

AGREEMENT BETWEEN

THE CITY OF MEMPHIS

AND

THE INTERNATIONAL ASSOCIATION

OF

FIRE FIGHTERS

LOCAL 1784



Effective July 1, 2004

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**AGREEMENT
BETWEEN
CITY OF MEMPHIS, TENNESSEE AND THE
INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
LOCAL #1784**

PREAMBLE

This Agreement is entered into by and between the City of Memphis, Tennessee, hereinafter referred to as the City, and the International Association of Firefighters, Local 1784, hereinafter referred to as the Union.

It is the purpose of this Agreement to assure harmonious relations between the City and the Union and to provide for equitable and peaceful adjustment of differences which may arise as related to wages, hours, and other conditions of employment as stated in the Labor Policy as established by Resolution of the City of Memphis, March 4, 1969.

The parties accept the special responsibility of Fire division employees and as such make a public statement that the policy of the Union and the City is to strive toward professional goals.

**ARTICLE 1
RECOGNITION AND BARGAINING UNIT**

The employer recognizes the Union as a designated representative for certain employees of the Division of Fire for the purpose of conferences and meetings on wages, hours and conditions of employment to the full extent and authority provided by the Charter of the City of Memphis and the laws of the State of Tennessee.

The term "certain employees" as used herein places no limitations or restrictions on the right of an employee to belong to and be represented by the Union.

Certain employees shall mean those employees of the Division of Fire as specified in Article 35 - Salary. Probationary employees, for the duration of the twelve (12) months probationary period, are excluded. This probationary period may be extended for not more than six (6) months when recommended by the Director of Fire and approved by the Director of Personnel and when the reasons for such extension are provided in advance to the President of the Union.

ARTICLE 2 UNION RIGHTS

1. Leave of Absence.

Members elected or appointed to Union Office shall be granted reasonable time off without pay to attend conventions, conferences, and seminars. Request for time off shall be submitted to the appropriate Deputy Director or Director of Fire at least three (3) days prior to the effective date of such time off.

The parties agree, however, that circumstances may arise that may not permit a full three (3) days notice. Permission for such time off shall be granted as long as proper manning levels are maintained; but permission for time off shall not be unreasonably withheld. Vacations and duty days may be swapped or rescheduled to allow attendance at Union functions as outlined above when requested by the Union at least two (2) weeks in advance. Other arrangements for time off with pay may be requested as provided for in other Articles of this Memorandum of Understanding.

2, Negotiating Team.

Up to seven (7) members of the negotiating team, to include Labor Management representatives as specified in this Memorandum, shall be allowed time off with pay for all meetings which shall be mutually scheduled by both parties, in addition, team members will be paid at the overtime rate identified for 40 hour employees in Article 32 - Rate of Pay, for all non-duty hours actually worked at the bargaining table.

3. The Union President and Vice President shall be maintained on the Fire Division payroll under the jurisdiction of the Director of Fire. It shall be their task to represent the Union on the Labor Management Committee and to act as liaison between the Union and Management and work to improve the overall Labor/Management relationship. No Union officer receiving pay by the City shall do any out-of-town Union organizing or be involved in or conduct any business which does not relate specifically to the task identified above except after 4:00 p.m. or on days off. Union seminars and conferences, when approved in advance by the Director, shall be excluded.

Approval of the Director shall not be unreasonably withheld, Union officers shall maintain a record of all duty time off with the Director's office. No overtime shall be paid to any full-time Union officer unless approved by the Director of Fire in advance, except as provided in Section 2 above.

4. Union Meetings.

The Union's Executive Board consists of President, Vice President, Secretary-Treasurer, six (6) elected Fire Bureau Division Union Representatives (as specified in the Union by-laws) and one Union Representative for all forty (40) hour Bargaining Unit employees within the Division. The City agrees that

requested attendance at the regularly scheduled Union Membership and Executive Board meeting, not to exceed one (1) each per month, will not be unreasonably withheld from those members occupying the specific positions noted above. The City agrees to continue such a member's pay while attending said Union meetings. This provision applies only to those such members who are on duty at the time said meeting is held. Such members are required to remain on duty until the scheduled start of said meeting with adequate travel time provided and return to duty immediately upon completion of said meeting.

It will be the responsibility of the Union to maintain an updated list of such members occupying the specific positions noted above with the Director of the Fire Division and to submit to the Division Chief and the appropriate Bureau Head for the forty (40) hour representative written request to include the date, names, and duty assignment of representatives associated with said meeting. Such request must be submitted in accordance with other provisions of this Article.

Executive Board members defined above may, upon request, be excused from duty without pay to attend special Executive Board meetings or with pay, providing they have arranged for qualified replacement.

The City may deny such requests pursuant to these provisions if they interfere with orderly and efficient processing of City business, particularly as it relates to the manning of Fire Division operations, and the possible result of removing a Company from service.

Except as provided for in this Agreement, the City shall not be subject to additional operating costs associated with granting the above provisions.

5. Union Division Representative.

The City Fire Division agrees to place elected Union Division Representatives in job assignments so as to facilitate their Union representation activity as far as practical and in accordance with manpower requirements. Transfer of Division Representatives outside their Division will be by mutual agreement only. Division Representatives may be allowed to visit engine houses in their division when manpower is available as determined by the Division Chief. The City shall not incur any additional costs such as mileage, detail compensation, out-of-rank, etc., to any employee on account of house visits. It is agreed that employees shall have and be protected in the exercise of the right, freely and without fear of penalty or reprisal, to join or assist the Union free from actual interference, restraint and coercion. Union representatives shall be admitted to the buildings and grounds during working hours for the purpose of assisting in the adjustments of grievances and the conducting of other Union business, except Union solicitation and meetings, or any Union activities which would interrupt the normal work schedule.

Any Union meeting with all the employees assigned to a particular station may be called by Union Representatives and may be held on City property during working hours when such request is approved in advance by the Director of Fire. Such permission shall be requested at least one (1) week in advance and permission shall not be unreasonably withheld.

ARTICLE 3 MANAGEMENT RIGHTS

It is understood that the management and the direction of the working force is vested exclusively in the City as the Employer except as specified in the other Articles of this Agreement. Included is the City's right to hire, demote, suspend or discharge for just cause, layoff, promote, assign or transfer employees to any job or any work, anytime or anywhere within the Fire Division; to increase or decrease the working force; to determine the number and size of the work shifts; to determine the number of employees assigned to any work or any job within the Fire Division; to determine the hours of work per day or week; to make reasonable work rules for the purpose of efficiency, safe practices and discipline; however, any work rule change shall be discussed with the Union at least ten (10) days, excluding weekends and holidays, in advance except in case of an emergency in accordance with the provisions of this Agreement; to establish reasonable performance standards and to review employees under these standards; to determine the equipment to be used; to make technological changes; to determine the number and location of its offices; to move, close or liquidate its offices in whole or in part; to separate or reassign its employees in connection with said moving, closing or liquidating; the right to transfer; to subcontract work; to establish new jobs and the wage rates for them; to determine the duties and production standards; to combine jobs; to eliminate classifications or work; to require overtime work; and to select employees for overtime. However, nothing contained in this Article shall deny the right of any employee to submit a grievance as defined in this Agreement.

The rights and powers of management mentioned in this Memorandum do not list or limit all such powers. The exercise by the City of, or its waiver of, or its failure to exercise its full right of management or decision on any matter or occasion, shall not remove said right from the City, provided that nothing in this Article shall abrogate or alter the other Articles of this Agreement, or the rights of employees to the protection of or benefits provided by this Agreement

ARTICLE 4 EMPLOYEE RIGHTS

1. Rating Reports.

All ratings shall reflect the employee's overall performance for the period being rated. Any factor rated at the top or bottom of the rating scale shall be documented by the rater and/or endorser(s) giving specific reasons. The rater, being the shift commander or company officer, must have at least six (6) calendar months' experience working with the employee being rated at the time of the rating.

Any employee will receive a copy of his evaluation upon request. The form shall be prepared and signed by the rater and submitted to appropriate endorser(s) for review, comments and signature prior to being discussed with the employee by his Company Officer. The form shall be in its final form (either typed or in ink) at that time and only then shall the employee be offered the opportunity to sign the form.

When the employee does not agree with the ratings and/or comments, he may refuse to sign and request a conference with his Company Officer and the endorser(s) for the purpose of discussing the rating. Following the conference, the employee again has the opportunity to sign the form prior to it being placed in his file. The employee may elect not to sign, in which case the form will still be placed in his file. The employee may submit a letter giving his/her reasons for disagreeing with the rating report and the reasons for his/her refusal to sign. This letter will be attached to the rating report and placed in the employee's file. Refusal to sign will not be reflected in subsequent ratings. A copy of the form will be provided to the Division Chief or Bureau Head.

2. When an employee is called while off duty and ordered to report for investigations or interrogations, he shall be compensated at the appropriate call-back hours and rate as defined in Article 32, Section 3.

3. Discipline.

Disciplinary action shall be corrective in nature and shall involve the following progressive measures, except that major violations may proceed to more severe actions which could include termination:

- a. Oral Reprimand;
- b. Written Reprimand;
- c. Suspension as provided elsewhere in this Article and which must be documented in writing;
- d. Termination.

It is agreed that reference to oral reprimands will be removed after six (6) months and reference to written reprimands removed from personnel files after one (1) year, provided the employee is not still involved in progressive

disciplinary action of the same nature or offense. However, oral and written reprimands pertaining to vehicular accidents will be removed from personnel files after eighteen (18) months provided the employee is not still involved in progressive disciplinary action of the same nature. Discipline pertaining to vehicular accidents shall be progressive in nature unless there is evidence that the employee was grossly negligent and/or operated the vehicle in a manner clearly inconsistent with accepted driving practices.

4. Discipline and Suspensions.

Discipline, suspension, demotion, and termination shall be for just cause. No member shall be required to report for duty while under suspended time with loss of pay.

Suspended time shall not be served until the grievance procedure, through Step II has been utilized.

Both parties agree that suspended time shall be stated in terms of hours of suspended time. The maximum suspension without recourse for appeal to the Civil Service Commission shall be seventy-two (72) hours.

Lieutenants may take disciplinary action up to and including written reprimands.

The Union maintains its right to grieve disciplinary action but agrees not to use differences in length of suspension between divisions as the basis for challenging the action taken. Any matter for which a grievant would have recourse to an appeal to the Civil Service Commission may be submitted by the grievant to the grievance procedure. However, no matter shall be heard by the Civil service commission and by an arbitrator, therefore, if a matter is appealed to the Commission and also grieved, the grievance shall be withdrawn prior to any hearing by the commission. Similarly, if the matter was appealed to the Commission and arbitration is requested, the appeal to the Commission must be withdrawn prior to scheduling of any arbitration hearing.

5. Investigations and Interrogation.

Any employee subject to administrative investigation shall be advised in writing of the nature of the allegations against him/her prior to an administrative investigation being held on the charges. The employee will be given the opportunity to respond to the charges in the investigation conducted by the appropriate supervising officer prior to any action being taken. The employee may call up to two witnesses with pay. Employees will be allowed Union representation if they so request. All employees shall be provided a letter detailing the reason for the suspension period of time away from duty, amount of salary lost, improvement expected, the next reporting time, and date at the end of suspended time. Employees who are the subject of an administrative investigation shall:

a. Have the questioning done during working hours unless the exigencies of the investigation dictate otherwise as determined by the City. Employees will be given 24 hours notice of administrative investigations. Data pertaining to the investigation shall be provided prior to the investigation.

b. Not be subject to any offensive language, nor will he be threatened with transfer, dismissal or other disciplinary punishment. No promise of reward will be made as an inducement to answering questions. Nothing herein will be construed to prevent the investigating superior officer from informing the employee of the possible consequences of his actions.

c. The questioning will be reasonable in length. Time will also be provided for personal necessities, meals, telephone calls, and rest periods as are reasonably necessary.

d. Not be ordered to submit to a polygraph test. Such test may be offered by the Fire Administration. Refusal to take the test shall not in and of itself be ground for disciplinary action.

e. The employee and union representative shall be informed of the results of the investigation within 10 days, excluding weekends and holidays, unless extended-by mutual agreement of the parties. Such requests for extension will not be unreasonably withheld by the Union.

6. Counseling.

The City reserves the right to hold counseling sessions. The purpose of a counseling session is to solve employee problems and to avoid the development of a situation into a disciplinary problem. A counseling session will be documented on a form, but this form shall not be made part of the employee's permanent record but shall be maintained by the immediate Supervisor, Division Chief, or the bureau head no longer than six months, provided no disciplinary action becomes involved. Employees shall be given a copy of the counseling forms.

These sessions should not be a disciplinary measure but employees should be informed of the specific behavior which could lead to further action and why the session is being documented.

7. Paycheck Distribution

Paycheck distribution shall be provided for all three (3) shifts while on duty. Off duty employees may pick up checks at their designated station at the prescribed time.

8. Territory and Building Familiarization.

The City acknowledges that members are not required to perform territory and building familiarization while off duty.

ARTICLE 5 DUES DEDUCTION

The City agrees to deduct Union dues twice monthly from the earned wages of full time, permanent employees covered by this Agreement. Further, the City agrees to deduct Union dues from probationary employees, with the understanding that they are not covered by this Agreement. The amount of regular Union dues deduction shall be determined by the Union and certified by the Secretary or President of the Union to the City Personnel Director.

Deductions shall be made from the employee's wages only when authorized by him on an appropriate form, a copy of which must be submitted to the payroll department.

The authorization for payroll deduction shall be revocable by an employee at any time with such request being in writing, signed by the employee with copies of such notice being sent by certified mail to the Union Secretary and to the City Personnel Director. Employees may also revoke dues deductions in person at the Union office.

Revocation of dues deductions will be made effective thirty (30) days from the date the notice is received in the City Personnel Office or from the date of notice from the Union, whichever is less. Revocation will be confirmed by memo from the City Human Resource Office to the Union office, indicating the name and the date which the deduction will be cancelled.

The employee's earnings must be regularly sufficient after other legal and required deductions are made to cover the amount of appropriate Union dues. When a member in good standing of the Union is in non-pay status for an entire pay period, no withholding will be made to cover that pay period from future earnings. In the case of an employee who is in non-pay status during only part of the pay period, and the wages are 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. However, any employee who executed a written assignment authorizing payroll deduction prior to any authorized leave shall, upon returning on payroll, have his dues deducted. The Union will indemnify and hold the City harmless against any claims made and against any suits instituted against the City on account of payroll deductions of Union dues.

The authorization for a payroll deduction shall become effective on the next payroll date occurring after the receipt of the authorization for payroll deduction by the Payroll Department.

In the event there is an increase in Union dues, the Union shall notify the City at least thirty (30) days prior to the effective date of the dues increase.

All money deducted by the employer, together with a list of members from whom deductions were made, shall be mailed to the Treasurer of the Union twice monthly. The Union agrees to refund to the City any amounts paid to it in error on account of the payroll deduction provision upon presentation of proper evidence thereof.

ARTICLE 6 NO STRIKE

It is acknowledged by the full membership of Local 1784 of the IAFF that the protection of the public health, safety and welfare demands that the members of the Fire Department not be accorded the right to strike or engage in any work stoppage, slowdown, or any and all similar activities. This necessary prohibition does not, however, require the denial to such employees other well recognized rights, such as the right to organize, be represented by an employee organization of their choice and the right to meet and confer in accordance with the provisions of the labor policy of the City of Memphis.

The membership of the Union recognize, therefore, that participating in a strike as defined herein shall subject the member or members to immediate and permanent dismissal, together with the loss of all employee benefits, not to include vested pension benefits.

During the term of any Memorandum of Understanding between the Union and the City or prior to such memorandum, or after the expiration thereof, the Union and its membership agree that it will not engage in, or approve any strikes, slowdowns or other work stoppage, interruption or interference growing out of any dispute relating to the terms of the Memorandum of Understanding or for any other reason. The City agrees it will not lockout employees during the term of any Memorandum of Understanding or prior thereto. The Union will take such lawful steps as may be necessary to prevent any interruption of work prior to or after any Memorandum of Understanding comes into existence, recognizing with the City that all matters of controversy concerning employment shall be settled by applicable law and City personnel policies, or by established grievance procedure as specified in this Memorandum of Understanding.

Further, in the event of a strike as defined herein, the Union and individual members agree that all dues being withheld from the wages of the members of the Union shall be retained by the City and applied to the cost and expense of providing fire protection by alternative means and/or personnel.

It is understood and agreed that the Union, as well as its members individually who participate in the violation of the provisions herein, shall hold the City of Memphis harmless from any and all liability or claims which it may incur or sustain as a result of any violation of the provisions embodied herein.

It is further understood and agreed that the provisions embodied herein shall inure to the benefit of any individual, company, corporation, or other legal entity who shall sustain damage as a result of violation of the provisions herein.

Nothing in this Memorandum of Understanding is construed to limit relief under the common law or any applicable statute to which the City may be entitled to injunctive relief or for damages suffered against the individual members of the local Union, and nothing in this Memorandum is construed to limit relief under the common law or any applicable statute to which the Union may be entitled for injunctive relief or for damage.

ARTICLE 7 GRIEVANCE PROCEDURE

A grievance shall mean an allegation by the Union or the employee(s) that:

A. There has been a violation or misapplication of the provisions of this Memorandum of Understanding or, of clearly existing and established rules, regulations, policies or past practices of the Fire Division which result in an unfair or unreasonable personnel action by the City against identifiable members of the bargaining unit.

B. An employee has been suspended and/or discharged without just cause provided the employee waives in writing his right of appeal, if any, to the Civil Service Commission.

1. Grievances shall be handled in a simple and direct manner. The Union and the City agree that grievances should be settled in an orderly, prompt and equitable manner which will maintain the self-respect of all parties involved.

2. The Union shall appoint from its membership a Grievance Chairman and identify him, in writing, to the Director of the Fire Division.

3. When a grievance arises, the employee or employees involved along with the House Steward shall attempt to resolve the grievance with the Company Officer, Battalion Chief and/or Division Chief on duty on their shift. Right of representation by a Union Officer above House Steward shall not be unreasonably withheld when requested.

4. In the event satisfactory decision is not reached, the aggrieved employee shall file the grievance with the Union Grievance Chairman indicating the alleged violation. The Union Grievance Committee shall review the facts of an alleged violation and determine if a grievance exists. If the Union determines a grievance exists, it shall be submitted in writing to the Division of Fire Personnel within ten (10) days, excluding weekends and holidays, of the occurrence or discovery of the allegation. The written grievance shall indicate the time and date the grievance occurred, the article alleged violated, a summary of the facts related to

the grievance and the relief sought.

However, when a grievance applies to more than one (1) employee or has a division-wide application, such grievance may be filed initially at Step 2, upon mutual agreement of the Director, Division of Fire and the President of the Union.

STEP I. Upon receipt of the written grievance the Division of Fire Personnel shall within ten (10) days, excluding weekends and holidays, coordinate a hearing with the appropriate Supervisor within the grievant's chain of command and the Union representative.

If mutually agreed to, either the Union or the City may call no more than two (2) witnesses with pay. The appropriate Supervisor shall provide the Union with a written decision within ten (10) days, excluding weekends and holidays, after the close of the hearing.

STEP II. If the City's decision is rejected by the Union, then the Union shall file a written notice of appeal within 10 (10) days, excluding weekends and holidays, of receipt of the decision at Step I with the Division of Fire Personnel. The Division of the Fire Personnel shall schedule a hearing with the Director of Fire or designated representative and the appropriate Union representative to be conducted within ten (10) days, excluding weekends and holidays, of receipt of the appeal. The Director or his designated representative shall respond in writing within ten (10) days, excluding weekends and holidays, after close of the hearing. If mutually agreed to, either the Union or the City may call no more than two (2) witnesses before the Director with pay.

STEP III. The Union shall indicate its acceptance of the Director's decision or its rejection and request for arbitration within thirty (30) days of receipt of the decision. The arbitration shall be handled pursuant to Article 8.

Any matter for which a grievant would have recourse to an appeal to the Civil Service commission may be submitted by the grievant to the grievance procedure. However, no matter shall be heard by the Civil Service Commission and by an arbitrator, therefore, if a matter is appealed to the commission and also grieved, the grievance shall be withdrawn prior to any hearing by the Commission. Similarly, if the matter was appealed to the Commission and arbitration is requested, the appeal to the Commission must be withdrawn prior to scheduling of any arbitration hearing.

5. Specified time periods shall be exclusive of Saturdays, Sundays, and City paid holidays. The time limits specified above may be extended by agreement of both parties when requested in writing and approved by representatives of both parties prior to the expiration of the time limits set forth above.

6. Failure by the City to provide an answer following a timely Union appeal shall result in the Union position being sustained. Failure by the Union to provide an appeal following a City decision shall result in City's position being sustained.

7. Nothing in this Memorandum shall prevent non-union employees from presenting their own grievances and receiving adjustment at any step without the assistance or presence of a Union Representative, provided, however, that no adjustment shall be inconsistent or in the terms of this Memorandum of Understanding.

ARTICLE 8 ARBITRATION

Any and all unresolved grievances as defined in Article 7 may be submitted to arbitration in the following manner: the parties shall apply within seven (7) days to the Federal Mediation and Conciliation Service or the American Arbitration Association for the names of five (5) arbitrators. One (1) arbitrator shall be selected by alternately striking names from the list, and the dispute shall be submitted to the arbitrator then remaining for the advisory arbitration. Such arbitration shall be under the rules of the Federal Mediation and Conciliation Service or the rules of the American Arbitration Association as prescribed by the arbitrator selected. The parties may waive, if they desire, the provision of this section and select an arbitrator mutually agreed upon. The cost of the arbitrator selected shall be borne by the party against whom the award is rendered, (Fire Service Division or Union) unless there is a split award and then the cost will be shared equally by the parties. Facilities shall be provided by the Employer.

The arbitrators shall have no authority to set policy or to add to or subtract from or change any terms of the Memorandum of Understanding. There shall be final and binding arbitration on suspension and discharge with the arbitrator chosen as above. All other matters shall be handled as follows.

The decision of the arbitrator shall be forwarded to the Director of Personnel of the City and the President of the Union within thirty (30) days of the closing of the hearing. The Director of Human Resource shall then forward the decision to the Chief Administrative Officer who shall then review the arbitrator's decision as well as previously established facts relating to the grievance and provide a binding decision on the grievance as the final step in the grievance procedure.

It shall be the prerogative of the Chief Administrative Officer to request additional information as he deems necessary from either party and/or to conduct a hearing as he desires. This decision shall be provided in writing to the Union with copies to the Director of the Fire Division, the City Attorney and the Director of Human Resource within fifteen (15) calendar days from the date the arbitrator's decision is received.

Any matter for which a grievant would have recourse to an appeal to the Civil Service Commission may be submitted by the grievant to the grievance

procedure. However, no matter shall be heard by the Civil Service Commission and by an arbitrator. Therefore, if a matter is appealed to the Commission and also grieved, the grievance shall be withdrawn prior to any hearing by the commission, similarly, if the matter was appealed to the Commission and arbitration is requested, the appeal to the Commission must be withdrawn prior to the scheduling of any arbitration hearing.

ARTICLE 9 LABOR MANAGEMENT COMMITTEE

A Labor-Management Committee shall be established for the purpose of discussing, at a mutually agreeable time, matters of mutual concern, but not to include amendments to this Memorandum of Understanding. It is further agreed that the items which shall be discussed will be those items which relate to interpretation of Fire Division policy and the administration of those policies but shall not serve as a negotiating session, nor shall items be discussed which are currently involved in a grievance procedure. It is agreed that this committee will deal with those items of mutual concern which generally relate to public or community relations activities, working conditions, and health or safety matters.

This Committee shall be limited to not more than three (3) Union and three (3) Management members and shall meet once a month upon request, providing relevant subject matter exists. Otherwise, this Committee shall meet as mutually agreed to by the President of the Union and the Director of the Fire Division.

Union members shall include the President and/or Vice President of the Union, with the remaining member(s) to be appointed by the President, while the Fire Division representatives shall include the Director and/or Deputy Director(s), with the remaining member(s) of the Committee to be appointed by the Director. Committee members shall be identified in writing by both parties and additional persons may be invited to attend when mutually agreeable to both parties.

It is further agreed that the subject matter for each meeting shall be determined in advance and shall be communicated in writing to both parties prior to the beginning of the meeting. Results of the meeting shall be submitted in writing to the Union. The Committee shall encourage input from throughout the Fire Division.

**ARTICLE 10
NON-DISCRIMINATION**

A. It is jointly understood that the City of Memphis is an Equal Opportunity Employer and as such, follows personnel standards designed to assure equal employment and merit promotion for all qualified applicants and qualified employees without regard to race, union affiliation, color, sex, age, religion, political beliefs, national origin, or disability except where such factor constitutes a bona-fide occupational qualification. The Union and the City agree that no qualified applicant for employment or employee shall be discriminated against in hiring, promotion, terms and conditions of employment or discharged because of religion, union affiliation, political beliefs, national origin, or for exercising the use of the grievance procedure. The Union acknowledges that action taken in accordance with state or federal law or a court order shall not be deemed a violation of this Memorandum of Understanding.

B. Realizing the important role played by the employees as citizens, the Union and the Employer encourage full participation in community service activities and such participation shall be on a voluntary basis. Acceptance or rejection of voluntary assignments shall be on a voluntary basis. Acceptance or rejection of voluntary assignments shall not be considered in completing employee evaluation forms.

C. The term "employee" in this Agreement or use of the male gender shall be considered as including female.

D. The Union and the City recognize that no employee is required to join the Union, but that every employee has the right to choose of his own free will as to whether or not he will or will not be a Union member. Both parties agree that they will not interfere with, coerce, or intimidate any employee regarding his right to join or not to join the Union, or in any way discriminate against those employees who are or are not Union members.

**ARTICLE 11
PROBATIONARY ORIENTATION**

The Union shall be given the opportunity to orient probationary employees, and other new employees on the history, purpose and objectives of the Union. Such material to be presented by the Union to such employees must be mutually agreed to by the Director of Fire and Union President prior to such presentation. This orientation period may be held at the Training Academy and shall be at a time to be determined by the Union President and the Director of Fire. The Union may pass out enrollment cards during orientation.

**ARTICLE 12
RULES AND REGULATIONS**

The City and the Union recognize the right of the City to issue rules and regulations and to revise operational and administrative policies and procedures as necessary to assure the proper and efficient operation of the Fire Division.

The City agrees to provide a complete manual of rules and regulations with copies of this manual to be made available to all members at their respective duty stations. To comply with the intent of the Preamble to this Memorandum, the City shall discuss changes to rules and regulations with the Union Representatives on the Labor-Management Committee. All changes to rules and regulations shall be posted on bulletin boards for at least ten (10) calendar days prior to the stated effective date, at which time they shall be included in the rules and regulations manual and mailed certified mail to the local Union office.

Rules and regulations shall be defined to include Fire Division rules, regulations, policies and Director's memoranda which are not in conflict with the specific provisions of this Memorandum of Understanding. City policy that modifies the existing working conditions defined in the Agreement shall be discussed with the Union at least ten (10) days in advance, except in the case of an emergency. The Department agrees to Fax a copy of the general staff meeting minutes to the Union.

**ARTICLE 13
SICK LEAVE**

Members of this bargaining unit shall be covered by the City's Sick Leave Policy with the addition of special Fire Division provisions. Employees will be required to call in on Sick Leave 30 minutes prior to their shift. Employees will not be required to divulge the nature of their illness when reporting off sick.

SICK LEAVE - Accumulated rates for the term of this Agreement shall be in accordance with the schedule provided below: Upon completion of sixty (60) calendar days, all regular employees shall be eligible to receive pay while absent from work due to sickness to be charged against accumulated Sick Leave time. Unlimited accumulation of Sick Leave begins from the first day of employment at the following rates per month:

<u>Service</u>	<u>40-Hr. Employee</u>	<u>56-Hr. Employee</u>
1-5 years	8.0 hours	12.0 hours
6-9 years	12.0 hours	18.0 hours
10-14 years	16.0 hours	24.0 hours
15+ years	20.0 hours	30.0 hours

Effective July 1, 1982, all accumulated sick leave days will be converted to accumulated sick leave hours based on the following formulas:

40-hour employees: number of days x 8.0 hours = hours accumulated

56-hour employees: number of days x 12.0 hours = hours accumulated

Accumulated sick leave hours will be adjusted upward when going from 40 to 56-hour employment, and downward when going from 56 to 40-hour employment. Sick Leave will not accumulate while an employee is absent on Sick Leave fifteen (15) days or longer, unauthorized absence, or during other unpaid Leaves of Absence.

Paid holidays that occur while an employee is on Sick Leave shall not be charged as Sick Leave.

A fifty-six (56) hour employee who is absent due to an unconfirmed illness and such illness extends to the second work day, the member shall be required by the City to submit a physician's statement upon returning to work. A forty (40) hour employee who is absent due to an unconfirmed illness and such illness extends to the third work day, shall be required by the City to submit a physician's statement upon return to work.

In the case of either of the above defined employees, the physician's statement shall be the completed physician's release form provided by the Division of Fire Services. The following relates to the requirement to submit a completed physician's release form upon return to work. In the event an employee is unable to submit the completed required form, such employee will be returned to duty status upon presenting a physician's release to return to duty on a regular doctor's office form. However, in such cases, the employee is required to follow with the Fire Division's completed physician's release form within seven calendar days after returning to work.

Proven cases of abuse of Sick Leave may require the employee to submit a physician's statement for a single day's absence, such requirement not to exceed 3 months. Absences accompanied by the Division's Physician's Release Form will not be counted toward this requirement.

The City agrees that employees who are on Sick Leave status shall not be requested to notify the Fire Division of departure from home except on duty days and further agrees that visits to employees on Sick Leave status shall be done only on days the employee would normally be on duty, but may be done at the discretion and convenience of the Fire Division on those days. An employee who becomes ill while on vacation, bonus day or swap day and whose illness is substantiated by a doctor's statement may have that portion of his vacation, bonus day or swap day which was interrupted by illness, rescheduled. It shall be

the employee's responsibility to report said illness to the Personnel Section or Alarm Office immediately, and present his doctor's statement to his Supervisor upon return to work.

An employee who has a prolonged illness or injury off the job which is medically verified will not have to report in and out of the house after requesting and receiving approval of the on duty Division Chief of the division to which he is assigned. Such approval to be for a specific period and not to be unreasonably withheld.

Employees shall be compensated in cash for accumulated unused Sick Leave when they retire as follows: Fifty-six (56) hour employees shall be compensated for 900 hours of their unused accumulated sick leave at their 24-hour rate of pay. Forty (40) hour employees shall be compensated for up to 600 hours of their unused accumulated sick leave at their eight (8) hour rate of pay.

The amount of payment for unused sick Leave is to be calculated at the employee's rate of pay in effect on the payday immediately proceeding the employee's retirement. Such payment shall not be counted as compensation for the purpose of computing retirement benefits.

Bonus Day

After completion of sixty (60) calendar days of continuous service, an employee who works three consecutive months without Sick Leave, or any unauthorized absence, will be eligible for one (1) bonus day leave with pay, to be taken off within twelve (12) months from the day it is earned or as elsewhere provided herein. Unauthorized absence, as it relates to all Sick Leave provisions, shall be an accumulated absence of six or more hours in a three (3) month period for forty (40) hour employees and nine (9) accumulative hours for fifty-six (56) hour employees. Wherever Bonus Day and/or Sick Leave day are noted in this Sick Leave Policy, reference is to duty days. Bonus Days will be earned in a like manner for subsequent three (3) month periods so that an employee may earn up to four (4) Bonus Days a year. An employee shall not have more than four (4) Bonus Days on the books unless approved by the Director of Fire. When employees are unable to utilize their Bonus Days, they shall not lose them.

Employees may exercise the Bonus Day provision on only one recognized holiday during a calendar year. Bonus Days shall be granted to members of this bargaining unit on a quarterly calendar basis. A predetermined daily number of Bonus Day opportunities shall be identified by the Division for each quarter. Such Bonus Day opportunities shall be limited, based on manpower requirements and manpower availability. An employee may identify which day(s) during the next quarter he wishes to take a Bonus Day(s). Such identification must be exercised by the 15th day of the month preceding the next quarter. Forms will be provided throughout the Fire Division for submitting such requests.

To assure proper manning at the Company or Bureau level, the administration of the Bonus Day provision shall be the responsibility of the appropriate Division Chief or Bureau Head.

Requested Bonus Days shall be scheduled as is practical within manning requirements of the Fire Division. However, it is acknowledged by the parties that there may be occasions when the employee may request the change of a scheduled Bonus Day(s) or the Division may not be able to grant a scheduled Bonus Day(s) to an employee. In either case, both parties agree to give ample notice.

Due to the critical manning requirements unique to the Fire Division and the potential of rendering a Company out of service due to employee absences, employees may exercise an option of taking his Bonus Days as time off or receiving compensation for earned Bonus Days, not to exceed four Bonus Days per year, at his regular days pay at the straight time rate for the term of this Agreement

ARTICLE 14 ON-THE-JOB INJURY

If a member receives an injury, disease or illness while in the performance of duty and requires medical treatment with time off, then such member shall receive and be carried in a status of injury on-the-job.

An employee will receive full salary so long as there is medical documentation from the physician of record that it is medically necessary for the employee to remain off work due to the on-the-job injury or illness for a maximum period of six (6) calendar months plus up to six (6) additional calendar months at the Division Director's authorization upon medical documentation as submitted by the employee's attending physician and/or a physician selected by the City. At the conclusion of the twelve (12) calendar months of OJI at full pay the injured employee who has been determined to be medically unable to perform the full scope of their job and unable to return to full duty may:

- A. Request use of accrued leave benefits and/or a leave of absence without pay. The total period of accrued leave taken will not exceed six additional calendar months beyond the above described twelve (12) months. Request for a leave of absence without pay may be granted although the employee has remaining unused accrued leave benefits. It is understood that under this option, all benefits will continue to accrue as if OJI time was being utilized.
- B. Apply for Long Term Disability Income Plan Benefits.
- C. Apply for a line-of duty disability retirement, subject to the rules of the city of Memphis Retirement Ordinance.

Heart, lung disease, including hypertension, shall be considered on-the-job injuries according to state statute. Benefits accrued to those individuals shall be the same as those who suffer injury, disease or illnesses as provided herein. Persons who are suffering from injuries received on the job shall not be placed on Sick Leave in accordance with existing Sick Leave policy.

Members who are carried in a status of being injured on-the-job shall submit physician's report stating the estimated date of return to limited duty or full duty whichever is applicable, and shall include all available information regarding the disability and the prognosis. It is recognized by the members of the Union that the City shall have the opportunity to require a member to report to a physician selected by the City for examinations at any time with the cost to be borne by the City. Results of the examinations by the City physician shall be a determining factor in decisions related to return to duty status.

An employee who is in on-the-job injury status shall not be required to report in and out of his home to the Fire Division. It is understood that the individual shall be required to provide the City Personnel Division and the Fire Division with necessary medical statements and/or be present for evaluation examinations upon request. The City policy regarding on-the-job injuries will be made available for review.

Hospital semi-private room rate coverage shall be provided. However, if in the professional opinion of the duly qualified attending physician, the medical welfare of the employee clearly dictates the requirement of a private room, the cost of the private room rate will be paid by the City only for the duration of such requirement. The City reserves the right to confirm the requirement and the duration period with the above noted attending physician or a physician selected by the City. Private room costs will not be paid by the City if such accommodations are for the employee's convenience. In hospital facilities where both private and semi-private rooms exist, the City will pay private room rates when no semi-private room is available. In hospital facilities where only private room rates exist, the City will pay the private room rate. The City reserves the right to investigate and confirm and affect conditions related to this provision.

ARTICLE 15 DEATH IN FAMILY

In the event of a death in the employee's family, full wages will be paid for scheduled days of work from which the employee is necessarily absent because of the death, but not beyond a maximum of three (3) days for 40-hour employees and not to exceed two 24-hour duty days for 56-hour employees.

Immediate family shall be defined as:

- Legal Spouse
- Legal Children
- Legal Parents
- Legal Grandparents (and includes great grand-parents of the employee)
- Legal Grandchildren
- Children of Legal Spouse
- Brothers
- Sisters (blood, step, half)
- Mother,
- Father of Legal Spouse
- Properly established Foster Parents
- Step Parents.

If necessary, fifty-six hour employees will be given up to one (1) day off with pay and forty hour employees will be given up to two (2) days off with pay for the funeral of the following relatives:

Son or daughter-in-law of employee or employee's legal spouse
Brother or sister-in-law of employee or employee's legal spouse
Grandparents of employee's legal spouse
Grandchildren of employee's legal spouse.

Relationships listed above that are created by legal adoption.

If leave under this Article interrupts an employee's scheduled vacation, bonus day or sick leave, the employee has the option of electing leave under this Article and the vacation or bonus day will be rescheduled at the convenience of the City and the sick leave charged will be restored.

ARTICLE 16 DEATH OF AN EMPLOYEE

In the event of the death of a regular permanent employee, while employed by the City of Memphis, the following is to be paid to the person entitled thereto as designated by the employee, or by law. All accumulated sick days up to seventy-five (75) days; all accrued wages due including allowances for unpaid holidays, vacation time, compensatory time and bonus days; an amount equivalent to the employee's regular wages for one (1) month after the legally required deductions; and a \$4,000 no-cost death benefit.

In the event of the death of an employee as a result of performance in the line of duty, the employee's dependents as specified shall be eligible for payment of up to \$100,000 in accordance with current City policy. The form in which this payment shall be made shall be agreed to by representatives of the family and the City Attorney's Office in accordance with established practice.

ARTICLE 17 SENIORITY

1. Seniority shall be calculated in the following manner:
 - a) CITY-WIDE SENIORITY shall be the length of service of the employee with the City from employee's last date of employment.
 - b) FIRE DEPARTMENT SENIORITY shall be the length of service with the Division of Fire from employee's last date of employment within the Division of Fire.
 - c) IN-RANK SENIORITY is that rank from date of promotion.
2. All new employees shall be considered probationary employees for twelve (12) months from their last date of hire. At the end of the probationary period new employees shall be added to the seniority list, provided, however, that employees who transfer from other City Divisions or Departments shall retain their city-wide seniority.
3. An employee shall have his seniority broken when he resigns, is discharged for just cause, or accepts gainful employment while on approved Leave of Absence from the Division of Fire or is laid off for a period of more than twenty-four (24) months.
4. If an employee who has passed his probationary period resigns and is later rehired he shall return at the monthly salary consistent with his length of service in the Fire Division and consistent with the City's wage and salary administration policies.

ARTICLE 18 SENIORITY BID TRANSFERS

SECTION 1 - The City shall provide to Local 1784, a Fire Division seniority report showing employee's name, job classification, City-wide seniority date and Fire Department seniority date on a semi-annual basis.

SECTION 2 - The City agrees to make available to Local 1784 information relative to this bargaining unit showing authorized strength and currently assigned strength.

SECTION 3 - In-Rank Transfers:

A. When the Division determines the need to fill a vacancy created by retirement, termination, resignation or death in any classification covered by this Memorandum of Understanding, excluding the Material Services Bureau(s), notice of such vacancy will be posted for ten (10) calendar days on all bulletin boards. At the end of the ten (10) day notice period, all requests for seniority bid transfers will be reviewed and the vacancy shall be awarded to the senior qualified applicant. In the event that two employees who have the same length of City-wide seniority, and are the most senior employees bidding, the employee with the greatest amount of in-rank seniority shall be awarded the bid. If a tie still exists, a non-discriminatory method will be used to break the tie. 1630 hours of the tenth (10th) day notice shall be the cut-off time for receiving the transfer forms. An employee may bid on more than one (1) seniority bid transfer request, but not more than two (2) seniority bid transfer request simultaneously, one time during the twelve (12) month period from date of transfer. In the event the employee bids on two (2) seniority bid transfers simultaneously, he or she will list 1st and 2nd preference, and if successful in both, the employee will be assigned to his/her 1st preference. When bidding on two (2) seniority bid transfer simultaneously and when the employee fails to list a preference, the assignment to one of two seniority bids will be at management prerogative. Employees on six (6) month administrative probation following promotion are ineligible to bid under this Section. In the event the City deems it necessary to transfer an employee within twelve (12) months after being awarded a bid, the employee will be eligible to utilize his seniority right to bid again. The employee will be given the reasons for the transfer in writing prior to the effective date of the transfer.

B. Employees who request such transfer and are denied such transfer and who are senior to the employee shall be given in writing by the Division Chief or appropriate Supervisor the basis for denial and suggested areas for improvement.

C. Employees transferred pursuant to Item A of this Article, in order for permanent placement, shall be required to successfully complete a sixty (60)

calendar day trial period. During such trial period the Division will evaluate the employee's performance to assure that he performs at an acceptable level of competence in all phases of the position. Employees who fail to successfully complete the trial period may be transferred to any available opening at the Division's option.

The evaluation of transferred employee's performance shall be the responsibility of the appropriate Division Chief or appropriate Supervisor who may, at his discretion, utilize a review board that may consist of Supervisors, peers, and/or subordinates who are knowledgeable of the individual's job performance. If utilized, such a board will be responsible to objectively evaluate the employee and to communicate their recommendation in writing to the Division Chief or Supervisor. The Division Chief or Supervisor will consider the board's recommendation when making his final evaluation.

D. Seniority Bid Transfer provisions shall be limited to the initial vacancy in a classification and not to openings created by the initial transfer.

E. Thirty (30) days prior to filling vacancies with recruits, all Private openings will be posted and Seniority bid transfer requests honored as specified above prior to remaining openings being filled with recruits, provided, however, that this policy shall not result in more than one (1) recruit being placed on any single company, on the same shift.

SECTION 4 - When the City determines the need to temporarily assign bargaining unit employees, such assignment shall be for a specific duration and so identified in writing to the President of the Union. The employee will be transferred back to his previous assignment upon completion of the temporary assignment. Twenty-four (24) hour employees on temporary assignment shall retain all benefits as a twenty four (24) hour employee based upon the Department's conversion schedule when temporarily assigned to eight hours.

SECTION 5 - In the event it becomes necessary to reduce the Fire Division, seniority alphabetically shall govern layoffs and recalls. Employees lowest in seniority shall be laid-off first and shall be the last to be recalled. Members laid-off shall be given thirty (30) days notice prior to the effective date of layoffs.

**ARTICLE 19
WORK SCHEDULE**

A. 56-Hour Employees:

SECTION 1

The three (3) platoon system with each platoon on-duty an average fifty-six hours per week shall continue.

Platoons shall be scheduled as follows:

On-duty for twenty-four (24) continuous hours 1 day
Off-duty for twenty-four (24) continuous hours 1 day
On-duty for twenty-four (24) continuous hours 1 day
Off-duty for twenty-four (24) continuous hours..... 1 day
On-duty for twenty, four (24) continuous hours1 day
Off-duty for ninety-six (96) continuous hours 4 days

This provision shall not be binding on the City, however, it is the desire of both parties to retain the twenty-four (24) hour shift concept if feasible. No shift change will be made until notice of such has been posted for at least fourteen (14) days.

Section 2: Details

Details shall be rotated fairly at the company level. Probationary employees may be detailed 90 days after graduation from fire school.

B. 40-Hour Employees:

1. Fire Alarm Bureau

The three (3) platoon system with each member regularly scheduled on duty five (5) days per week, eight (8) consecutive hours per day shall continue. In order to rotate off-duty days, employees may be required to work more than five (5) days but not to exceed seven (7) days. All employees who have completed their initial probationary period of employment in the Fire Communications Bureau shall, for fixed shift bidding only, use the following steps and guidelines to staff the three (3) dispatching shifts.

- a) First - seniority preference is given to time in rank.
- b) Second - time in Fire Alarm Office.
- c) Third - time in Fire Service.
- d) Fourth - complete time worked for City.
- e) Fifth - by mutual agreement of management and involved employees.
- f) Finally, by alphabetical order of the employee's last name but-said order being rotated each year.

The position of Training Officer shall be rotated every two years among the Senior Operators. This rotation shall begin in January 1993, with the most Senior Operator who has not had the opportunity to work in the position of Training Officer. The FCB Training Officer shall not be used to meet staffing requirements on any shift.

It is agreed that the number of Fire Alarm Operator II's and III's will be divided equally among the three shifts. In the event of an odd number of Operator IIs and/or Operator IIIs, Operator IIIs shall have shift preference over Operator IIs.

It is also agreed that employees at the Fire Alarm Office shall start required personnel changes due to approved shift bidding procedures, following the pay period in mid-December, the first duty day following Christmas holidays.

A Fire Alarm Bureau employee desiring to transfer from one shift to another shall inform in writing his/her watch commander and the watch commander of the shift to which he/she wishes to transfer and said request must be approved by the Chief of Communication. A notice of the desired transfer will be posted for ten days, during which time employees can indicate on the notice their desire to transfer with the employee. The Department will grant the transfer to the senior qualified employee, if in the best interests of the bureau. Denial of the transfer will be put in writing.

Employees of the Fire Alarm Office shall be provided two fifteen minute breaks and a thirty minute lunch, per employee per shift.

2. Others

The work week for other forty (40) hour employees shall be the standard forty (40) hour work week. However, a work week of four 10-hour days may be substituted for the work week of five 8-hour days should the City determine that such a change would benefit the operations of the bureau. Overtime shall be on a voluntary rotating basis, however, should no qualified volunteers be available, the overtime detail shall be mandatory and assigned at the sole discretion of management.

This provision in 1 and 2 shall not be binding on the City, however, it is the desire of both parties to retain the current eight (8) hour shift and present working hours, if feasible. No shift change will be made until notice of such has been posted for at least fourteen (14) days. Forty (40) hour employees who qualify shall be covered by the City's shift differential policy.

**ARTICLE 20
INCLEMENT WEATHER**

There shall be no plug flushing, outside training or outside building or grounds general appearance work performed when temperatures are above 90 degrees or below 40 degrees Fahrenheit.

The need for emergency work and emergency training or the cleaning of fire hose shall be excluded. General company and individual inspections shall not be done during hazardous weather conditions. Company and individual inspections shall not be conducted when temperatures are above 90 degrees or below 40 degrees Fahrenheit. The parties agree, however, that on some occasions operational contingencies may require inspections at any time.

Unless circumstance prevent, the Rehabilitation Truck will be put into service when the temperature is above 90 degrees Fahrenheit or below 40 degrees Fahrenheit for a reasonable period of time within a 24-hour period.

**ARTICLE 21
BULLETIN BOARDS**

The City agrees to furnish and maintain suitable bulletin boards adjacent to or in close proximity to Division bulletin boards. Upon installing at new locations or replacing present bulletin boards, the minimum, size of bulletin boards shall be a minimum of twenty-four (24) inches by thirty-six (36) inches dimension.

Material posted on these boards shall be the responsibility of the Union and shall relate to Union matters to include meetings, Union elections, social events, reports and decisions.

The City shall have the right to remove any material, not included above, provided the Union House Steward or alternate shall be informed of removal of any material.

**ARTICLE 22
PERSONNEL FILE REVIEW**

All employees shall have the right to review the complete personnel file at the following levels:

- Company or immediate level
- Battalion or comparable level
- Division level Department level
- City Personnel Division

Employee shall have ready access to his personnel file at Company level.

When requesting a review of a personnel file at a higher level, an appointment by phone or in writing shall be made. In no case shall any document be removed from personnel files following a request and prior to the review, nor shall any information be added or altered at anytime without the individual being aware of the change.

An employee shall receive a copy of all letters placed in his personnel files. A copy of the evaluation form will be furnished to the employee upon request. A copy of the 703 Form (OJI) Form will be furnished to the employee upon request. A time-stamped copy of the transfer (swap) form will be provided the employee.

ARTICLE 23 RESIDENCY REQUIREMENTS

The City has established a residency requirement (PM 14-02, October 1, 1981) for all City employees which shall include Fire Division personnel.

Employees residing outside the confines of Shelby County must be able to report for duty within two (2) hours of notification; current addresses and telephone numbers must be maintained.

ARTICLE 24 WORK TASKS

SECTION 1 - No employee shall be required to perform work which is designated and assigned exclusively to other Unions representing City employees excluding grass cutting and general house cleaning.

SECTION 2 - All apparatus will be kept clean in accordance with the following provisions:

Top side portions, including fender wells and compartments, shall be cleaned by each shift so as to pass visual inspection. Tires will be cleaned when necessary to remove unsightly mud or dirt from sidewalls. Apparatus will be chamoised after each run on inclement weather days until 2200 hours. Necessary cleaning of apparatus after 2200 hours will be the responsibility of the next shift, except that the apparatus shall be cleaned by hose stream after each run in inclement weather. The underside will be cleaned by hose stream only to remove mud, dust or other type accumulation. A visual check of the top side and underside will be made at the start of each shift for physical and mechanical defects.

SECTION 3 - Fire Department vehicles assigned to the Director, the Deputy Directors and Chief of Emergency Operations shall be cleaned and serviced at Headquarters. Vehicles assigned to Division Chiefs, shall be cleaned and serviced within their battalion. On-call cars shall be gassed and serviced daily. The washing of the on-call car shall be as needed.

Such cars shall be cleaned once while on duty except as necessitated by weather conditions or special occasions.

Off-duty personnel will not be provided car washing services.

ARTICLE 25 WATCHES

A sleeping watch will be permitted from 2300 hours to 0600 hours. A rollaway bed and mattress will be furnished by the City and will be located in close proximity to the watch desk. If by 2200 hours, all personnel in the Engine House have gone to bed, the watchman may also go to bed at 2200 hours.

The watchman shall be expected to wear at least uniform pants and approved T-shirt while sleeping. The watchman will be awakened by the Alarm Office at 0600 hours. The man on watch will be responsible for storing the bed in a place designated by the Company Officer. The bed shall not be prepared for sleeping prior to 2200 hours in accordance with the above provisions and shall be stored by 0630 hours.

The sleeping watch does not relieve the watchman of any duties and responsibilities pertaining to the receipt and transmission of any fire alarm. In situations requiring apparatus radios to be used for communications, then the watchman shall remain on full alert.

ARTICLE 26 SAFETY AND HEALTH

Fire Department personnel responding to emergencies during riots or civil disorders shall be furnished maximum protection possible utilizing existing police and/or National Guard resources as available.

Fire fighting personnel are assured coverage under existing City and State laws applicable to municipalities regarding Safety and Health.

The Director shall appoint a Safety Administrator. The Safety Administrator shall be responsible for the maintenance of safety records and for reviewing safety matters affecting employees. A health and safety committee composed of members of the Union and the Fire Administration will meet and confer on matters affecting health and safety. Meetings shall be held as needed but not

less than on a quarterly basis.

In such cases where employees are assigned to work in areas where they are exposed to communicable diseases such as tetanus, typhoid, typhus, tuberculosis, hepatitis, or other similar diseases, and the employees contract such a communicable disease, the employees will be treated for that disease at the expense of the City and will not lose any benefits he or she would have otherwise received had that employee not contracted such disease. To be disqualified from such treatment, evidence must indicate that such disease was not contracted as a result of the employee's job performance.

The employer will furnish annual inoculations protecting against tetanus, typhoid, typhus, influenza and hepatitis at the request of the employee. Arrangements for such requested inoculations will be made by the City so as to least interfere with normal operations and to control costs associated with such inoculations. The Department and the Union agree to work with the Shelby County Health Department or other approved health organizations to make shots available to employees at a central location.

ARTICLE 27 MILITARY LEAVE

SECTION 1 - Leave of Absence with pay may be granted to permanent employees for the purpose of attending the customary two (2) week tour of duty with either a National Guard or Reserve Unit. Employees shall be excluded from duty on presentation of their orders and shall receive the normal rate of pay for the period of time which they are required to serve as a member of the Military Forces during this normal summer training period.

Time spent in active duty for training shall not exceed fifteen (15) days or as specified by State law. Time absent from employment may be counted as vacation time if the employee so desires.

SECTION 2 - Employees who enter military duty shall be reinstated to his former classification upon release by honorable discharge within ninety (90) days from the date of discharge. All benefits shall accrue in accordance with applicable Federal Law and City Ordinance.

SECTION 3 - Vacation and/or Bonus Days when approved in advance by Fire Division Personnel may be utilized for weekend drills.

ARTICLE 28 LEAVES OF ABSENCE

SECTION 1 - Educational

Permanent, full-time employees shall be eligible to receive a leave of absence without pay which does not exceed one (1) full year for the purpose of furthering education. Such educational leaves should be determined upon approval of the Director of Fire Division. Such educational leave may be extended for an additional one (1) year upon written request by the employee and upon approval of the Division Director.

SECTION 2 - Personal

Permanent, full-time employees with at least three (3) months of continuous service with the City will be eligible to receive leaves of absence without pay for such personal reasons as marriage, illness of a member of the family, disposal of a family estate, funeral for other than immediate family, or other emergencies for a period not to exceed thirty (30) days upon approval of the Division Director.

As of January 1, 2005, employees within this bargaining unit, who have completed their initial probationary period with the City of Memphis, shall be allowed personal leave given at the rate of two (2) days off per calendar year with pay, which must be used within that same calendar year. Employees shall not be compensated in cash for unused personal leave, and such leave shall not be counted as time worked for purposes of computing overtime.

The use of such leave must be approved and scheduled by management. Approval may be withheld at the discretion of the Division Director.

SECTION 3 - Sickness

Permanent, full-time employees with at least three (3) months of continuous service with the City will be eligible for a leave of absence without pay not to exceed six (6) months with an extension up to six (6) months after the exhaustion of the employee's paid sick leave because of the prolonged illness of the employee. The request for such leave of absence or extension shall contain the recommendation of the physician and the Leave shall be granted by the Division Director. The employee shall be reinstated upon a written statement from his doctor that he is able to return to work.

SECTION 4 - Miscellaneous

Any Leaves of Absence without pay not specifically enumerated in this Agreement shall be provided in accordance with established City policy.

SECTION 5 - Emergency Leave

In the event of an emergency, an employee may be allowed up to two (2) hours of time off with pay with proper notification to his immediate Supervisor.

SECTION 6 - Maternity Leave

Maternity Leave will be offered in compliance with state and federal law as specified in the City's Personnel Manual.

None of the recommendations or approvals referred to in this Article shall be unreasonably withheld.

**ARTICLE 29
PROMOTIONS**

The City agrees that employees will be notified in writing of their test scores, composite scores and numerical ranking on existing promotional registers. Any individual passed over for promotion will be provided in writing the reason for rejection.

Promotions will be made on a quarterly basis unless restricted by budgetary limits or operational necessity. If, in any quarter, the City determines that such restrictions exist and promotions cannot be made, the Director of Fire Services will notify the Union, in writing, of that decision and the reasons for it.

After promotional rosters are established by the City, a copy will be sent to the Union office.

**ARTICLE 30
VACATIONS**

Employees covered by the terms of this Memorandum of Understanding shall be granted such vacation time as set forth .by the Ordinances of the City of Memphis and in accordance with the following schedules based on the employee's length of continuous service

	56- Hour Employee	
<u>Year of Service</u>	<u>Vacation Period</u>	<u>24-Hr. Shift</u>
1 year but less than 6 years	4 weeks	9 shift days
6 years but less than 7 years	4 weeks 1 day	10 shift days
7 years but less than 8 years	4 weeks 2 day	11 shift days
8 years but less than 9 years	4 weeks 2 day	11 shift days
9 years but less than 10 years	4 weeks 2 day	11 shift days
10 years but less than 11 years	5 weeks	12 shift days

11 years but less than 12 years	5 weeks, 1 days	12 shift days
12 years but less than 13 years	5 weeks, 2 days	13 shift days
13 years but less than 14 years	5 weeks, 2 days	13 shift days
14 years but less than 15 years	5 weeks, 2 days	13 shift days
15 and over	6 weeks	14 shift days

40-HOUR EMPLOYEES

<u>Years of Service</u>	<u>Work Days Per Calendar</u>
1 but less than 6	10 days
6 but less than 7	11 days
7 but less than 8	12 days
8 but less than 9	13 days
9 but less than 10	14 days
10 but less than 11	15 days
11 but less than 12	16 days
12 but less than 13	17 days
13 but less than 14	18 days
14 but less than 15	19 days
15 but less than 17	20 days
17 but less than 19	21 days
19 but less than 21	22 days
21 but less than 23	23 days
23 but less than 25	24 days
25 and over	25 days

Vacation schedules will be in the hands of bargaining unit personnel by November 1.

Vacations shall be administered in each Bureau/Division of the Memphis Fire Department on a seniority basis one vacation period at a time. The number of employees off on vacation in a given period of time shall be determined by the Fire Division to assure orderly operation of the Department.

ARTICLE 31 SWAP TIME

Employees may swap time for any legitimate reason. Fifty-six (56) hour employees may swap time for not less than twelve (12) hour increments or more than a twenty-four (24) hour duty day except as provided herein. Forty (40) hour employees may swap time for not less than four (4) hour increments or more than eight (8) hour duty except as provided herein.

A. The following swap time provision applies to both fifty-six (56) hour and forty (40) hour employees:

1. The employee initiating the swap arranges such with another employee of equal qualifications, provided both employees involved in a swap are assigned to the same station or provided the other employee is acceptable to the Company Officer.

2. Pay back terms shall be agreed upon by the two (2) parties involved in the swap. Such a swap shall be paid back hour-for-hour, which shall mean the identical number of consecutive hours. Such a swap shall be paid back within one year of the date of the original swap. In the event of failure to compensate as agreed upon, the employee failing to honor the agreement shall forfeit his rights for swap time for a twelve (12) month period and will be docked the amount of pay necessary to compensate the other employee for this time.

3. Terms of the swap, including the date and hours of the pay back shall be submitted in advance on a swap time form signed by both parties involved in the swap. Such forms must be submitted to the appropriate Company Officer no later than the duty day of the shift prior to the one on which the initial swap will take place. Swap time records will be maintained by the Company Officer or other immediate Supervisor, with a copy to be forwarded to the Division Personnel Office. Payback date may be modified with approval of the company officer or supervisor.

4. Emergency swaps will not be unreasonably withheld and will be handled in a timely fashion with paperwork to be completed at a later date.

B. Temporary Substitution:

1. An employee may work for another employee with no pay back involved if both employees mutually agree,

2. The employee initiating the substitution arranges with another employee of equal qualifications, provided both employees involved are assigned to the same station or provided the other employee is acceptable to the Company Officer.

3. The terms of the substitution, including the date and hours shall be submitted in advance signed by both parties. Such forms must be submitted to the Company Officer no later than the duty day before.

4. Emergency substitution will not be unreasonably withheld.

5. Time off through substitution may not exceed 192 hours for 56 hour employees; and 96 hours for 40 hour employees in a 12 month period from July 1 - June 30.

C. Hold-Over Swap: An employee who is unable to make roll call may arrange for another employee in the same classification or of equal qualifications at the same Engine House to remain on duty on a Hold-Over basis for a period not to exceed two (2) hours. Such Hold-Over arrangements must be approved by the employee's immediate Supervisor. Abuse of this privilege may result in the denial of such requests.

D. It is understood that all swap/substitution provisions noted in this Article shall not result in any additional cost to the City such as out-of-rank, overtime, holiday pay, etc. Swap time/substitution shall have no effect on employee's workweek, neither increase nor decrease hours.

ARTICLE 32 RATE OF PAY

All Fire Department employees will remain on a salaried basis in accordance with Article 35, Salary. An employee's regular hourly rate of pay shall be computed as follows:

For fifty-six (56) hour employees, two hundred and twenty-four (224) hours average per twenty-eight (28) day work period. Hourly rate shall be computed, (carried to the thousand decimal), as:

Employee's base rate per month times twelve (12) months, divided by thirteen (13), divided by two hundred twenty-four (224) hours.

For forty (40) hour employees, eighty (80) hours per pay period shall apply. Hourly rate shall be computed, (carried to the thousand decimal), as:

Employee's base rate per month times twelve (12) months, divided by twenty-six (26), divided by eighty (80) hours.

Emergency Medical Services employees will be considered as salaried employees paid on a fluctuating work week. The regular hourly rate will be determined by dividing the number of hours worked per week into the weekly salary.

1. Overtime.

A. Forty (40) Hour Employees

1. Except as provided in Section 2, below, overtime shall be paid for all hours worked in excess of the forty (40) hours per week at the rate of time and one-half for all forty (40) hour employees. Holidays as defined in Article 34 of this agreement which fall within the employee's normal work week shall be considered as time worked for the purpose of overtime computation.

2. Overtime due to rotating days off in the Fire Alarm office will be paid at one-half the employee's regular hourly rate for the hours worked in excess of forty in the week.

B. Fifty-Six (56) Hour Employees

1. Overtime shall be paid for all regularly scheduled hours worked in excess of two hundred twelve (212) hours in a twenty-eight (28) day work period in accordance with section 7(k) of the Fair Labor Standards Act. Overtime for regularly scheduled overtime will be paid at the rate of one-half of the employee's regular hourly rate.

2. Overtime shall also be paid for all hours worked in excess of the regularly scheduled work shift at the rate of time and one-half of the employee's regular hourly rate.

3. The Department will attempt to call in the ranks that are vacant.

C. Emergency Medical Services Bureau Employees Overtime pay for regularly scheduled overtime will be paid based upon one-half of the hourly rate as described above multiplied by the number of hours actually worked in excess of 40. In addition, if the employees work all their regularly scheduled hours for the work week or have used paid time off, employees will be paid at an agreed overtime rate for all hours worked in excess of the regularly scheduled work shift. The agreed overtime rate will be the employee's weekly salary divided by 56 and multiplied by 1.5.

D. Any part of an hour shall be paid in increments of fifteen (15) minutes and shall be rounded to the next highest fifteen (15) minute increment.

E. Overtime Recruitment

The parties agree to the following method of overtime recruitment: Paid overtime details will be handled on a volunteer rotating basis by Division/Personnel Office by shift.

1. Two master lists shall be in effect.

One: Call-back

Two: Special Detail

A. Employees may volunteer for either and/or both lists.

B. Volunteer lists to be completed by July 1, each year.

C. Volunteer lists to be submitted in writing by Stations by shift.

2. Personnel Office will notify the Engine House (Bureau) eligible for the next special overtime assignment.

A. Where the detail requires special skills or qualifications, (i.e., FDIC transportation or any specialized qualification, or by classification). Personnel with those special qualifications shall be assigned to the detail.

3. Terms of List.

A. Concept: Employees not on lists may volunteer in writing by July 1st, each year.

B. Employees may have their name withdrawn from volunteer lists at anytime by written request. If any employee refuses detail (twice) in the fiscal year, their name shall be removed from the list for the duration of the year, and be reinstated only as outlined above.

C. Division Chief/Personnel Office to contact the next eligible for overtime. In cases of illness, emergency, vacation, that employee will be called for the next detail.

4. Personnel who are called long distance for purpose of overtime detail shall accept charges for the call. (Person to Person).

5. Employees who fail to show for overtime detail shall be subject to "Run Late Policy."

2. Hold Over:

It is the responsibility of the on-duty officer to hold-over personnel to assure proper manning of apparatus, emergency units and Fire Communications.

Hold-over shall be paid at the rate of time and one-half for all hours worked.

3. Call Back:

A. Forty (40) Hour Employees

Forty (40) hour employees who are called back for Fire Division duty from off-duty shall be paid a minimum of four (4) hours worked at the straight time rate or at the Overtime rate for hours worked in accordance with this Article, whichever is greater.

B. Fifty-six (56) Hour Employees

Fifty-six (56) hour employees who are called back for Fire Division duty from off-duty, shall be paid a minimum of four (4) hours at the time and one-half rate.

4. Special Overtime Detail

Special Overtime Details will be handled on a voluntary rotating basis in accordance with Section 1 of this Article. Training Bureau shall be allowed to work "special details" such as Fair Details, whenever their work schedule allows.

5. Compensatory Time:

In accordance with section 7(K) of the Fair Labor Standards Act, compensatory time may be earned by 40 hour employees in lieu of overtime compensation to a maximum of 480 hours of compensatory time which represents not more than 320 hours of actual overtime work. An employee may request to use such compensatory time and shall be allowed such use of the compensatory time provided it does not disrupt the operations of the Department.

The compensatory time off taken by the employee shall not be counted as hours worked during the applicable work period for the purpose of overtime compensation. Compensatory time cannot be paid in cash except in the case of death, retirement or termination, and such payment shall not be used for pension computation.

ARTICLE 33 OUT-OF-RANK

Employees covered by this bargaining unit shall be paid out-of-rank pay when assigned to perform the duties of a rank higher than his own.

The employee shall receive out-of-rank base pay rate at a base rate of the rank performed.

It is agreed that compensation for out-of-rank assignments shall begin immediately upon assignment.

ARTICLE 34 PAID HOLIDAYS

Holiday pay shall be computed at the rate of eight (8) hours per day at forty (40) hour rate.

The following days shall be observed as paid holidays:

New Year's Day	January 1
Good Friday	Friday before Easter
King Memorial Day	3rd Monday in January
Memorial Day	Last Monday in May
Martin Luther King Day	April 4
Independence Day	July 4
Labor Day	First Monday in September
Thanksgiving Day	4th Thursday in November
Friday after Thanksgiving	
Christmas Eve	December 24
Christmas Day	December 25

Compensation for holidays shall be made annually on the second pay period in November. Designated holiday dates only shall be determined for pay.

Members who are absent from work on a designated holiday due to a job-related injury or illness shall receive holiday compensation.

Members who are absent from work the full designated holiday due to a non-

job related injury or illness, disciplinary suspension, or unknown or unauthorized absence shall not receive holiday compensation.

Members who perform any portion of scheduled work on a designated holiday shall receive holiday compensation for the pro-rata length of duty performed.

Employees on a forty (40) hour schedule, excluding the Alarm Office, must work the holiday to qualify for holiday pay and shall be paid for hours actually worked.

Duty status on the calendar or duty day before or following a designated holiday, and including the holiday, shall not determine holiday compensation, except as provided above or where the absence is for unknown or unauthorized reasons.

ARTICLE 35 SALARY

The monthly base wage rates for members of this bargaining unit (Local #1784, IAFF) as of January 1, 2005 are:

Fire Private II	
1 to 2 years	\$ 3,485.65
2 to 3 years	\$ 3,736.78
3 years and over	\$3,869.21
Firefighter/Paramedic	
1 to 2 years	\$ 3,799.36
2 to 3 years	\$ 4,073.10
3 years and over	\$ 4,217.43
Fire Driver	\$ 4,113.08
Fire Lieutenant	\$ 4,669.60
Fire Training Lieutenant	\$ 4,669.60
EMS Training Lieutenant	\$ 4,669.60
Emergency Unit Operator (EMT - Out of Rank)	\$17.37 Per hour
Fire Alarm Operator II	
1 to 2 years	\$ 3,560.13
2 to 3 years	\$ 3,823.92
Fire Alarm Operator III	\$ 4,169.06
Sr. Fire Alarm Operator	\$ 4,699.10
Fire Inspector	\$ 4,580.56
Fire Investigator	\$ 5,118.71
OSHA Coordinator	\$ 4,669.60
Air Mask Mechanic	\$ 4,421.10

**ARTICLE 38
SAVINGS CLAUSE**

In the event that any provision, article, section, or portion of this Memorandum of Understanding is subsequently declared by legislative or judicial authority to be unlawful, unenforceable, or not in accordance with applicable laws, statutes, ordinances, and regulations of the United States of America or the State of Tennessee, all other provisions of this Memorandum of Understanding shall remain in full force and effect for the duration for this Memorandum of Understanding and the parties shall meet as soon as possible to agree on a substitute provision; however, if the parties are unable to agree within ninety (90) days following the commencement of the initial meeting, then the matter shall be postponed until contract negotiations are reopened.

The parties acknowledge that during the meeting and conferring which precede this Agreement, each had the unlimited right and opportunity to make demands and policies with respect to any subject or matter not removed by law from the area of meeting and conferring, and that the understandings and agreements arrived at between the parties after the exercising of that right and opportunity are set forth in this Agreement. Therefore, the City of Memphis and the Union for the life of this Agreement each voluntarily and unqualifiedly waive the right and each agree that the other shall not be obligated to meet and confer with respect to any subject or matter not specifically referred to or not settled during bargaining even though each subject or matter may not have been within the knowledge or contemplation of either or both of the parties at the time they negotiated or signed this Agreement; such matter shall not be subject to the grievance procedure.

It is further agreed that Articles contained in this Memorandum and other subjects will be subject to negotiations during the term of this Agreement only when signed to by both parties.

**ARTICLE 39
UNIFORM ALLOWANCE**

Effective July 1, 2004, Uniform Allowance shall be as follows:

1. Probationary employees in their first year of service \$400.00
2. Uniform members in their second year\$350.00
3. Uniform members in their third year and each year thereafter.\$ 275.00
4. Members who are required to wear plain clothing and those required to wear class A, B, or C uniforms daily \$350.00

**ARTICLE 40
TUITION REFUND PROGRAM**

The City will provide a tuition refund program to be available to all employees covered by this Memorandum of Understanding. To be eligible for benefits in this Article, employees must be enrolled in accredited Adult Education courses or in a degree or technically oriented course at a local university or technical school.

To be eligible for tuition refund, the course(s) to be taken must be recommended by the Division Director and approved in advance by the Director of Personnel.

The reimbursement plan will pay the costs of tuition and books upon successful (C average or above) completion of the course, provided, however, that benefits provided by the Veterans' Educational Benefits Act shall not be duplicated by the provisions of this Article.

Cost for educational programs directly related to the job duties of the Emergency Unit Bureau and which are not included in the tuition refund program may be paid by the Fire Services Division upon prior approval of the Director of Fire Services.

**ARTICLE 41
ONE-FOR-ONE TRANSFERS**

One-for-one transfers (swaps) from one station or shift to another by two members of equal rank will be worked out by members wishing to swap. Such arrangements will be submitted on appropriate forms by each member to his respective company or shift officer. Such approval shall not be unreasonably withheld. Written reason shall be given when unable to comply with such requests.

If any employee transfers under this Article and resigns or retires within 90 days of said transfer, the transfer shall be voided and the employees returned to their original assignment.

Employees may exercise a one-for-one transfer onetime during a twelve month period from date of transfer.

**ARTICLE 42
HOSPITALIZATION INSURANCE**

For employees who are covered under the City of Memphis Health Insurance Plan, the City will contribute 70% of the total premium and the employee will contribute 30% of the total premium.

For employees who are covered under an alternative hospitalization insurance plan offered by the City of Memphis, the City will contribute to the premium up to the amount of money it would have paid toward the City of Memphis Health Insurance Plan premium had the employee chosen City of Memphis Health Insurance Plan and the employee will contribute the balance of the premium for the alternative plan.

**ARTICLE 43
LONGEVITY**

Longevity pay shall be:

Years of Service Monthly

5	\$20.00
10	\$30.00
15	\$45.00
20	\$55.00
25	\$70.00
30	\$80.00

Bargaining unit employees shall become eligible for longevity pay on the anniversary of the beginning of their sixth year of continuous employment. Additional longevity increments shall be added upon completion of each additional five (5) years of continuous service.

**ARTICLE 44
INCENTIVE**

A. Education.

1. Full time, non-probationary employees shall receive education incentive pay, in addition to base salary, in accordance with the following schedule: Educational Level Achieved

1 year of college (25 hours) 1.0 percent

2 years of college (55 hours) or Associate Degree	2.5 percent
3 years of college (85 hours)	5.0 percent
4 years of college (degree)	7.5 percent

2. To be eligible for education incentive pay, employees must complete the appropriate education within fifteen (15) years of the first day of employment, provided that for employees hired prior to July 1, 1984, this fifteen (15) year period shall commence July 1, 1984.

B. Job:

Individuals qualifying under the incentive pay program for the upgrading of the firefighter will receive 2% incentive pay.

**ARTICLE 45
SHIFT DIFFERENTIAL**

The City shall pay to all employees who work a non-rotating fixed shift, a shift premium for all time worked during the second and third shifts.

The second shift differential will be paid to employees working a fixed shift which begins between 1400 hours and 1800 hours. The third shift differential will be paid to employees working a fixed shift which begins between the hours of 2100 hours and midnight. Shifts which begin during hours not indicated above may receive a differential when such is approved in writing by the Director of Fire Services. Such approval shall indicate whether the shift is to be paid the second or third shift differential rate. Employees who work either of the above shifts on an overtime or detail basis shall receive the appropriate shift differential pay for hours worked.

	Hour/Mo
Op. II 2nd shift1869(32.40)
3rd shift3742(64.86)
Op. III 2nd shift2062(45.74)
3rd shift4123(71.46)
Sr. Op. 2nd shift2274(39.42)
3rd shift4548(78.83)

ARTICLE 46
CONTROLLING LANGUAGE

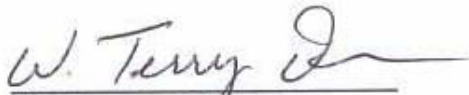
If there exists a conflict between this Memorandum and City or Fire Department policies, the language of the Memorandum shall control.

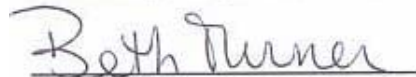
ARTICLE 47
TERM OF AGREEMENT

This Agreement shall be in effect from July 1, 2004, through June 30, 2006.

IN WITNESS WHEREOF, the parties have set their hands this 1st day of July, 2004 to place into effect the provision of this Agreement, effective July 1, 2004.

**LOCAL 1784, INTERNATIONAL
ASSOCIATION OF FIRE
FIGHTERS**


W. Terry Oldham


Beth Turner

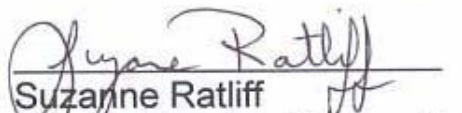

Tim Mitchell

Bill Clark
Robbie Franks
Sam Locastro
Vivian Collier

CITY OF MEMPHIS


Dr. W.W. Herenton
Mayor


Keith L. McGee
Chief Administrative Officer


Suzanne Ratliff
Deputy Director, Human Resources


Louis Brit
Chief Negotiator