

The HLP balance will be reported to HOPE quarterly. Any UM who donates or receives HLP hours must be eligible to donate or take vacation under the City's policies.

All HLP funds that are not utilized in the fiscal years ending June 30, 2009, or June 30, 2010, shall be carried over to the next fiscal year leave pool beginning July 1. Any HLP funds remaining on June 30, 2011 shall be paid to UMs on a pro rata lump sum basis during the month of August, 2011 unless a new Agreement is ratified that provides otherwise. If HOPE determines that sufficient funds exist in the HLP, the HOPE President or his/her designee may temporarily halt for a time certain the continued deduction of mandated or donated time from UMs.

Each designated HOPE Representative (permanent/full time employee only) who wishes to avail him/herself of the HLP reimbursement, must request from HOPE and receive written HOPE authorization in addition to complying with all departmental rules and procedures for advance notice requesting leave that would apply to the use of his or her own accrued leave. The HOPE written authorization for such leave must be attached to the form requesting HL from the City and requested in advance from his/her department in the same form, time and manner as other leave. Each HOPE Representative assigned to such activities will be compensated by the City from the HLP at their regular rate of pay, with no loss of leave accruals or pension benefits. Use of such HL will be counted in the same form and manner as an occurrence of vacation leave for purposes of authorization, attendance, employee evaluations, etc., but will not count as "hours worked" for overtime rate of pay calculations.

Departmental approval of HOPE Leave (HL) shall not be withheld unless it unreasonably interferes with departmental operations. HLP hours may not be taken as emergency vacation or sick leave under any circumstances. Documentation of the attendance by the employee at the HOPE/SEBA related activity must be presented by

the employee to the supervisor immediately upon return to work the following regularly scheduled work day.

HLP funds may not be reimbursed. If no funds are available in the HLP, no HL will be approved. No HLP funds provided in this section may be used to support any non-City related HOPE activities including picketing or strikes of any kind against other employers; public or private.

9.02 HOPE Activities As is true for all City employees, HOPE Members, may participate in HOPE or union activities to any extent they desire on their own time. The City agrees to make reasonable accommodations for any HOPE Members who desire to participate in HOPE meetings or activities that occur during the HOPE Members' usual work hours. To that end, each HOPE Member may request in advance to use his/her own accrued (non-sick) leave time in order to participate in any other (non-City related) HOPE activities of their choice. As in every circumstance where leave is requested, each HOPE Member who wishes to avail him/herself of the accrued (non-sick) leave hours must comply with all departmental rules and procedures for advance notice that would apply to the use of his/her own accrued leave. Departmental approval shall not be withheld unless such leave unreasonably interferes with departmental operations.

9.03 HOPE Dues HOPE Members may submit written directives for HOPE dues to be deducted from their wages through payroll deductions. In order to establish such a deduction initially, HOPE must certify the membership of each HOPE Member. A dues

card, in substantially the form set out in Attachment 1 (Dues Authorization), will be submitted to the departmental payroll representative requesting the deduction of HOPE dues to be made payable to HOPE. The deduction will be effective the first full pay period beginning after the form is received by the City payroll division of the Administration and Regulatory Affairs Department.

If at any time permitted by the Dues Authorization, the HOPE Member wishes to cancel the deduction of HOPE dues, a written cancellation must be signed by the HOPE Member/employee and presented to the departmental payroll representative and HOPE within the time period permitted by the Dues Authorization.

All HOPE dues deducted by the City will be transmitted directly to HOPE bi-weekly, together with the names of the employees from whom dues have been collected. If a HOPE Member's dues are in arrears, HOPE agrees that the City will not be responsible for collecting or making special arrangements for such payroll deductions, or paying uncollected dues to HOPE. If the HOPE Member does not have enough wages earned to pay all or any part of the HOPE dues owed pursuant to the Dues Authorization, after all lawful deductions are made, dues will not be deducted. If the City overpays the amount of HOPE dues owed during one bi-weekly period, it may deduct the amount of the overpayment from a future payment made to HOPE.

HOPE AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL CLAIMS, SUITS, OR OTHER FORM OF LIABILITY THAT ARISE OUT OF OR AS A RESULT OF ANY ACTION OR FAILURE TO ACT UNDERTAKEN BY THE CITY UNDER THIS SECTION EVEN IF SUCH LIABILITY ARISES OUT OF THE

CITY'S AND HOPE'S CONCURRENT NEGLIGENCE, INTENTIONAL ACT OR FAILURE TO ACT.

9.04 PAC Contributions

Beginning after the effective date of this Agreement, UMs may submit written directives for political action committee (PAC) contributions to be deducted from their wages through payroll deductions. In order to establish such PAC contributions initially, each UM is required to submit to the departmental payroll representative, a signed written authorization in substantially the form set out in Attachment 1 (Dues/PAC Authorization) specifically requesting the political action contribution deduction with the amount to be deducted as PAC contributions as permitted by the PAC Authorization. If at any time within the time frame and as otherwise permitted by the PAC Authorization the UM decides to cancel the PAC contributions deduction, a written cancellation must be signed by the UM and presented to the departmental payroll representative with a notice to HOPE.

All PAC contributions deducted by the City will be transmitted directly to HOPE bi-weekly, together with the names of the employees from whom the PAC contributions have been deducted. If PAC contributions are in arrears, HOPE agrees that the City will not be responsible for collecting or making special arrangements for such payroll deductions, or paying uncollected PAC contributions to HOPE. If the UM does not have enough wages earned, to pay all or any part of the PAC contributions owed pursuant to the original authorization, after all lawful deductions are made, PAC contributions will not be deducted. If the City overpays the amount of PAC contributions owed during one

bi-weekly period, it may deduct the amount of the overpayment from a future payment made to HOPE.

HOPE AGREES TO DEFEND, INDEMNIFY AND HOLD THE CITY HARMLESS FROM ANY AND ALL CLAIMS, SUITS, OR OTHER FORM OF LIABILITY THAT ARISES OUT OF OR AS A RESULT OF ANY ACTION OR FAILURE TO ACT UNDERTAKEN BY THE CITY UNDER THIS SECTION EVEN IF SUCH LIABILITY ARISES OUT OF THE CITY'S AND HOPE'S CONCURRENT NEGLIGENCE, INTENTIONAL ACT OR FAILURE TO ACT.

5. Community Action Leave Pool (CALP)

Beginning with the first full pay period following the effective date of this Agreement, any permanent, full time City employee may voluntarily, but not mandatorily, elect in writing to contribute one or more hours of their own accrued, personal vacation leave time and credit the equivalent cash value of such leave hour(s) to a "Community Action Leave Pool" (CALP) administered by the City for HOPE Representatives to use to participate in City and HOPE-agreed community projects. The initial donation shall be via a written authorization on a form to be provided by HOPE and submitted to the departmental payroll representative with a copy to HOPE. The donated vacation leave hours shall continue and be renewed automatically annually thereafter during the term of this Agreement unless and until revoked or modified prospectively by the City employee. All hours designated for each contribution must be then currently accrued and available for immediate withdrawal at the time the designation is made and at each subsequent deduction thereafter. Donated vacation hours will be credited to the CALP during the

first full pay period following the donation and continue in each subsequent year of this Agreement.

All new employees hired by the City are not eligible to donate accrued vacation to the CALP during the first twelve (12) months of employment with the City. The first election to deduct leave hours for new hires may be made at any time following the first anniversary after the completion of one calendar year of employment with the City.

A CALP balance will be reported to HOPE quarterly. Any City employee who donates or receives CALP funds must be eligible to be able to donate or take vacation under the City's policies.

An employee may elect to modify or cancel his/her donated vacation leave hours to the CALP by submitting a signed and completed form, available at either the HOPE office or from the payroll representative of the Administration and Regulatory Affairs Department of the City. The signed and completed form must be sent to the HOPE office, to the attention of the President of HOPE. HOPE will deliver a copy of the CALP modification or cancellation form to the Administration and Regulatory Affairs Department.

Modification or cancellation of the leave deduction will be accomplished in the first full pay period following receipt of the modification or cancellation and continue annually thereafter. An employee may reapply to participate in the CALP at any subsequent time during the term of this Agreement through the same form and manner as an initial contribution.

All CALP funds that are not utilized in the fiscal year ending June 30, 2009 or 2010 shall be carried over to the next year CALP beginning July 1 of 2009 or 2010 respectively. If HOPE determines that sufficient funds exist in the HOPE CALP, the HOPE President or

his/her designee may temporarily halt for a time certain the continued deduction of donated time from City employees. All funds remaining in the CALP on June 30, 2011 shall be paid to UMs on a pro-rata lump sum basis during the month of August, 2011 unless a new Agreement is ratified that provides otherwise.

Each designated HOPE Representative who wishes to avail him/herself of the CALP reimbursement, must request from HOPE and receive written HOPE authorization to use such leave, in addition to complying with all departmental rules and procedures for advance notice requesting leave that would apply to the use of his or her own accrued leave. The HOPE written authorization for such leave must be attached to the form requesting Community Action Leave (CAL) from the City. Each HOPE Representative assigned to such activities will be compensated by the City from the CALP fund at their regular rate of pay, with no loss of leave accruals or pension benefits. Use of such leave will be counted in the same form and manner as an occurrence of vacation leave for purposes of authorization, attendance, employee evaluations, etc., but will not count as "hours worked" for overtime rate of pay calculations.

Departmental approval shall not be withheld unless such leave unreasonably interferes with departmental operations. CAL may not be taken as emergency vacation or sick leave under any circumstances. Documentation of the attendance by the employee at the community activity must be presented by the employee to the supervisor immediately upon returning to work the following regularly scheduled work day.

CALP funds may not be reimbursed. If no CALP funds are available, no CAL will be approved. No CALP funds provided in this section may be used to support any

commercial, political/partisan or sectarian endeavors and are limited to public, private, non-profit, and/or civic or other similar charitable endeavors.

Article 10 COMPENSATION

10.01 **Base Pay** Except for Police and Fire Trainees, the City agrees to provide on an annual basis certain specified sums in budgeted funds for increases in compensation payable to UMs. The percentages listed in the chart below equate to a combination of performance pay and across the board adjustments to base pay that will be paid to UMs. Every UM will receive at least the across the board increase indicated in the chart below (and also described in 10.01.01 below) except for Police and Fire Trainees. In addition, each Department Director will specify individuals, and/or employee groups, classes and/or divisions that will get additional pay increases based on merit, performance and other articulated eligibility criteria such as, but not limited to predetermined and articulated productivity goals and standards, attendance, safety records, EPE ratings, productivity levels, initiative, cooperation, demonstrated leadership, creativity, teamwork, equity or market pay adjustments, minimum service, goal/objective accomplishment, other standardized evaluation measures and/or employee contributions to successful departmental or City endeavors.

PAY INCREASES* as described in Sections 10.01.01-10.01.03 below					

PAY INCREASES	FY 2008	FY 2009	FY 2010		FY2011
	Contract Effective Date	July 2008	July 2009	Sept 2009	July 2010
ACROSS THE BOARD INCREASE	3.00%*		3.00%*		3.00%*
PERFORMANCE PAY POOL		1.25%	1.25%		1.25%
MINIMUM HOURLY PAY RATE	\$9.50			\$10.00	

* Excludes Police and Fire Trainees

10.01.01 **Across-the-Board Increases**

Beginning with the first full pay period following the effective date of this Agreement, every UM except Police and Fire Trainees will receive a 3% increase in base pay. Beginning with the first full pay period after July 1, 2009, every UM except Police and Fire Trainees will receive a 3% increase in base pay. Beginning with the first full pay period after July 1, 2010, every UM except Police and Fire Trainees will receive a 3% increase in base pay.

10.01.02 **Performance Pay**

Each Department Director will design a plan for his/her department's performance pay program, which must clearly describe each component (i.e. market pay, internal equity, recognition of accomplishments or missed goals, etc.) and the plan details (i.e., plan purpose, eligibility criteria, performance measurements, measurement period, plan award amounts, etc.), and be approved by the Mayor or his/her designee.

The components of the departmental pay for performance plans must follow these limitations:

A. At least 80% of the performance-based pool shall be based on merit or performance-based incentive or eligibility criteria, such as but not limited to, predetermined and articulated productivity goals and standards, attendance, safety records, EPE ratings, productivity levels, initiative, cooperation, demonstrated leadership, creativity, teamwork, equity or market pay adjustments, minimum service, goal/objective accomplishment, other standardized evaluation measures and/or employee contributions to successful departmental or City endeavors.

B. Not more than 15% of the performance-based pool in any year may be for market equity purposes.

Eligibility criteria may exclude some UMs based on, but not limited to, date of hire, documented poor performance/productivity, excessive absenteeism or tardiness, disciplinary actions, at-fault accidents or safety violations or recent increase in compensation due to promotion, transfer, performance, etc. within the previous year.

The approved plan for the pay program will be communicated to the department's employees and the performance review period must be a minimum of at least ninety (90) days in length. The performance pay may be added to base pay and/or delivered in lump sum payouts. The effective date of

the payments/payouts will occur within the fiscal year of the established performance pay pool at the beginning of a pay period.

With the goal of assuring fairness and objectivity, eligibility criteria shall be discussed at DECC meetings.

10.01.03 Minimum Base Pay Rate

Beginning with the first full pay period following the effective date of this Agreement, no UM shall earn less than nine dollars and fifty cents (\$9.50) per hour after the application of the 3% across the board increase. An employee receiving less than \$9.50 an hour before ratification shall first receive the three (3%) percent and then an increase to \$9.50 an hour, if necessary. Beginning with the first full pay period after September 1, 2009, no UM shall earn less than ten dollars (\$10.00) per hour.

10.02 Shift Differential The City will increase shift differential compensation for all full-time UMs who are regularly scheduled to work second or third shift, even if the second or third shift is on a rotating schedule, as follows:

Second, (Evening or Afternoon) Shift	Begins between 12:00 noon – 6:00 p.m.	Minimum Rate/Hour \$0.50 addition to base pay
Third, (Night) Shift	Begins between 6:00 p.m. – 5:00 a.m.	Minimum Rate/Hour \$1.00 addition to base pay

The additional amounts of compensation also shall be added to base pay per hour in determining the regular rate of pay to be used for calculating overtime for non-exempt

employees who work in excess of forty (40) hours in a work week. These amounts are to be paid to employees who are regularly scheduled to work these shifts only and are not intended for employees who work overtime that may extend into the second or third shift or are not regularly scheduled to work such shifts and may do so on an occasional, as needed, fill in, emergency, or call in, even if worked frequently. These additional amounts will become effective and become payable with the first full pay period following the effective date of this Agreement.

The City agrees that it will not arbitrarily change any UM's regular shift hours in order to avoid the payment of the shift differentials provided herein.

10.03 Longevity Pay In addition to base pay, every permanent, full time UM shall be paid longevity pay in the sum of \$2.00 per bi-weekly pay period for each completed year of actual service with the City effective the first full pay period following the effective date of this Agreement. There shall be no maximum or cap on the amount of longevity that may be paid for qualifying service. Any UM who has reached maximum shall resume the appropriate longevity payment beginning with the first full pay period following the effective date of this Agreement.

10.04 Overtime and Compensatory Time

Non-exempt employees – The City intends to continue to comply with all applicable state, federal and local laws and ordinances regarding overtime for non-exempt

employees. To that end, whenever a non-exempt UM works in excess of forty (40) hours in a given work week, he/she shall be paid in cash or compensatory time at a rate of 1.5 times his/her regular hourly rate of pay. The decision whether to pay in cash or compensatory time is the Department Director's and may be different in each workplace and at different times depending on budgetary and operational requisites and circumstances. Each employee will be informed before the overtime is worked whether it will be paid in cash or compensatory time. If offered in cash, and the UM wishes to be paid in compensatory time, such alternative option will be honored, if feasible, but not vice versa. The maximum accrual of 240 compensatory hours and time limits of 120 days for use of accrued compensatory leave authorized by Section 14-168(c) of the City Code of Ordinances shall remain unchanged including the payment of cash after 120 days have expired.

Exempt employees – Section 14-168(e), (f) and (g) of the City Code of Ordinances shall strictly apply to eligibility for compensatory time for exempt employees which is authorized on a very limited basis in qualifying circumstances. There is no flex time nor a general or blanket authorization for compensation to be paid in the form of compensatory time for hours worked in excess of forty (40) in a given work week for exempt employees. Compensatory time accrued must be taken as compensatory leave within 180 days of its accrual, subject to the conditions below, or it shall be paid in cash. Compensatory time may not be cashed out at termination for any reason and will not be included with payouts of other accrued compensation for unused leave benefits.

Non-exempt and exempt employees shall be given fair opportunity to take accrued compensatory time within the time limits required by this Agreement or City ordinance. If

an employee is within forty-five (45) days of the respective time limit (120 days for non-exempts, 180 days for exempts) for compensatory time usage, a request for compensatory leave will be given preference above any other leave request except emergency vacation or Family and Medical Leave. Also in this forty-five (45) day period, when an employee submits a request for compensatory leave and it is denied twice due to an operational need, the supervisor must provide alternative date(s) that would be acceptable for such leave to be taken before the time limit is expired. If the alternative dates are not acceptable to the employee, he/she may submit other dates to the supervisor within such period with both coming to an agreement on when such compensatory leave may be taken before it expires. If no agreement is reached as to mutually agreeable dates for leave to be taken, the UM may proceed to the next higher level of supervision in the UM's chain of command for a final resolution as to dates for leave before the expiration date. If an employee fails to submit compensatory leave requests in the thirty (30) days before the relevant expiration time, the department may convert a request for vacation or sick time to compensatory time upon notice to the employee in order to avoid the expiration of the compensatory time period. Departments may direct employees with compensatory leave hours that are close to expiration to take such leave before it expires.

In the event that UMs have concerns about the distribution of either voluntary or mandatory overtime, the issues shall be referred to the respective DECC for discussion, recommendation and resolution by the Department Director.

10.05 Holiday Pay The City agrees to review the current ordinance (Sec. 14-168(d) City of Houston Code of Ordinances) and refer it to the MECC for discussion and recommendation for revisions, if any, within 90 days of the effective date of this Agreement. The City commits that as a result of the review or resolution by the MECC, it will not reduce the benefit specified in the current ordinance. The City further agrees to clarify and improve the provisions of the benefit of the holiday ordinance.

10.06 Privatization Notice

The City will provide forty-five (45) days advance written notice to the HOPE MECC Co-Chair of any decision to privatize or outsource any positions in any department in which UMs are incumbents.

10.07 Layoffs The City agrees to continue all processes and procedures pertaining to layoffs contained in Sections 14-140 through 149 of the City of Houston Code of Ordinances. However, when it is necessary to reduce the number of UMs due to reorganization of a department, reduction in funding, reduction in services provided, or for any other reason, the City agrees that in any department where a lay-off becomes necessary of one or more UMs in any one or more classifications, the City will (1) provide at least 45 days advance written notice to UMs affected prior to the effective layoff date; (2) attempt to secure alternative placement in the same classification in another vacant City position for which the employee qualifies by education, skills and experience; (3) continue to attempt to place the laid-off employee in the same classification in another vacant position in the City for which the employee qualifies, and

(4) during the pre-lay off and re-employment period, give preference to filling vacancies for classes offered by the E. B. Cape Center to laid-off employees to assist them in qualifying for positions within the City unless another position (in or out of the City) is secured in the interim. Such classes can include re-employment eligibility enhancement skills such as interviewing skills, resume writing, and supervision and management. During the pre and post-layoff period, the UM must cooperate fully with the Human Resources Department representatives and must comply fully with all requirements for placement, including reviewing postings on a weekly basis, submitting fully completed applications and resumes, appearing at job interviews and second interviews, if necessary, and providing completed training certificates.

10.08 Twenty-First Century Workforce

The accelerated pace of technological, digital, and automation innovations and improvements, changes in citizen requirements for City provided services and products, and the subsequent evolution in various job requirements because of better business practices will continually redefine the jobs in the City of Houston's workforce. The City agrees to collaborate with HOPE to identify the impact on the workforce.

Once a year, the City will survey Departments to determine if there are any jobs that can be identified as at-risk to be eliminated (endangered jobs) due to technological advances, changes in services or products provided, organizational changes or improvements in business practices.

Concurrently, the City and HOPE shall review job classifications that are currently, or are projected to be, in especially high demand (21st Century Jobs). The City will

determine the essential requirements for these positions and may collaborate with Departments and HOPE to determine if additional training is required for their staff. If any jobs are deemed at risk, the City will identify training and other activities that may provide the endangered jobs incumbents an opportunity to compete for other jobs that are not in the at-risk groupings. Where appropriate, relevant training will be made available, as discussed in the Layoff section (10.07) of this Agreement, to assist the endangered jobs employees in competing for other jobs within the City.

10.09 Information Requests

Each calendar quarter, upon the request of HOPE, the City agrees to provide HOPE (or a designated agent for receipt of same), a complete list of municipal employees containing the following information for the prior quarter: employee number, employee name, Department number, Department name, division number, division name, job classification number, job classification name, position type (FT/PT/TM), exempt/non-exempt status, bi-weekly rate of base pay, longevity pay, shift differential paid in last quarter, overtime hours worked and paid in last quarter, holiday hours worked and hours paid in the last quarter, most recent hire date, compensatory hire date, current classification date, date of birth, gender, race/ethnicity, mailing and permanent address as allowed by Sections 552.117 and 552.024 of the Texas Government Code, work location code, work location name and work location address. The City will also provide a list containing work phone numbers and City email addresses for all municipal employees to the extent such information exists in the City's records.

The City will supply the information in compliance with the Texas Public Information Act, Chapter 552, Texas Government Code or other applicable federal and state laws. Data required to be withheld by law will not be included in the list.

There will be no cost to HOPE to initially establish this quarterly list or to provide it quarterly in an electronic format if it is requested quarterly. There will be a charge for adding information, or for requesting data for any period other than the preceding calendar quarter. The Texas Public Information Act governs charges for such requests or compilations and shall apply.

Article 11 HEALTH BENEFITS

The City currently offers the same set of health benefits to UMs and non-UM employees. The City shall continue to offer substantially the same set of health benefits as are provided today to UMs and non-UM employees during the term of this Agreement, as reasonably available in the market. During the term of this Agreement, the following conditions apply to the health benefits and contribution levels for UMs.

11.01 Eligibility Full-time employees or part-time employees regularly scheduled to work thirty (30) or more hours per week (active employees) shall continue to be eligible to enroll in the city's health plans during the term of this Agreement.

11.02 Premium Parity UMs as active employees covered by this Agreement shall pay no premium or component higher than any other City employee group for substantially the same set of benefits.

THE PROVISIONS OF ARTICLES 11.03 – 11.06 APPLY ONLY TO ACTIVE EMPLOYEES IN THE HMO PLAN.

11.03 Renewal Premiums

The City currently contributes an aggregate of 79% to the cost for active employees in the HMO Plan in place at the effective date of this Agreement. Active employees contribute 21%, in the aggregate. The term percent is rounded using the symmetric arithmetic method. The annual renewal premium increase, if any, for the HMO Plan is determined prior to and is effective May 1 of each year. The annual HMO renewal premium increase is delivered in a renewal notification document from the health benefits vendor, which shall be the document that is used for compliance with this section of the Agreement. The renewal notification for May has generally been delivered to the City during the fall of each previous option year. For purposes of this Agreement, that document represents the basis for calculation of the premium increase under this Agreement.

If the annual renewal premium increase/renewal contained in the renewal notification document for the next year for the same set of HMO benefits falls at or below the renewal threshold, the City shall increase participants' contributions up to an amount equivalent to the renewal premium percentage for that plan year (May 1 – April 30). If the annual renewal premium increase to the HMO Plan is greater than the renewal threshold, the City will activate Sections 11.04 and 11.05 below. The parties agree that as of February 1, 2008 the contribution ratio is 79% City contribution and 21% active

employee contribution in the HMO Plan, and that for all purposes in this Agreement the 79/21% ratio shall be used as the contribution ratio during the term of this Agreement and shall not be adjusted.

The renewal thresholds for the term of this Agreement are: May 2009 – 10.0%; May 2010 – 10.0%; May 2011 – 10.0%.

The City retains the right to adjust any contribution in any tier or coverage category, as long as the aggregate HMO contribution ratio of 79/21% is achieved for active employees, and as long as no active employee tier increase exceeds 10.0% in that year, in which case Articles 11.04 or 11.05 would apply.

In the event that the annual renewal activity results in a decrease in premium for the May renewal, the City will recalculate the aggregate contribution ratio at 79/21% for that plan year and will adjust the contributions accordingly.

11.04 Adjustment for Excessive Premiums

If the annual renewal premium increase for the HMO plan is greater than 10.0% and less than 15.0% for any plan year covered by the Agreement, strategies and options to manage the cost increase in excess of 10% will be presented to the MECC for review.

The City will convene a special-called meeting of the MECC to discuss the options. Cost sharing options include, but are not limited to, changing employee contributions, changing the health-care delivery system, or changing benefits, including sharing information about a potential change of vendors. If plan design changes are required in order to keep the plan reasonably priced during the term of this Agreement, those plan changes applicable to other active employees will apply to UMs as well.

Consistent with Section 4.07 of this Agreement, the MECC may explore issues relating to the increase greater than 10.0% and less than 15.0% and may within fourteen (14) calendar days of the special-called meeting make written recommendations or suggestions to the Mayor. The Mayor will advise the MECC of the Mayor's decision.

11.05 Re-Opener If the annual HMO renewal premium increase is greater than or equal to 15.0%, then HOPE may, in its sole discretion, reopen negotiations on one or more economic provisions of this Agreement, as contained in Articles 10 and 11. If HOPE chooses not to engage in such economic re-opener option, the parties shall follow the same process described in Section 11.04 above.

11.06 Change of Vendor

This Agreement does not prohibit the City from exercising termination for cause procedures with its vendor(s). The City agrees to share information about a potential change in plans or vendors, if that occurs at the end of the term of the current HMO plan. If a new plan or vendor is approved during the term of this Agreement, the City will compare the cost of the new plan to the previous year's cost to estimate the increase that would apply for a similar set of benefits and compare it with the renewal threshold in Section 11.03 when calculating that year's cost and contributions.

11.07 Long Term Disability

The City agrees to make UMs, who are regularly scheduled to work full time, and in the Compensable Sick Leave Plan, eligible for participation in long term disability benefits

upon the completion of one year of continuous employment as a compensable sick leave plan member so long as they meet all criteria and qualify for long term disability benefits. This will become effective on September 1 following the effective date of this Agreement.

Article 12 DISPUTE PROCEEDINGS

The parties agree that from time to time, disputes may arise as to the interpretation of the terms of this Agreement or its application to specific circumstances or individuals. In order to resolve such disputes timely and efficiently without proceeding immediately to litigation, the parties agree: (1) Unit Members' (UM) dispute(s) for which the City has an established formal process for redress, shall be resolved exclusively through such process; (2) UMs dispute(s) that arise(s) by virtue of a provision of this Agreement not existing otherwise by statute, ordinance, policy or outside of this Agreement in statutory proceedings shall be resolved exclusively through the Alternative Issue Resolution Process set forth below in Section 12.01; More specifically these include only the provisions set out in Article 3, paragraph 2, and articles 4, 5, 6, 7, 8, 9, 10, (excluding non-exempt comp/overtime issues and per se layoff appeals), 11, and 13 of this Agreement; and (3) a dispute as to the proper interpretation of any term of this Agreement, and for which there clearly is no existing process or procedure in statutory proceedings may be brought only as a contract dispute by HOPE as the SEBA through the Contract Dispute Procedures set forth in Section 12.02 below. The City may utilize the Contract Dispute Procedures below to address any dispute as to HOPE's interpretation of the terms of this Agreement as provided in Section 12.02 below.

It is the intent of the parties to continue using formal procedures in existence prior to the effective date of this Agreement except in instances where possible redress does not exist otherwise by statute, ordinance, etc.

12.01 Alternative Issue Resolution Process (AIRP)

This procedure is the exclusive remedy for redress of alleged violations of only those terms established by this Agreement as applied to individual UMs for which there is clearly no existing process or procedure in statutory proceedings and/or that are not contract interpretation issues that are exclusively addressed in Section 12.02 below. Eligible claims may be brought by individual UMs and/or HOPE as the SEBA. City employees may be designated as HOPE Representatives through the HLP process in Section 9.01 herein for purposes of representing a UM at these proceedings.

The parties agree that individual or collective claims (claim) of UM arising from the same nucleus of facts and brought pursuant to this provision will be prosecuted in accordance with the following procedures:

AIRP Step One

1. A claim subject to this provision shall be filed within thirty (30) calendar days of the occurrence of the act(s) which serve(s) as the basis(es) for the challenged Agreement term, or of the date when the filing party reasonably should have become aware of such occurrence, whichever is later. The Step One Alternative Issue Resolution Process claim must be filed by the UM/HOPE as AIRP claim(s) at Step One with the Grievance Coordinator of the department that employs the

affected UM(s)/HOPE on an approved AIRP Step One form provided by the City.

2. Once filed, the Department Grievance Coordinator will arrange a meeting between the UM/HOPE and the immediate supervisor or another supervisor in the chain of command who might better resolve the disputed issue at this step, to be concluded no later than thirty (30) calendar days after the date on which the claim was received. If the meeting is not concluded within the thirty (30) calendar days, the UM/HOPE shall proceed automatically to Step Two.

1. Regardless of the outcome of the Step One meeting, the immediate supervisor or appropriate party that conducted the meeting shall respond in writing not later than ten (10) calendar days after the date on which the meeting was concluded. The response must include the supervisor's (or appropriate party's) evaluation of the challenged term and proposed resolution(s), if any. The proposed resolution must be within the authority of the supervisor or approved by the department head. The written response shall be provided by the Grievance Coordinator to the UM/HOPE by personal service or certified mail.

2. The UM/HOPE has ten (10) calendar days to accept or reject the proposed resolution. If rejected, the UM/HOPE must file an AIRP Step Two Request form to continue to pursue the claim. The Grievance Coordinator must receive the completed AIRP Step Two request form within the same ten (10) calendar days after the

date on which the UM/HOPE was served with the proposed resolution from Step One.

AIRP Step Two

A. The Grievance Coordinator shall arrange an AIRP Step Two meeting between the UM/HOPE, the immediate supervisor and/or the appropriate parties from Step One and the Department Director or a designee of at least an assistant director level or the equivalent selected by the Department Director.

B. The AIRP Step Two meeting must be concluded no later than forty-five (45) calendar days after the date on which the Step Two request was received by the Grievance Coordinator. If the meeting is not concluded within 45 calendar days, the UM/HOPE has ten (10) calendar days to request that the claim automatically proceed to Step Three without a Step Two meeting. The request must be filed with the Civil Service Coordinator at the Human Resources Department.

C. Within ten (10) calendar days after the date the AIRP Step Two meeting concludes, the Department Director or designee who conducted the Step Two meeting shall provide a written response to the UM/HOPE together with proposed resolution(s) to the Grievance Coordinator who shall be responsible for service of the response on the UM/HOPE. Any proposed resolution must be within the authority of the Department Director or designee. If no written response is submitted by the Department Director/designee within the time allowed, the Grievance

Coordinator will have an additional ten (10) calendar days to forward the claim file to the HR Civil Service Coordinator to schedule the mandatory dispute resolution process. Notice will be given to the UM/HOPE and the Department Director/designee that the matter was automatically referred to Step Three.

D. The UM/HOPE shall have ten (10) calendar days from the date of service by the Grievance Coordinator to accept or reject the proposed resolution(s). A completed AIRP Step Three Request for Dispute Resolution form obtained from the HR Department must be received by the HR Civil Service Coordinator on or before the tenth (10th) calendar day following service of the Step Two Response on the UM/HOPE. If the UM/HOPE fails to timely file a Step Three Request for Dispute Resolution, the claim prosecution shall cease. The HR Civil Service Coordinator shall notify the Department Director when a Step Three Request is filed so that the Department can participate at Step Three. A Legal Department representative will participate in the selection of a mediator and the Step Three dispute resolution process agreed to herein on behalf of the Department. The parties agree that these Step Three proceedings shall be conducted in accordance with the Governmental Dispute Resolution Act (Texas Government Code, Chapter 2009.001 *et seq.* and the Texas Alternative Dispute Resolution Act, Section 154.001 *et seq.*, Texas Civil Practice and Remedies Code.

AIRP Step Three

1. Once the UM/HOPE files a Step Three Request, the parties shall proceed to non-binding mediation and select a certified mediator through a process of mutual agreement. All costs of the mediation shall be equally shared by both parties.
2. The mediation shall be scheduled and conclude within forty-five (45) calendar days of the date the Step Three Request is filed. This period may be extended if the mutually agreed-upon mediator's schedule cannot accommodate scheduling within the forty-five (45) day period, but may not extend beyond an additional thirty (30) calendar days (maximum of 75 days). If the selected mediator cannot accommodate scheduling the mediation within seventy-five days, another mediator will be selected by mutual agreement.
3. If the matter is mediated and cannot be resolved, the mediator shall determine when such impasse occurs and shall inform the parties of such determination, except that the impasse shall be deemed to occur ninety (90) days from the date the Step Three Request was filed if not resolved in that time. No report or decision shall issue from the mediator. The parties shall be informed in writing that no resolution was reached and an impasse occurred.
4. If the mediation is successful and a settlement is reached, the parties shall jointly record their agreement in writing. All agreed terms must comply with City and/or departmental policies and this Agreement and be within the authorization of the Department Director. The agreement shall reflect the agreement of the parties by the execution of the UM and/or HOPE, the City Representatives and the Mediator.

5. If the parties could not reach a settlement or agreement, there will be no further administrative review. The UM/HOPE may elect to proceed through any further legal proceeding(s) allowed by law.

12.02 Agreement Dispute Procedures (Contract Dispute)

12.02.01 Phase I Pre-Dispute Notice; Informal Resolution

Before a contract dispute as described in Article 12 (3) above is formally filed, the SEBA or the City (represented by the Mayor) may elect to proceed with this optional informal procedure. If selected, the process is initiated by a "Notice of Intent to Dispute" (Notice) pursuant to this Agreement on an approved form provided by the City specifying the factual and legal basis for the disputed Agreement interpretation. The Notice shall be filed no later than thirty (30) calendar days after the occurrence of the act(s) which serve as the basis(es) of the dispute or the date after the party filing such contract dispute should reasonably have become aware of such dispute, whichever is later. Notices to the City are to be filed with the Department Director of the affected UM(s) Department or the Director's designee. Notices to be filed with HOPE are to be served on the President of HOPE at the HOPE office currently located at 4299 San Felipe Street, Suite 200, Houston, TX 77027. HOPE will notify the CITY HR Director in writing of any change in its office address.

- A. The responding party may have up to a twenty-one (21) day "consultation" period from the date of filing of the Notice to amicably resolve any contract interpretation dispute without the

moving party having to initiate the formal dispute procedure set out below.

B. If the matter is not amicably resolved within the consultation period, the moving party shall then have an additional ten (10) days to file a formal dispute in accordance with the procedures set out below.

C. Participation in Phase I is encouraged, but not mandatory.

12.02.02 Phase II Formal Dispute Process

Unless Phase I is instituted, a contract dispute must be brought within thirty (30) calendar days of the occurrence of the act(s) which serve as the basis(es) for the interpretation dispute, or the date on which the party filing such contract dispute should reasonably have become aware of such dispute, whichever is later. The filing party shall initiate Phase II by filing in accordance with B below.

A. If the Phase I informal resolution process in 12.02 above is utilized and the moving party files a timely Notice thereunder, the thirty (30) day period set out in this section is abated and extended for an additional thirty (30) days (maximum of sixty (60) days) from the date of the occurrence of the act(s) or the date on which the filing party should reasonably have become aware of such occurrence, whichever is later, in order to allow for an informal resolution to the dispute and preserve the ability to challenge.

B. Any Phase II formal contract dispute must be filed on an approved form provided by the City, with the Human Resources Department, Civil Service Coordinator, 4th Floor, 611 Walker, Houston, Texas and must specify with sufficient detail, the law, the disputed contract term, and the allegations and/or facts that form the basis of the disputed interpretation.

C. At each phase of the contract dispute process, HOPE may be represented by up to two representatives and an attorney. The affected UM(s) may, but is(are) not required to be present. A City employee may be appointed as a Hope Representative to participate in these proceedings pursuant to HLP authorization and leave in section 9.01 herein or HOPE may appoint a non-city employee as its representative.

D. Once a Phase II contract dispute is timely filed, the following procedures shall apply:

1. The Facilitator of the MECC shall designate one or more persons (which may include the Office of Inspector General) to investigate the facts of the disputed interpretation. Up to fourteen (14) calendar days shall be allowed for this investigative process, unless the issue is so complex as to require additional time, in the opinion of the Facilitator, not to exceed an additional six (6) days.

2. The Facilitator will hold a meeting with HOPE's designated representative(s) within twenty-one (21) calendar days of the filing of the Phase II formal contract dispute. The purpose of the meeting is to review the investigative results, candidly discuss the issue(s) that serve(s) as the basis for the disputed interpretation of the contract term and determine whether any possible resolution is feasible and could be recommended to the Mayor. The Facilitator may include in the meeting any resources (HR, Legal, etc.) that may assist in resolving the dispute.

3. Following the conclusion of the meeting, the Facilitator shall have up to seven (7) calendar days to provide the Mayor a summary of the dispute, its factual basis, and a recommended resolution or course of action.

4. The Mayor shall have up to an additional fifteen (15) calendar days after receipt of the Facilitator's recommendations to issue a proposed resolution to the contract dispute. The resolution proposed by the Mayor shall be served on HOPE as expeditiously as possible, but not later than fifteen (15) calendar days after receipt of the Facilitator's recommendations. If the Mayor fails to timely

propose a resolution within this fifteen (15) day time period, HOPE may automatically elect to proceed to Phase III.

5. Following receipt of the Mayor's proposed resolution, HOPE shall have up to ten (10) calendar days from receipt of the Mayor's proposed resolution to accept or reject the proposed resolution by means of a written notice of acceptance or rejection filed with the Facilitator. If accepted, the City shall implement the proposed resolution as expeditiously as possible in compliance with all applicable laws, rules and requirements. If rejected, HOPE must concurrently elect whether to proceed to mediation initially or directly to arbitration and file a request for a mediator or arbitrator within the same ten (10) calendar day time period.

12.02.03 Phase III Arbitration or Mediation

A. If HOPE elects to proceed to mediation initially, a request for mediation shall be filed with the Human Resources Department Civil Service Coordinator at 611 Walker, 4th Floor, Houston, Texas 77002. HOPE and the City shall then choose a mediator from a list of seven (7) mediators to be immediately requested by the parties from the Federal Mediation and Conciliation Service (FMCS) by alternatively striking the names of the mediators until one remains.

B. Should HOPE elect to proceed directly to arbitration, the City and HOPE will select an arbitrator by immediately requesting a list of seven (7) arbitrators from the FMCS and alternatively striking the names of the arbitrators until one remains.

C. The arbitration or mediation shall occur at a time mutually convenient to the parties and the arbitrator or mediator within forty-five (45) calendar days of the date the Phase III request is filed.

This period may be extended if the mediator or arbitrator's schedule cannot accommodate scheduling within forty-five (45) days, but may not extend beyond an additional thirty (30) calendar days.

1. If the selected arbitrator or mediator cannot accommodate scheduling the mediation or arbitration within seventy-five (75) days, another arbitrator or mediator shall be appointed using the same process.

2. Only one continuance may be granted per side and only for good cause as determined by the mediator or arbitrator. Each continuance may not exceed an additional fourteen (14) calendar days.

D. All costs of mediation or arbitration are to be split equally between the City and HOPE.

E. If the matter is referred to mediation and cannot be resolved, the mediator shall determine when such impasse occurs and shall

inform the parties of such determination, except that impasse shall be deemed to occur after 90 days from the date the mediation is scheduled. If mediation fails, and either party wishes to continue, either party may elect to proceed with arbitration utilizing the arbitrator selection process and method set out above. The election to proceed to arbitration must be made and filed within seven (7) calendar days after the mediator declared impasse. The same time lines governing mediation will apply to the arbitration once the election to arbitrate is made.

F. If arbitration is the elected preference, either immediately or after mediation, the arbitrator must issue proposed findings of fact and conclusions of law and a recommended award within thirty (30) calendar days of the close of the hearing. Either party may file an appeal to a state or federal district court for fraud, collusion, violation of public policy or that the arbitrator exceeded his/her jurisdiction or authority. Absent such an appeal, the arbitrator's decision/award is final and binding.

G. If the matter is resolved through mediation, or if arbitrated and neither party appeals the recommended award, on the grounds set out in F. above, the resolution shall be implemented as expeditiously as possible in compliance with all applicable laws, rules and regulations.

H. In the event a contract dispute is filed by the City, the above described timelines and procedures shall apply obversely to HOPE (and its President instead of the Mayor) and shall be condensed to the Sections 12.02 and 12.03 et. seq. only.

Article 13 MANAGEMENT RIGHTS;

MAINTENANCE OF STANDARDS

13.01 Management Rights

HOPE expressly agrees that all management rights, including but not limited to, all management rights that currently or ordinarily vest in and/or are exercised by the City or the Mayor, except those that are clearly and expressly relinquished herein by the City, shall vest exclusively in and be exercised by the City and/or the Mayor. Except to the extent clearly and expressly relinquished herein by the City, the City shall retain all powers, duties, and rights established by Texas Constitutional provisions, state statutes, City Charter, City Ordinances and other sources of state, federal or local law, whether or not expressly articulated in Mayor's Policies, Executive Orders or Administrative Procedures, as well as departmental rules, orders, policies and procedures.

2. Maintenance of Standards

Except for the rights reserved to the City in 13.01 above and 13.03 below, the City agrees that all employee compensation policies and practices, lawfully in effect in the City and enjoyed by UMs as of the effective date of this Agreement and not specifically pre-empted, relinquished, or amended by this Agreement shall remain in effect during the duration of this Agreement. No compensation based practice currently in effect will change following the effective date of this Agreement without reasonable business justification and will certainly not change in order to avoid, in whole or in part, any terms of this Agreement. Further, this provision also does not include any term or conditions of employment related to hours, shifts, overtime coverage, etc., not specifically articulated and agreed to in this Agreement nor does it apply to merit or performance pay programs currently in effect and initiated or concluded before July 1, 2008.

13.03 New Initiatives Notwithstanding the above regarding existing compensation policies, the City reserves and HOPE recognizes the City's right, by and through its official administrator, the Mayor, (1) to create new initiatives including (for illustration purposes only) compensation programs such as, but not limited to, new compensation incentive programs/policies, hurricane/emergency compensation plans, extraordinary achievement pay, special assignment pays and other forms of compensation, compensation plans and/or incentives, and (2) to establish, modify and enforce reasonable rules, regulations, programs, policies, procedures and directives or (3) to establish new or alternative ways of meeting the need for public services and operational needs to supply City services including duty hours, schedules, shifts, overtime, etc. not currently in existence as of the effective date of this Agreement in

order to conduct the mission of the City as it exists now or in the future. However, the City also recognizes that employees should have input into such initiatives and should consider any negative effects such measures may have on employees. Such changes shall not be discriminatory on the basis of race, creed, color, religion, age, gender, disability or sexual orientation and should be reasonably related to the efficient and economical operations of affected departments or services provided and must not conflict with any state, federal or local law (unless amended), governmental regulation or any provision of this Agreement. The City further agrees to allow the MECC to review and comment on proposed City wide initiatives, regulations, etc. for discussion, input and insights as well as mutually identified recommendations for improvement before implementation. Any other rights, powers, authority the City had prior to the effective date of this Agreement are retained by the City or the departments except for those which are clearly and specifically relinquished in this Agreement.

Article 14 COMPLETE AGREEMENT

The parties agree that each has had full and unrestricted right and opportunity to make, advance, and discuss all matters related to hours, wages, and other terms and conditions of employment properly within the purview of Meet and Confer. After several months of conferring, this Agreement constitutes the full and complete agreement of the parties herein and there are no other terms, conditions or agreements, oral or written, except as specified in this Agreement. Each party, for the term of this Agreement, specifically waives the right to demand changes herein, whether or not the subjects were known to the parties at the time of bargaining, execution and adoption as proper

subjects of Meet and Confer negotiations, except as allowed in Section 11.05 above regarding the opportunity to reopen specific topics at specific incidents during the term of this Agreement.

Article 15 PREEMPTION

Pursuant to Chapter 146, Section 146.017, upon ratification and during the term of this Agreement, any provisions of this Agreement preempt, to the extent of any conflict only and specifically, all contrary state statutes, local ordinances, executive orders, civil service provisions, or rules adopted by this state or the City, including the Civil Service Commission for Municipal Employees, other than a statute, ordinance, executive order, civil service provision, or rule regarding pensions or pension-related matters. However, to the extent not expressly preempted by this Agreement, all rights provided to employees as UMs by state laws, including Chapter 146 TLGC, all other state statutes, including the Texas Constitution, City Ordinances, City Charter, Executive Orders, Administrative Procedures, Mayor Policies, departmental and City rules and regulations, including civil service rules, shall remain in full force and effect unless changed by subsequent legislation, court order or judgment or Mayoral action. This Agreement does not supersede any federal laws or the federal jurisdiction of any United States District Court or Court of Appeal. No UM waives any right(s) under federal laws.

Article 16 SAVINGS CLAUSE

The parties believe and fully intend for every provision of this Agreement to be legal, valid and enforceable. Should any provision or the application of any provision of this

Agreement be rendered, found or declared to be inoperative, void or invalid by a court of competent jurisdiction, or by reason of subsequently enacted legislation, all remaining portions and all other individual provisions of this Agreement shall remain in full force and effect for the duration of this Agreement, it being the further intention of the parties that no portion of this Agreement or provisions herein shall become inoperative or fail by reason of the invalidity of any other portion or provision.

Article 17 TERM

Chapter 146 TLGC requires ratification of this Agreement by both the majority of HOPE members and City Council. Once both procedures are completed, this Agreement becomes effective on the date countersigned by the City Controller as set forth in the City Ordinance approving and authorizing this Agreement and shall remain in full force and effect through June 30, 2011.

Article 18 AMENDMENTS

This Agreement may not be changed or altered in any manner except by mutual agreement of the parties. Any amendments of the Agreement shall be in writing, shall contain an effective date, and shall be ratified in the same manner as provided by state law for original ratification.

Article 19 RATIFICATION AND REPEAL

This Agreement being made under Chapter 146 TLGC, shall become effective and shall be enforceable and binding on the parties only if the parties ratify and approve their respective participation and assent to the terms of this Agreement through the

ratification process mandated by Chapter 146, or by local law, whichever applies, and the HOPE membership ratification process. It is further agreed that the signature of the respective parties certifies that the persons indicated have the express authority to bind the organization and that the authorization has been accomplished in compliance with state or local law.

Agreed to this _____ day of _____, 2008, to be effective on the date countersigned by the City Controller following adoption of the City Ordinance approving and authorizing the City's participation in this Agreement (Effective Date).

ATTEST/SEAL Houston Organization of Public
Employees
As the Sole and Exclusive Bargaining
Agent for City of Houston municipal employees in the bargaining unit

By: _____ By: _____

Name _____ Name _____

Title _____ Title _____

ATTEST/SEAL City of Houston, Texas

_____ By: _____
Anna Russell, City Secretary Bill White, Mayor

APPROVED: COUNTERSIGNED BY:

Anthony W. Hall, Jr., Annise D. Parker,
Chief Administrative Officer City Controller

APPROVED AS TO FORM: Date Countersigned: _____

Sr. Assistant City Attorney

