

# **MEMORANDUM OF UNDERSTANDING**

**BETWEEN**

**THE CITY OF WILLITS**



**AND**

**THE INTERNATIONAL BROTHERHOOD**

**OF ELECTRICAL WORKERS (IBEW)**

**LOCAL UNION 1245**



**JULY 1, 2011 – JUNE 30, 2012**

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**ARTICLE 1. PARTIES TO THE AGREEMENT**

This Memorandum of Understanding (MOU) has been executed by a representative of the City Council of the City of Willits, hereinafter referred to as the CITY, and by representatives of the International Brotherhood of Electrical Workers (IBEW) Local Union 1245, hereinafter referred to as the UNION.

**ARTICLE 2. AUTHORIZED AGENTS**

For the purpose of administering the terms and provision of this Memorandum of Understanding, the following authorized agents have been designated:

A. The City's principal authorized agent shall be the City Manager or his duly authorized representative. All notices required by this MOU shall be sent to the City at the following address:

City Manager  
City of Willits  
111 East Commercial Street  
Willits, California 95490

B. The Union's principal authorized agent shall be the Business Manager of his/her duly authorized representative of the Union. All notices required by this MOU shall be sent to the Union at the following address:

IBEW Local 1245  
PO Box 2547  
Vacaville, California 95696

**ARTICLE 3. RECOGNITION**

A. The Union is hereby acknowledged as the exclusive formal recognized employee organization representative of the employee organizations covered by this MOU for the purpose of meeting and conferring in good faith under the auspices of Section 3500 et seq of the Government Code of the State of California and City of Willits Resolution No. 1974-17 governing employer-employee relations and any amendments thereto. Such representation specifically excludes management but extends to those regular positions in the Public Works, Street, Water and Sewer Departments and Office Workers ("employee") including but not limited to those classified positions set forth in the attached Exhibit A which is hereby incorporated by reference as if set forth herein full.

B. The Union may designate one person from within the representative employee unit as a Steward. The Union shall provide the City with the current names of the person selected as a Steward and Alternate.

The Alternate shall only act on behalf of the Union when the Steward is unavailable. The City shall be obligated to only meet with the Steward or in the absence of the Steward the Alternate but not both. When the Alternate advises the City that she/he has the authority to act on behalf of the Steward, the City can then rely on the fact that the Alternate has the authority to act on behalf of the Steward and bind the Union to any decisions reached, in the same capacity as if the decision was made by the Steward.

#### **ARTICLE 4. UNION/EMPLOYEE RIGHTS**

A. Employees of the City shall have the right to form, join, and participate in the activities of employee organization of their own choosing for the purpose of representation on all matters of employer-employee relations including, but not limited to, wages, hours, and other terms and conditions of employment. Employees of the City shall have the right to refuse to join or participate in the activities of employee organizations. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against because of his/her exercise of these rights. This Article shall supersede Resolution No. 1974-17.

B. An employee in one of the classes included in the I.B.E.W. Unit, employed as of and during the term of this MOU shall, if he/she chooses, execute a payroll deduction that shall be irrevocable for a period of one year from the effective date of the Memorandum of Understanding (MOU), and shall be automatically renewed and be irrevocable for successive periods of one year each unless expressed written notice of revocation is given not more than fifteen (15) days prior to the expiration of any one year period. The I.B.E.W. shall indemnify, defend and hold the City of Willits harmless against any claims made and against any suit instituted against the City of Willits on account of the implementation of this provision.

#### **ARTICLE 5. CITY RIGHTS AND RESPONSIBILITIES**

City retains solely and exclusively, all the rights, powers, and authorities to govern and control the employer/employee relationship not expressly delegated to the Union. Without limiting the generality of the foregoing, the rights, powers and authorities retained solely and exclusively by City and not abridged herein, include, but are not limited to the following: To manage and direct its business and personnel; to manage, control and determine the mission of its departments, buildings, facilities, and operations; to create, change, combine or abolish jobs, departments and facilities in whole or in part; to subcontract or discontinue work for economic or operational reasons; to direct the work force; to increase or decrease the work force and determine the number of employees needed; to hire, transfer, promote and maintain the discipline and efficiency of its employees; to establish work standards, schedules of operation and reasonable work load; to specify or assign work requirements and require overtime; to schedule working hours and shifts; to adopt rules of conduct and penalties for violation thereof; to determine the type and scope of work to be performed and the services to be provided; to determine the methods, processes, means and places of providing services and to take whatever action may be necessary to prepare for and operate in an emergency. Nothing in this Article shall be construed to limit, amend, decrease, revoke or otherwise modify the rights vested in the City by any law regulating, authorizing or empowering the City to act or refrain from acting.

#### **ARTICLE 6. MEET AND CONFER IN GOOD FAITH – SCOPE**

A. The City through its representatives, shall meet and confer in good faith with representatives of exclusive formally recognized employee organizations with majority representation rights regarding matters within the scope of representation including wages, hours, and other terms and conditions of employment within the appropriate unit.

B. The City shall not be required to meet and confer in good faith on any subject preempted by Federal or State law, nor shall it be required to meet and confer in good faith on Employee or City rights as defined in Articles 4 and 5 above.

#### **ARTICLE 7. USE OF CITY FACILITIES**

The City shall provide and the Union shall pay for three bulletin boards for the exclusive use of the Union. The recognized employee organization will maintain the bulletin boards in good repair. All

material must receive approval of the City Manager or his/her designated representative prior to being posted on any City bulletin board.

If the City disapproves of any material to be posted on the bulletin board, the Union and City will meet and discuss over the materials being placed on the bulletin board, and if the City does not approve, the material must not be placed on the board. All material must be dated and the organization identified that published the material.

The City reserves the right to determine where the bulletin boards are to be placed.

## **ARTICLE 8. WORK SCHEDULE**

### **A. General**

Every employee shall perform such services as may be directed by the City Manager or their respective Department Head or their designee even though the work may be of a different nature or in a different department from that in which the employee is normally engaged.

### **B. Work Week**

The work week for full-time employees shall be 40 hours within a calendar week beginning at 12:01 a.m. on Saturday and ending at 12:00 midnight on Friday, except subject to the approval of the City Manager, and, at his/her sole discretion, any work week schedule agreed to by the respective affected employees within a Department and their respective Department Head or Supervisor.

### **C. Work Day**

For all full-time positions, the standard work day shall be eight consecutive hours or any other consecutive work day hourly schedule mutually agreed to by the respective Department Head and a majority of the affected employees assigned to work such other work day schedule within the Department, subject to the approval of the City Manager at his/her sole discretion.

### **D. Work Day Breaks**

A normal eight hour work day for all employees covered by this MOU shall include two 15 minute breaks and either a one-half or one hour meal break to be scheduled by the City Manager or his designated representative. Employees shall not be compensated for the meal break. All breaks except the lunch break shall be taken at or near the work site, except in emergency situations as determined by the Department Head, where the employee is required to work through the lunch break.

Subject to the prior approval of the City Manager or his/her designated representative, if an employee is required to work through the lunch break, the City will provide, at the employees' discretion, either compensatory time off or overtime pay, provided, however, the City has the right to send an employee home early that day in lieu of paying overtime or compensatory time for the amount of time actually worked by the employee during the lunch break.

### **E. Shift Schedule Changes**

Employees will normally be given adequate advance notice of any shift schedule changes (i.e. change from day shift to swing shift or swing shift to grave shift or grave yard to day shift, etc.) except where an emergency exists. Notice will not be given less than five work days prior to the change in an employee's work schedule. If a shift change results in a full-time

employee working less than forty (40) hours in the preceding or succeeding work week, following a shift change, the employee shall be compensated for a full forty (40) hour work week at straight time. If five work days is not given, only the first day of the new shift will be paid at overtime rates (except in emergencies).

F. Other Provisions

Provisions of the City Personnel Rules which have not been altered by this Memorandum of Understanding or subsequently changed during the term of this MOU shall govern the remaining facets of hours and overtime and other personnel administration matters. Further, City and Union shall work in partnership to promote harmony and efficiency among City employees.

## ARTICLE 9. COMPENSATION

A. General

1. The City Manager shall be responsible for the preparation of a Compensation Plan following City Council approval of any adjustments in wages, fringe benefits and other matters related thereto. The Compensation Plan shall prescribe the pay range for each classification, allocate classes thereto and provide for special compensation provisions. The Compensation Plan shall utilize a standardized salary schedule containing five steps within each schedule. Employees must be compensated at an established step within the standardized schedule.
2. The parties hereby agree that the three percent (3%) increase in salary for unit members due the beginning of the first payroll following July 1, 2011, shall be deferred to begin the first full payroll following July 1, 2012, and such increase shall not be retroactive, and shall be reflected in the City's standardized salary schedule for all schedules, levels, and steps contained therein.
3. The City agrees to amend its contract with the Public Employees Retirement System (PERS) to provide I.B.E.W. members with the 2.7% @ 55 formula as soon as practicable due to PERS regulations, subject to agreement with other City units. Should the City's employer PERS contribution increase following the new employer rate established due to the 2.7% @ 55 change, employee members agree to "pay" up to 1% of the increased employer PERS rate. For the purpose of calculating this 1% increased cost, the base amount shall be the amount identified by PERS as the employer rate after the 2.7% @ 55 formula is implemented and then compared to the City's PERS employer rate on July 1, 2009. If the City's employer rate increases, the first 1% shall be paid by the employee members. Any increase beyond the 1% shall be paid by the City. If the PERS employer rate increase on July 1, 2010 is beyond the July 1, 2009 rate, the employee members agree to "pay" up to 1% of the increased employer rate. Any increase beyond the 1% shall be paid by the City. These deductions shall continue beyond the term of this M.O.U. in recognition of the 2.7% @ 55 PERS change.
4. The City and I.B.E.W. employees shall pay medical premium increases with the City paying 75% of future increases and the I.B.E.W. employees paying 25% of the increases. Notwithstanding the above, the employee's 25% share of cost shall not exceed \$30 per month in any one fiscal year.
5. The parties to this MOU agree that any and all adjustments to compensation of employees, whether such adjustments result from merit increases, cost of living increases, equity adjustments, or other compensation changes, shall be computed and

applied utilizing the beginning of the pay period closest to the effective date of such adjustment.

B. Appointment Rate

Except as otherwise provided herein, all new employees, whether full or part-time, shall be compensated at the minimum rate of the salary range in effect for the class in which the appointment is made.

The City Manager may authorize appointment of new employees at a higher rate in the salary range in effect when it is determined that there is a direct and measurable benefit to the City for such appointments. Factors to be considered include: The quality and quantity of the appointee's previous training and experience; the difficulty recruiting qualified, experienced applicants; and a determination that the performance of the appointee has a significant impact on City or departmental programs and policies.

C. Compensation on Promotion

A regular or probationary employee who is promoted to a position in a class with a higher salary range shall be compensated at the entry rate of the higher salary range, or at the rate which would provide a minimum of 5 percent above the rate they were receiving prior to promotion, whichever is greater. In no event, however, shall the salary after promotion be higher than the top step of the salary range of the new position. Upon satisfactory completion of the employee's probationary period into which he/she is promoted, the employee shall receive regular status and be advanced in accordance with Article 10, Section A.

D. Compensation for Acting Appointments

Subject to the following limitations, an employee who is required and assigned in writing on the basis of an acting appointment to serve in a class with a higher salary rate than that of the class in which they are normally assigned, shall receive the entrance salary rate of the higher salary rate, or a minimum of 5 percent higher than the rate they normally receive, whichever is greater. In no event, however, shall the salary for the acting position be higher than the top step of salary range of the higher class.

Limitations

1. The acting appointment must be to a position in a higher class occupied by a regular employee on suspension or on an authorized leave of absence; or to a position for which a vacancy exists.
2. The written approval of the City Manager shall be required.
3. The employee must serve a minimum of 80 work hours on a consecutive basis in the higher class at their normal rate of pay prior to being compensated at a higher rate. Upon completion of 80 consecutive work hours in the acting position, the employee shall be paid the higher rate for all additional consecutive hours worked.

E. Compensation on Demotion

1. Demotion Based on Unsatisfactory Performance

An employee who is involuntarily demoted to a position in a class with a lower salary rate because of unsatisfactory performance shall have their salary rate reduced to

the entry rate of the class to which they are demoted unless they had previously been promoted from the lower class. If promoted, the employee will be compensated at the same rate they were receiving prior to their promotion.

2. Demotion for Other Than Satisfactory Performance

An employee who is either involuntarily demoted or demoted at their own request to a position in a class with a lower salary range shall have their salary reduced to any rate in the lower salary range that does not constitute an increase in salary. Determination of the appropriate salary rate will be made by the City Manager.

3. Demotion of Y-Rated Employees

If an employee is Y-rated (i.e., salary is frozen) and requests a voluntary demotion, their salary shall be reduced by at least the amount of the difference between the maximum salary of the class from which they are being demoted and the maximum salary of the new class.

F. Transfer of Y-Rated Employees

Except for a transfer that results in a demotion covered by Section E(1) above, if an employee is Y-rated and requests a voluntary transfer, their salary shall remain the same or shall be reduced to the maximum salary of the class to which they were transferred if their salary would exceed the maximum salary for said class.

G. Reemployment of Regular Employees

On written recommendation of the Department Head and approval of the City Manager, a former employee may be reemployed in the class or position they occupied at the time of their termination irrespective of the existence of an open or promotional employment list for the class, subject to the following conditions:

1. There must be a vacant position in the class and no lay-off reemployment lists for such class.
2. The employee must have completed at least one year of continuous service in the class immediately prior to their termination.
3. The employee terminated their City employment under favorable circumstances.
4. The reemployment occurs within one year after termination.
5. The employee shall be required to take a medical examination at their own expense and as prescribed by the City Manager.

The compensation of a former City employee who is reemployed in the class or position they occupied at termination shall be as determined by the City Manager but in no case shall it exceed the rate which they were receiving at termination. There shall be no reinstatement of any benefits accrued during the previous employment period.

H. Merit Increases

Salary increases within a range shall not be automatic. They shall be based on merit and are subject to a written Performance Evaluation from the Department Head to the City Manager

certifying that the employee has been performing work which consistently meets and exceeds department standards, and is improving in their ability to carry out their job assignment.

1. Eligibility

All employees will become eligible for merit increase consideration every 12 months after acquiring regular status until they reach the top step of the salary schedule.

2. Effective Date

Upon City Manager approval, all merit advancement increases shall be effective at the beginning of the pay period closest to the date of eligibility (i.e., the employee will become eligible for a merit increase after passing the initial probationary period and every 12 months thereafter until they reach the top step of the salary schedule). The actual anniversary date is based on the date of passing probation. Employees receiving merit increases shall be advanced to the next higher step in the salary schedule.

3. Completion of Probation

Upon satisfactory completion of the probationary period, as evidenced in writing by the Department Head and approved by the City Manager, the employee shall obtain regular status and receive an initial merit increase.

4. Failure to Obtain Merit Increase

If an employee fails to obtain a merit increase due to inadequate performance, they may request a special performance evaluation in accordance with Section 15.2.3 of the City Personnel Policies and Procedures Manual, no sooner than six months from the time of the previous review. If this special performance review indicates that for the entire period since the last review, the employee has been performing work which consistently meets and exceeds the department standards and has been improving in their ability to carry out the job assignment, the employee may obtain a merit increase upon approval of the special performance evaluation by the Department Head and City Manager. In the event a merit increase is approved, the eligibility for further merit increases shall be 12 months from the new date. If the employee does not request a special review, they shall be reviewed at the next regular annual date.

5. Part-Time Employees

Part-time employees in positions with a multiple step salary schedule shall be eligible for salary increases within the salary range upon completion of 1560 straight-time hours of service.

I. Regular Appointment from a Temporary Status

Notwithstanding any other provisions of this MOU, a temporary appointee in a class who, without a break in service, receives a probationary appointment to a position in the same or different class shall be eligible for consideration for a merit salary advance upon satisfactory completion of the probationary period, as evidenced in writing by the Department Head and approved by the City Manager. However, the employee shall accrue leave benefits from the date of the temporary appointment.

J. Appointment to a Reclassified Position

1. Class with Same Salary Range

If the position is reclassified to a class with the same salary range as the previous class, and if the incumbent is appointed to the reclassified position, the salary rate of the employee shall not change. This provision shall also apply to a change of class title, provided there is not a change in the basic duties of the position.

2. Class with Higher Salary Range

If the position is reclassified to a class with a higher salary range than the previous class, and if the incumbent is appointed to the reclassified position, they shall be compensated at the entry rate of the higher salary range or at the rate which would provide a minimum of 5 percent above the rate they were receiving prior to reclassification, whichever is greater. In no event shall the employee receive a salary higher than the top step of the new range.

3. Class with Lower Salary Range

If the position is reclassified to a class with a lower salary range than the previous class and if the incumbent is appointed to the reclassified position, their salary rate shall not change. If their salary is greater than the maximum rate of the lower salary range, their salary shall be Y-rated (i.e., salary is frozen) and shall not change during the continuous regular service until the maximum of the new range exceeds the salary of the employee.

K. Overtime Compensation

For assigned overtime worked, all employees covered by this MOU must be granted equivalent compensatory time off, or paid overtime at one and one-half the hourly rate of pay in accordance with the Fair Standards Act or amendments thereto.

L. Compensatory and Overtime Regulations

1. Overtime Regulations

Overtime is defined and regulated as follows:

a. Except as provided herein, overtime is defined as any assigned and scheduled work time in excess of: 1) the basic work week, as defined in Article 8, Section B; or 2) any other work day schedule agreed to by a Department Head and affected employees that is approved by the City Manager. The City shall not be required to pay overtime compensation more than once for any single period of time worked. Overtime shall be compensated to the one-quarter hour.

b. Overtime must be authorized in advance by the Department Head and approved by the City Manager, or his/her designated representative.

c. Authorized call back overtime shall be a minimum of two (2) hours. Call back duty requires the employee to respond to a request to return to his/her work station after they have left the normal work station or prior to the beginning of their next scheduled shift. Those periods of overtime which had been scheduled by the Department Head prior to the end of the normal scheduled work shift are not considered call back (call out) duty.

2. Compensatory Time Off

a. Regulations

1. All employees covered by this MOU will be eligible to accumulate compensatory time off up to a maximum of eighty (80) hours accrued at a rate of time and one-half.
2. All compensatory time off earned in excess of eighty (80) hours will be paid off at the one and one-half (1.5) time rate.
3. Upon prior approval of the employee's Department Head, an employee shall have the option of accepting either compensatory time or time and one-half pay for overtime earned in accordance with this policy.
4. Compensatory time accumulated shall only be taken at the employee's request and in accordance with the scheduling and authorization of the employee's respective Department Head.
5. In case of overtime hours worked on regular days of work, an employee will only receive overtime compensation at the overtime rate of one and one-half times when the actual hours worked exceed 40 in a work week and the employee is physically on the job site.

b. Eligibility

In order to qualify for compensatory time or overtime pay, the employee must be physically on the job site for a regular forty hour work week. Family sick leave, bereavement leave, leave without pay or other forms of time off from the job, with the exception of sick leave, holidays, vacation, compensatory time off, or Industrial Accident Leave shall not count towards the accumulation of compensatory time off or overtime pay at the one and one-half time rate.

c. Regularly Scheduled Day Off

Time worked on a regular day off will be compensated at the overtime rate of one and one-half times for the hours worked or as compensatory time off.

M. Miscellaneous Compensation

1. Standby Duty. The following provisions shall apply to all regular and probationary employees. Standby duty requires the employees to be so assigned by the Department Head or his/her designee.
  - a. To be ordered in writing to be ready to respond immediately to calls for their service.
  - b. To be reachable by pager, beeper, radio, or telephone at all times.
  - c. To remain within a reasonable distance from their work station.
  - d. To refrain from activities which might impair their ability to perform assigned duties.

If an employee is on "standby duty", they will be compensated for two (2) hours of straight time pay per day. In addition if called out, an employee shall receive a minimum of three (3) hours at the prevailing overtime rate if the call out is for less than three (3) hours, or shall be compensated at the prevailing overtime rate for the hours actually worked, if greater than three (3) hours.

N. Longevity Pay

1. Upon the 10<sup>th</sup> anniversary date of employment, and each year thereafter on their anniversary date, a full time employee with the City of Willits will receive \$750 per year.

2. Upon the 20<sup>th</sup> anniversary date of employment, and each year thereafter on their anniversary date, a full time employee with the City of Willits will receive \$1,500 per year.

3. Upon the 25<sup>th</sup> anniversary date of employment, and each year thereafter on their anniversary date, a full time employee with the City of Willits will receive \$3,000 per year.

O. Court Time

Employees who are required to appear in court on behalf of the City, and are approved by their Department Head, during their off duty hours, shall receive overtime compensation for the number of hours they spend in court, with a minimum of one and one-half hours at time and one half pay (i.e., 2.25 straight-time hour minimum).

In the event an employee is required to appear in court while on sick leave, the total sum of sick leave and court time shall not exceed 8 hours for any single work day.

P. Approval of Overtime

The City shall not be liable for the payment of any compensation to any employee for any hours not documented on the employee's time records and approved by the employee's Department Head.

Q. Jury Duty

No deduction shall be made in the salary of an employee who serves on a jury if they have remitted to the City the fee paid to them for such service. If the employee chooses to retain the jury fee, they will be charged compensatory time off, vacation time or will be placed on a leave without pay status for the time spent on jury duty. An employee accepted for jury duty shall immediately notify their Department Head in writing as to whether or not they shall remit the jury fee to the City and, if not, their status while performing such jury duty.

R. Witness Fees

No deduction shall be made in the salary of an employee who is subpoenaed to testify in any judicial or administrative proceeding as a material or expert witness if they remit to the City any fee received for being a witness. If the employee chooses to retain the witness fee, they will be charged compensatory time off, vacation time, or be placed on a leave without pay status for time spent testifying. If the employee incurs personal mileage expenses while appearing as a witness, they may retain that portion of the witness fee attributable mileage and remit the difference to the City. An employee subpoenaed to appear pursuant to an official subpoena shall immediately notify their Department Head in writing as to whether or not they will remit the witness fee to the City and, if not, their status while serving as a witness. In addition, employees served with subpoenas shall notify the City Manager's office immediately upon being served.

#### S. Uniforms

When required by the City, employees shall wear the uniform provided by the City. The City will provide eligible employees with a boot allowance in the amount of \$200 annually, reimbursable with proof of purchase.

#### T. Use of City Vehicles

An employee must obtain advance written permission from the City Finance Officer or the City Manager to use a City gasoline credit card for gas. Any out-of-pocket expenses incurred in using a City vehicle, such as parking, tolls, or emergency repairs, shall only be reimbursed upon approval of the City Finance Officer and upon the presentation of receipts verifying expenditures. Except upon prior approval of the City Manager, only City employees can drive or be a passenger in a City vehicle.

#### U. Use of Private Vehicle

If an employee is authorized by the City Manager to use their private vehicle on City business, they shall be compensated at the maximum rate allowed by the Internal Revenue Service. No employee shall use a private vehicle for City business unless the employee has provided the City Manager or his/her designee with written verification that the vehicle is insured by law.

#### V. Air Travel

Where an employee is authorized to fly by commercial airline, the ticket shall be by economy fare. The City shall reimburse the employee for actual bus, shuttle or cab fares incurred for travel to and from the airport. All fares shall be approved in advance in writing by the City Finance Officer.

#### W. Lodging

Employee's lodging expenses will be paid while traveling on City business. Employees are expected to be reasonable in the selection of accommodations. All such lodging expenses shall be approved in advance in writing by the City Finance Officer.

#### X. Meal Allowance

Any employee traveling on City business shall receive in addition to transportation and lodging expenses, a meal allowance (M.A.) to cover meals. The total allowance will be granted to the employee before they leave. The amount set for M.A. shall be considered fair reimbursement and the employee shall neither be required to account for use of the M.A., return unused portions, nor claim additional expenses for these items.

The M.A. shall include \$5.00 for breakfast, \$7.00 for lunch and \$13.00 for dinner for a daily total of \$25.00.

An employee shall be eligible for breakfast M.A. if they are required to travel on City business prior to 7:30 a.m. in order to reach their destination on time, and dinner if they are required to travel on City business after 6:30 p.m. The employee may be authorized a dinner M.A. if they are required to travel on City business the evening prior to a conference, meeting or class.

An employee shall not receive a M.A. when that meal is included in the registration cost of a conference or class. Conversely, if a meal is included as part of the conference, but the cost is additional (i.e., League of California Cities Annual Conference luncheons), the employee

may be reimbursed the additional out-of-pocket expenses for the meal provided receipts are turned in to the Finance Officer.

A City employee who is required to work for eight (8) straight hours in a row, without benefit of a meal break, may be reimbursed at the appropriate rate provided herein for one meal payable to either the employee or restaurant.

## **ARTICLE 10. EMPLOYEE STATUS**

### **A. Definitions**

1. Probationary – A new employee being evaluated for a six (6) month period of time, provided however, the six months may be extended for up to an additional six months, at the discretion of the City Manager prior to achieving regular status.

2. Regular – A full-time or part-time employee who has successfully completed the specified probationary period, retained in that appointed position and occupying a position that is individually authorized in the budget and which is expected to exist indefinitely.

3. Temporary – An employee who has been appointed for a limited and specified period of time, either full or part-time.

4. Full-Time – An employee who works the normal 40 hour work week.

5. Part-time – An employee who is employed regularly for less than the normal number of working hours, but on a fixed schedule.

### **B. Probationary Period or Promotions**

The probation period shall be regarded as part of the initial selection process and shall be utilized for closely observing the employee's performance; for securing the most effective adjustment of an employee to their position; and for reviewing the performance of any employee who does not meet the required standards of the position to which they were appointed or promoted.

During the probationary period, or an extension thereof, an employee may be rejected at any time by the Department Head without cause and without the right of appeal, notwithstanding any previous probationary period evaluations which may have indicated the employee was progressing satisfactorily. Notification of rejection shall be furnished the employee in writing and a copy shall be retained in the employee's personnel file together with such other forms as may be prescribed by the City Manager.

#### **1. Probationary Period Length**

The initial probationary period for all positions of promotions to a new position, shall be six (6) months for all new employees. All promotions, transfers and reappointments will be subject to a six month probationary period. During this type of probationary period employees will continue to be considered regular employees, will accrue seniority and shall be protected in discharge procedures as other regular employees. Date of hire is always used for benefits and vacation and sick leave accruals, except in circumstances where alternate procedures are specified herein.

In cases where a promoted, transferred or reappointed employee, has not met the requirements for completing probation, but where the Department Head has evidence that the employee has the capability of meeting those requirements if given more time, the Department Head may extend the probationary period an additional six months, but in no event shall the total probationary period exceed one (1) year. Such extensions shall be documented in the manner proscribed by the City Manager.

2. Probationary Period Length – Part-time Employees

The initial probationary period for all part-time positions shall be six months in duration (a six month period shall be defined as 22 workdays provided, however, the employee works a minimum of 520 hours during the six month period). If a part-time employee is transferred to a full-time position, hours accumulated during the part-time employment will be credited towards the full-time requirements for the probation period.

C. Regular Status – Initial Entry or Promotion

When an employee first receives regular status, the employee shall be advanced to the next pay step in the employee's pay range.

D. Seniority

Seniority means the length of an employee's continuous service with the City as of the date of hire. An employee who has not completed the initial probationary period shall not be considered to have seniority, and shall not be considered a regular employee.

The City shall post the seniority list and supply employees with copies on January 1<sup>st</sup> and July 1<sup>st</sup> of each year. Preference in vacation scheduling shall be by seniority within classes, provided requests are made before April 15<sup>th</sup> of each year.

An employee's continuous service record (seniority) shall be broken by voluntary resignation, discharge for just cause, and retirement. However, if an employee returns to work in any capacity within one year, the break in continuous service shall be removed from their record, and the employee will begin accruing seniority without loss of previous accrual (not to include the period of leave or separation).

E. Transfers

Employee requests for transfers from one job classification to another shall be given consideration when a suitable vacancy occurs in the same class. Requests, including a resume of qualifications from employees for transfers from one department to another, shall be made in writing and shall be directed to the employee's present Department Head with copies to the appropriate Department Head or the City Manager.

F. Separation

Upon separation of any employee for any reason, the employee shall be paid a lump sum payment for all earned but unused compensatory time off, holiday and vacation credits.

Before separation, all employees must complete an exit interview with their Supervisor, Department Head or the City Manager (the employee is given the choice). The purpose of this interview is to clarify the factors leading to the separation for the benefit of both the employee and employer. A summary of this interview shall be prepared on a form provided by the City, signed by both parties, and placed as the final document in the employee's personnel file.

Before an employee's termination date, they must complete the separation clearance (returning all equipment, keys, etc.). If the employee's termination date does not coincide with the last day of a pay period, the employee will receive compensation for time worked based on an hourly pay schedule.

1. Layoff

If there are changes in the organization, or lack of work or funds, the City Manager may lay off employees.

a. Employees shall be given not less than ten working days' written notice and shall be laid off in inverse order of their seniority in their classification.

b. Any employee who is laid off and who had advanced to their present classification from a lower classification in which they held a regular appointment shall be given a position, if available, in the lower classification in the same department. Availability of such a position shall be defined as a position authorized and budgeted. If a lower classification position is not vacant, the employee being laid off from the higher position shall automatically have the right to occupy the lower classification and an employee occupying the lower classification shall be laid off instead.

c. Seniority in the lower classification shall be established according to the date of original appointment to that class, except those employees who previously occupied a position of a higher class, but occupy the lower classification due to layoffs, shall have a higher seniority.

d. Employees shall be called back from layoffs according to seniority in the class from which the employees were laid off within the department.

e. No new employee shall be hired in any class until all employees who have been laid off within the immediate preceding 12 month period and who are on layoff reemployment status in that class have had the opportunity to return to work.

f. An employee on layoff status shall accept or decline in writing an opening within 5 working days following notice of an available position. They must be prepared to return to work within 10 working days of accepting a position. Such notice shall be provided to the employee at his/her last address set forth in the employees personnel file.

2. Resignation

If circumstances make it necessary for an employee to resign, a written resignation shall be submitted to the Department Head and the City Manager. The resignation shall state the reason for resigning and give at least 10 working days notice.

3. Termination for Medical Reasons

When it is determined, on the basis of a medical examination, that an employee is incapable of performing the duties of their position satisfactorily because of a physical or mental impairment which is likely to continue indefinitely or to recur frequently, the appointment may be terminated.

## ARTICLE 11. ATTENDANCE AND LEAVE BENEFITS

### A. Attendance

Employees shall be in attendance in accordance with the provisions of this MOU. All Departments shall maintain daily attendance records for employees who shall be reported to the Finance Department on the forms and dates specified by the Finance Director.

### B. Anniversary Date

For the purpose of computing entitlement to vacation and sick leave accrual, an employee's continuous service shall be based on the effective date on which they received their initial probationary appointment to the City service. Such date shall be the employee's anniversary date for vacation and sick leave purposes, subject to the provisions contained herein.

### C. Vacation

1. The purpose of vacation leave is to provide a rest period which will enable the employee to return to work physically and mentally refreshed. All employees shall be entitled to accrue vacation leave with pay except the following:

- a. Employees having temporary, seasonal, or less than half-time appointments.
- b. Employees on leave of absence without pay or suspension without pay.

2. Vacation may not be taken in excess of that actually accrued and in no case may it be taken prior to the completion of an employee's initial probationary period. The Department Head shall schedule and approve all vacation leaves for employees taking into consideration whenever possible the seniority and wishes of the employee. Vacation leave may be granted on an hourly basis. Any fraction over an hour shall be charged to the next full hour.

3. Subject to approval of the Department Head and City Finance Officer, employees may make a request to the City Manager to sell back to the City accrued vacation time on a case by case basis.

### D. Basis for Accrual – Full-time Employees

Vacation shall be credited as earned vacation for each biweekly pay period of service, or prorated for each fractional period in accordance with the table below, except that vacation accrued during the first six months of service shall not be credited as earned until the employee completes the first six months of continuous service.

Equivalent Annual Length of Continuous Service	Biweekly Accrual Rate	Accrual Hours	Rate Days
0 – 3 years	3.08 hours	80	10
3 yrs, 1 day – 9 yrs	4.62 hours	120	15
9 yrs, 1 day – over	6.15 hours	160	20
15 yrs, 1 day – over	7.69 hours	200	25

E. Basis for Accrual – Part-time Employees

An employee having a probationary, regular or acting appointment that is less than full time but is half time or more shall accrue vacation leave with pay in proportion to the percent worked.

F. Limit on Accumulation

Whenever the sum of an employee's current and deferred vacation exceeds that employee's equivalent annual accrual rate for two years, they shall lose that portion in excess of two years and be compensated for it at the workday rate of pay in effect on the last day of such total accumulation with the following exception: With the approval of the Department Head, an employee may accrue vacation in excess of the two year limit provided all such excess accumulation is taken within three (3) months. In no event, however, shall an employee be paid at a higher rate for such excess accumulation by deferring use of said excess than they would have received had they been compensated for the loss as above.

G. Terminal Vacation Pay

Any employee who has accrued vacation leave, who has completed their initial probationary period, and whose employment terminates, shall be compensated for such accrued vacation based on the hourly equivalent of the salary they were receiving at the time of their termination.

An employee who terminates while serving a probationary period in a position to which they have been promoted shall receive terminal vacation pay based on the hourly equivalent of the salary they received immediately prior to their promotion, provided they had successfully completed a probationary period in the position from which they were promoted.

An employee who has not completed a probationary period in at least one position shall not receive terminal vacation pay.

H. Holidays Occurring During Vacation

In the event one or more holidays observed by the City falls within the period an employee is on vacation leave, such day or days shall not be charged against the vacation accrual.

I. Vacation Anniversary Date Changes

Any leave of absence without pay or suspension without pay shall result in a new vacation anniversary date. Such date shall be based on the employee's original vacation anniversary date plus the number of consecutive days of the leave of absence without pay or suspension without pay.

J. Sick Leave

The purpose of sick leave is to allow continuation of pay while an employee recuperates from an illness, or other health-related reason causing absence. It is also intended to provide employees with the assurance of pay in order that they may be away from the job to avoid exposing others to illness.

Sick leave is defined as the necessary absence from duty of an employee because of:

1. Injury or illness.

2. Medical or dental examination or treatment, by a licensed practitioner when such absence during working hours is authorized by the Department Head. These should be scheduled at the beginning or end of the work day whenever possible to avoid disruption of work.
3. Exposure to a contagious disease when quarantine is imposed by health authorities or when it is determined by a physician designated by the City Manager that the presence of the employee on duty would endanger the health of others.
4. A physical impairment which, in the opinion of the Department Head, might place the employee in the position of further endangering his/her well-being if returned to work.
5. Pregnancy, delivery and recovery therefrom of the employee.
6. Family sick leave as defined in Section N of this Article and subject to the rules pertaining to family sick leave.

K. Basis for Accrual – Full-time Employees

Regular full-time employees are eligible to accrue sick leave at the rate of one day per month (or 3.69 hours per biweekly pay period) with the following exceptions:

1. Employees having temporary, seasonal, or less than half-time appointments.
2. Employees on leave of absence without pay or suspension without pay.
3. Sick leave shall not be applied during an employee's initial probationary period, but shall be applied following successful completion of probation.
4. Sick leave may be accrued with an unlimited accumulation.

L. Basis for Accrual – Part-time Employees

An employee having a probationary, regular or acting appointment that is less than full-time but is half-time or more shall accrue sick leave at the rate proportional to hours worked by a full-time equivalent, based on their regular work week salary and shall not include overtime hours.

M. Sick Leave Procedures

Sick leave may not be taken in excess of that actually accrued. Continuance of pay during absence from duty due to sickness or other approved reasons, shall depend upon compliance with the following procedures:

1. On the first day of absence from duty, the employee, or someone on their behalf, shall notify the City of the reason for such absence. If the duration of the illness lasts longer than one day, the employee must notify the Department Head daily.
2. Within 36 hours after returning to duty such employee shall fill out, and file with the Department Head, a written report and request for approval of the absence as sick leave.
3. An employee may be required to furnish a certificate from a licensed physician or practitioner to support their sick leave claim.

4. Except for industrial accidents as provided in Article 19(c)(1), when an employee receives California State Disability Insurance as a result of an on the job injury or illness, the City will pay the difference between the benefit and full pay, limited to accumulated sick leave. The employee must report the amount of payment and the period which it represents to the City.

5. Any fraction of time over an hour shall be charged to the next quarter (.25) hour.

6. An employee who is admitted to a hospital or confined to bed under medical orders while on vacation leave may have the period of illness charged to their accumulated sick leave instead of vacation leave if, immediately upon return to duty, the employee submits to the Department Head a written request for sick leave and a written statement signed by their physician describing the nature and dates of illness and the period of disablement, and the Department Head recommends and the City Manager approves the granting of such sick leave.

7. Sick leave shall not be applied to absences which occur on a day designated as a City holiday.

8. If an employee works anytime, either on their regular shift or overtime on a day in which they take sick leave, the combination of hours worked and sick leave shall not exceed 8 hours.

9. In cases of disability certified by an employees' personal physician, the City has the right to obtain a second medical opinion to confirm the employee's ability or inability to work. Such examination will be performed by a licensed physician of the City's choosing and at the City's expense. The consulting physician shall submit a written report to the City Manager, who will make all final decisions with regard to granting sick leave benefits. Employees who refuse to submit to such an examination may become ineligible for sick leave benefits (for the particular disability in question).

10. At such times as an employee exhausts all of their sick leave benefits, accrued compensatory time, holiday and vacation credits may be used to continue pay during the remainder of the sick leave. Medical progress reports may be required prior to approval of such payments.

11. It shall be the employee's responsibility to maintain good health. This includes seeking competent medical attention in the event that an illness lasts longer than three days as well as periodic physical checkups to detect potential illness or to control chronic health problems.

12. The provisions of this MOU applicable to vacation anniversary date changes arising from the granting of a leave of absence without pay or suspension without pay shall also apply to sick leave anniversary dates.

13. Upon PERS retirement from the City with at least five years of continuous service, an employee will be paid for one half of their accumulated sick leave to a maximum payment for 1,000 hours.

#### N. Family Sick Leave

Family sick leave may be used when it is necessary to attend an ill child or stepchild, or run and maintain the household when the spouse is ill or otherwise disabled and unable to

perform the duties necessary to maintain the home. This includes pregnancy and childbirth by the spouse.

O. Abuse of Sick Leave

Sick leave is a privilege granted to employees and abuse of this privilege will neither be tolerated nor condoned.

Department Heads will be responsible for controlling the use of sick leave by employees to the extent of requiring physician's certifications or other evidence of illness, injury, appointments, etc.

If the Department Head does not consider the evidence adequate, he/she shall disapprove the request for sick leave, and indicate on the proper forms that such absence may be imposed by the Department Head when an employee fraudulently obtains sick leave or abuses the sick leave privilege.

P. Extended Sick Leave

On written request of the employee and recommendation of the Department Head, the City Manager, subject to the work demands of the City, may authorize a leave of absence without pay for the purpose of recovering from an illness or injury provided:

1. The employee has used all his/her accumulated sick leave; and
2. The employee furnishes to the Department Head a certification from the attending physician stating the nature of the illness and an estimate of the time needed for full recovery.

Q. Holiday Leave

Subject to the provisions contained herein, the following days shall be observed as paid holidays by all employees in regular positions except personnel whose work assignments, in the judgment of the Department Head, require their presence on the job.

For each approved, designated holiday, employees required to remain on the job shall receive straight time holiday pay plus either overtime compensation at the rate of one and one-half (1.5) pay or a day in lieu of time off or compensatory time, whichever the affected employee chooses.

Independence Day	July 4
Labor Day	1 <sup>st</sup> Monday in September
Veteran's Day	November 11
Thanksgiving Day	4 <sup>th</sup> Thursday in November
Day after Thanksgiving	Friday following Thanksgiving
Christmas Eve Day	December 24
Christmas Day	December 25
New Years Day	January 1
Martin Luther King Day	3 <sup>rd</sup> Monday in January
Presidents Day	3 <sup>rd</sup> Monday in February
Memorial Day	Last Monday in May
Three Floating Holidays	<i>Scheduling subject to Department Head Approval</i>

In addition to requiring Department Head approval, use of floating holidays must be no later than the last regularly scheduled pay date prior to June 30<sup>th</sup> of each fiscal year or such floating holidays shall be forfeited.

When a designated holiday occurs on an employee's first regular day off, the previous day will be observed instead. When it falls on the employee's second regular day off, the following day will be observed instead.

In addition to the designated holidays listed above, other days or portions of days may be authorized by official proclamation of the Mayor. The Mayor may take such action to coincide with special holidays declared by the President of the United States, the Governor of the State of California, or when, in the opinion of the Mayor, a significant local event merits such action.

#### R. Bereavement Leave

Bereavement leave is defined as the necessary absence from duty by an employee having regular or probationary appointment because of the death of a member of their immediate family or because their attendance is needed to attend to the critical illness of a member of their immediate family where death appears imminent. The Department Head may require proof of death or such illness.

For purposes of this section, immediate family shall mean: spouse, parent, child, sibling, mother-in-law, father-in-law, grandparent, brother-in-law, sister-in-law, grandchild, aunt and uncle.

Bereavement leave without deduction shall be limited to five (5) working days per calendar year for bereavement. However, upon prior approval (prior approval may be obtained by telephone) or the City Manager or his/her designee or the employee's Department Head, an employee may take additional work days for bereavement purposes as defined herein subject to the condition that such additional days shall be deducted or charged against accumulated sick leave, compensation time, vacation or leave without pay.

An employee serving their initial probationary period who takes leave under this section and, for any reason terminates City employment prior to the completion of such probationary period, shall have their final paycheck reduced by the value of the leave they have taken.

#### S. Maternity Leave

Maternity leave shall not exceed the maximum period provided by law and shall be covered by sick leave to the extent the employee has it accrued during the period that the employee's doctor certifies she is unable to work. The employee will be required to provide written certification before such payments are made. The length of leave, both prior to and after delivery, is a decision to be made by the woman and her doctor. Any time taken before or after the certified period of disability must be taken as compensatory time, vacation leave, or leave without pay, and regulations governing these forms of leave shall apply.

The employee must notify the City Manager in writing of the intention to return to work (including date of return) at least ten working days prior to the commencement of her maternity leave. Within 15 days after delivery, she must reaffirm her intention to return to work in order to assure that her position will be held open. An employee who confirms the intention to return to work, in accordance with the above, shall have the position held open until the date specified in the statement of intention, after which reinstatement shall be dependent upon the availability of a suitable vacancy. Vacancies created by such leave, if filled will be by temporary or conditional appointments.

During the sick leave periods of maternity leave, vacation leave, seniority, and time towards annual evaluation shall accrue. In addition, health and other insurance benefits will continue without interruption. During periods of absence without pay, health, dental and life insurance benefits will be discontinued. However, the employee will have the option of picking up health insurance at their own expense (group rate) for a period not to exceed the duration of the approved leave.

During periods of leave without pay, standard rules governing seniority accrual, leave and fringe benefits under leave without pay shall apply.

T. Military Leave

An employee having probationary or regular appointment shall be entitled to such benefits as are provided in the State of California Military and Veterans Code (Section 395 et seq). An employee requesting such military leave shall immediately, or as soon as possible, upon receiving his/her military orders present a copy of their military orders to the Department Head prior to the beginning of leave.

**ARTICLE 12. FRINGE BENEFITS**

A. General Statement

Every new employee shall have explained to them the benefits available, the eligibility requirements, limitations and coverage. Part-time and seasonal employees do not qualify for fringe benefits, with the exception that regular part-time employees meeting the eligibility criteria are eligible for PERS retirement.

B. Health Insurance

Full-time employees and dependents will become eligible for the standard health plan offered by the City's health insurance provider on the first day of the month coinciding with or following date of hire.

C. Dental and Vision Insurance

Full-time employees and dependents will become eligible for the standard dental and vision insurance plans offered by the City's dental and vision insurance provider on the first day of the month coinciding with or following date of hire, with the City paying 100% of the premium.

In addition, the City agrees to pay any and all standard dental and vision premium rate increases for the term of the Memorandum of Understanding.

D. Life Insurance

All full-time employees are eligible for the standard life insurance plan offered by the City's life insurance provider. The effective date of coverage is determined by provider's eligibility rules. The City will pay 100% of the premium from the date of eligibility.

E. Retirement Plan

1. Membership in the Public Employees Retirement System (PERS) plan is mandatory from date of employment, except for the following:

- a. When full-time seasonal or limited term employment is limited to six months or less.
- b. When part-time appointment is limited to less than an average of 20 hours per week.
- c. When otherwise required by the PERS plan. See PERS Procedure Manual for more detailed information.

City retirement plan provided by the Public Employee Retirement System (PERS) is 2.7% at 55 for all miscellaneous unit members. Effective the first pay period following adoption of this agreement, employees shall begin paying their full share of the required PERS member contribution of 8% for miscellaneous employees. Said contributions shall be on a “pre-tax” basis pursuant to Section 414(h)(2) of the Internal Revenue Code.

**ARTICLE 13. GRIEVANCE PROCEDURES**

**A. General**

A grievance may arise from any real or imagined dissatisfaction of any employee regardless of their appointive status with the City.

**B. Definitions**

- 1. Grievance – A grievance is a claimed violation, misapplication or misinterpretation of a specific provision of this MOU or employee protection contained in any ordinances, resolutions, personnel rules or written policies which adversely affects the grievant.
- 2. Grievant – A grievant is an employee in the Association who is filing a grievance as defined above. Alleged violations, misapplications, or misinterpretations which affect more than one employee in a substantially similar manner may be consolidated at the discretion of the City Manager as a group grievance and thereafter represented by a single grievant.
- 3. Days – “Day(s)” shall mean day(s) in which the City's main administration office is open for business.

**C. Step I**

Within seven days from the event giving rise to a grievance or from the date the employee could reasonably be expected to have had knowledge of such event, the grievant shall orally discuss his/her grievance with his/her supervisor. The supervisor shall have three days to give an answer to the employee.

**D. Step II**

If the grievant is not satisfied with the resolution proposed at the informal level he/she may, within ten days of the receipt of such answer, file a formal written grievance with his/her immediate supervisor on the approved form provided by the City. The supervisor shall, within three days, have a meeting with the grievant and within five days thereafter give a written answer to the grievant on the approved.

E. Step III

If the employee is dissatisfied with the decision of the Immediate Supervisor, they may, within five days, appeal to the Department Head on the form approved by the City for that purpose. The Department Head shall render a decision in writing within ten days on the approved form.

F. Step IV

If the employee is dissatisfied with the decision of the Department Head, they may, within 5 days, appeal to the City Manager on the approved form. The City Manager shall render a decision in writing within ten days on the approved form.

G. Step V

If the employee is dissatisfied with the decision of the City Manager, they may appeal, in writing, to the Grievance Committee. An employee appeal must be submitted on the approved form within five days of their receipt of the decision of the City Manager.

H. Grievance Committee

The Grievance Committee shall be convened by the Committee Chairperson whenever the need arises. Membership of the Committee shall include, at a minimum, the following:

- One City Council Member or alternate appointed annually by the City Council – Chairperson
- One Department Head or alternate appointed annually by the City Manager – (not concerned with the appeal)
- One Employee or alternate appointed by the employee's bargaining unit on an annual basis – (not concerned with the appeal).

A grievance hearing before the Grievance Committee shall be an administrative hearing wherein the rules of evidence and court procedure need not be followed. The Chairperson is responsible for the disclosure and evaluation of all factors relevant to the inquiry without prejudice to either party in the dispute.

Generally, a court reporter will not be used, but if either side demands a transcript of the proceedings, the side so demanding shall bear the full expense of the court reporter and the transcript preparation. Nothing in this section shall prevent either party from making a tape recording of the proceedings.

Within five (5) business days following the close of the grievance hearing before the Grievance Committee, the Chairperson shall submit the Committee's written decision to the City Manager. The written decision shall be approved by at least two members of the Committee and shall be signed by all of the members. At a minimum this decision shall include a summary of the proceedings, a brief statement of the facts presented by each side, and a conclusive decision which shall be binding upon the City and the employee.

I. Appeal from the Grievance Committee

There shall be no appeal from the decision of the Grievance Committee except where the grievance is a charge of unfair employment practices. In this type of case, the employee/applicant may pursue further legal action.

## J. General Ground Rules for Grievances

All employee grievances must follow this chain of appeal. At no time will an employee bypass a supervisor or Department Head, or approach a Council member with a grievance.

All references to number of days will be understood as days in which the City's main administrative office is open for business. Time limits may be waived upon consent of both parties.

In formal meetings at Step II through V, the employee has the right to have a representative, attorney, counsel, etc. in attendance. Beginning with Step II of the Grievance Procedure, all grievances must be in writing, using the approved City Grievance Form.

An aggrieved employee may be represented by any person in an advisory capacity, to assist in presenting all facts relevant to the grievance, and necessary to the equitable solution of the grievance. The City Attorney may be present in an advisory capacity to City supervisors and/or managers. If the employee chooses to be represented by an attorney, then the City Attorney need not be restricted to an advisory capacity, but may function in such matters as cross examination, weighing of evidence, etc.

Employees shall have freedom from reprisal for use of the Grievance Procedures.

If a grievant fails to carry his/her grievance forward to the next level within the prescribed time period, the grievance shall be considered settled based upon the decision rendered at the most recent step utilized.

If a supervisor or manager fails to respond to an answer within the given time period, the grievant may appeal their grievance to the next higher level.

## **ARTICLE 14. ON-THE-JOB INJURY**

### A. Medical Attention

Whenever an employee sustains an industrial injury or disability arising out of, and in the course of City employment, and requires medical treatment, the employee shall be referred to an appropriate facility or doctor based on the nature and extent of the injury or disability. Treatment and medical referrals arising out or in the course of City employment shall be in conformance with rules and procedures which may be established from time to time by the City's Workers Compensation carrier.

In the event the desired doctor is unavailable, which may be the case during the weekends and after normal working hours, industrial injury victims may be taken to Howard Memorial Hospital emergency room.

#### 1. Emergency

If the injury or disability is of a serious and urgent nature and requires emergency medical treatment, the employee shall be referred or transported to the nearest emergency treatment facility, generally, the Emergency Room at Howard Memorial Hospital.

#### 2. Non-Emergency

If the injury or disability is not of a serious and urgent nature and would require only normal medical treatment, the employee shall be referred to the nearest appropriate doctor as specified.

3. First Aid

Referral of an employee for medical treatment will not be necessary in cases where the injury is of such a minor nature that ordinary first aid treatment will suffice.

B. Industrial Accident Reporting Procedures

Employees are expected to report job-related injuries at the time they occur. Failure to comply with the time limitations specified in Section 5400 of the California Labor Code, and wherein the City has been misled or prejudiced by such failure, industrial leave may be denied.

1. Doctors' Referral Slip

An employee, whose job-related injury was of such severity as to warrant treatment by a doctor, shall not be permitted to return to their job or any other job within the City until they have presented to their supervisor a properly authenticated doctor's referral slip, or other acceptable assurance indicating their physical health will not be endangered further in the performance of their regular duties or other duties to which they may be assigned.

An employee who has returned to work following recovery from a job-related injury and later requires additional time off due to incapacitation arising from an original injury, shall be returned to their doctor of record by way of referral slip or other forms authorized by the City Manager. Industrial accident leave, as defined below, will not be granted for intermittent time off unless incapacitation has been confirmed as outlined above.

C. Industrial Accident Leave

Industrial accident leave is defined as the necessary and authorized absence from duty by an employee because of an injury or disability which has arisen out of, and in the course of, employment with the City.

1. Amount of Leave – Probationary and Regular Employees

The following schedule shall be applicable to all full-time probationary and regular employees:

<u>Amount of Employee's Continuous City Service</u>	<u>Maximum Industrial Accident Leave</u>
At least one day but less than six months	20 working days
At least six months	9 calendar months

2. Compensation

An employee on authorized industrial accident leave shall, during such absence, receive that portion of their normal salary, which, when added to temporary disability benefits payable under the provisions of the Workers' Compensation Laws of California equal their normal salary provided:

- a. They are entitled to receive benefits within the scope of such law, and;
- b. The City's liability for payment of such portion shall be limited to the maximum periods specified in Article 14(c)(1) above.

3. Extended Industrial Accident Leave

An employee who continues to be disabled or ill after they have used all entitlements to industrial leave as specified in Section 11.3.1 may be granted, at the discretion of their Department Head, such portion of accrued sick leave necessary to assure receipt of the equivalent of their full salary.

Sick leave will not normally be granted to extend industrial accident leave when it is evident that the employee will be incapable of performing the duties of the position to which they were assigned. If the employee is eligible for immediate retirement under the provisions of the Public Employees Retirement System then, in the interest of the employee, the Department Head may place the employee on sick leave status until retirement is effected or expiration of sick leave, whichever is sooner.

4. Workers Compensation Benefits

Employees who have expended the maximum industrial accident leave allowance plus sick leave extensions if any, and continued to be temporarily disabled shall, barring recourse to other provisions of these regulations, cease to receive supplemental wages under this Section. Entitlement to Workers Compensation benefits will be unaffected.

5. Extension of Benefits

Employees whose appointments provide them vacation, holidays, and sick leave shall continue to accrue such benefits and to earn eligibility for consideration for merit salary advancement during an absence resulting from injuries arising out of or in the course of City employment, provided such employees are entitled to temporary disability benefits under the Workers Compensation Laws of the State of California.

6. Availability of Personnel

Employees on industrial accident leave must be available for any appointments or consultation as may be required by the City or any other authorized agency and must keep the City informed regarding their whereabouts on a continuing basis.

7. Appeals Board Appearances

Any employee who does not regain their pre-injury condition following recovery from an injury sustained in the course of City employment but instead is permanently disabled to a measurable degree, even though the existence of disability is their opinion alone, has the right for a hearing before the Workers Compensation Appeals Board, and to receive a determination as to the extent of permanent disability, if any.

The time off necessary to appear at the Appeals Board Hearing at the time it is scheduled shall be provided the employee by their Department Head. Time off for this purpose will be considered sick leave.

Notice of hearings before the Workers Compensation Board will be distributed to the appropriate Department Head by the City Manager as they are received. The Department Head or their designated representative will attend the Appeals Board Hearings of employees assigned to their departments.

## **ARTICLE 15. FULL UNDERSTANDING, MODIFICATION & WAIVER**

This MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby suspended or terminated in their entirety. It is agreed and understood that each party hereto voluntarily and unqualifiedly waives its right to negotiate, and agrees that the other party shall not be required to negotiate, with respect to any matter covered herein during the term of this MOU. Nothing in this paragraph shall preclude the parties from jointly agreeing to meet and confer on any issue(s) within the scope of representation during the term of this MOU. No agreement, alteration, understanding, variation, waiver, or modification or any of the terms of provisions contained herein shall in any manner be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the Willits City Council. The waiver of any breach, term, or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

## **ARTICLE 16. PEACEFUL PERFORMANCE CLAUSE**

The parties to this MOU recognize and acknowledge that the services performed by the employees covered by this MOU are essential to the public health, safety and general welfare of the residents of the City. The Union agrees that under no circumstances will the Union or any persons covered by the MOU recommend, encourage, cause or permit its members or any persons covered by this MOU to initiate, participate in or take part in any strike, sit-down, stay-in, sick-out, slow-down or picketing (hereinafter collectively referred to as work-stoppage) in any office or department of the City, nor curtail any work or restrict any production, or interfere with any operation of the City. In the event of any such work stoppage by any member of the Union or person covered by this MOU, the City shall not be required to negotiate on the merits of any dispute which may have given rise to such work stoppage until said work stoppage has ceased. In the event of any work stoppage, during the term of this MOU, whether by the Union or by any member of the Union or any person covered by this MOU, the Union by its officers shall immediately declare in writing and publicize that such work stoppage is unauthorized, and further direct its members and all persons covered by this MOU in writing to cease the said conduct and resume work. Copies of such written notice shall be served upon the City. If in the event of work stoppage, the Union shall not be liable for any damages caused by the violation of this provision. However, the City shall have the right to discipline, including discharge, any employee who instigates, participates in, or gives leadership to, any work stoppage activity herein prohibited, and the City shall also have the right to seek full legal redress, including damages, as against any such employees.

## **ARTICLE 17. SAVINGS PROVISIONS**

If any of the provision of this MOU are held to be contrary to law by a court of competent jurisdiction, such provisions will not be deemed valid and subsisting except to the extent permitted by law or an agency of the State. The parties agree to meet and discuss such invalidated provisions. All other provisions of the MOU not declared invalid will continue in full force and effect.

## **ARTICLE 18. IMPLEMENTATIONS**

This MOU shall be of no force or effect until ratified and approved by formal action of the City Council of the City, the membership of the Union, the employees covered by the MOU and executed by the Union Business Manager or his/her authorized representative on behalf of the Union. It is recognized that certain provisions herein may require ordinance changes in order to be effectuated.

**ARTICLE 19. TERM**

This MOU represents the entire agreement between the City and Union on subjects contained herein and shall become of full force and effect on July 1, 2011, unless otherwise noted, when approved by the Willits City Council and shall continue in full force and effect until midnight June 30, 2012, and shall continue from month-to-month thereafter until superseded by other agreement; or until the City Council of the City, after compliance with the provisions of Government Code Sections 3500 et seq, and Resolution No. 1974-17 and any amendments thereto relating to meeting and conferring takes action which supersedes the provisions hereof.

**IN WITNESS WHEREOF**, the parties hereto have caused this Memorandum of Understanding to be executed by affixing their signatures below.

RATIFICATION AND APPROVAL:

CITY OF WILLITS

INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS, LOCAL 1245

\_\_\_\_\_  
Paul Cayler, City Manager

\_\_\_\_\_  
Jerry Campbell, Shop Steward

ATTEST:

\_\_\_\_\_  
Adrienne Moore, City Clerk

\_\_\_\_\_  
Dennis Seyfer  
Business Representative

APPROVED TO FORM:

\_\_\_\_\_  
James Lance, City Attorney

\_\_\_\_\_  
Tom Dalzell, Business Manager

## EXHIBIT "A"

Lead Public Works Maintenance Worker  
Public Works Maintenance Worker  
Water Plant Supervisor  
Lead Water Operator  
Water Operator I  
Water Operator II  
Water Operator-in-Training  
Sewer Plant Supervisor  
Sewer Operator I  
Sewer Operator II  
Sewer Plant Operator-in-Training