MEMORANDUM OF UNDERSTANDING

between

CITY OF ATWATER

and

ATWATER CLERICAL EMPLOYEES UNIT

AMERICAN FEDERATION OF

STATE, COUNTY, AND MUNICIPAL EMPLOYEES

LOCAL 2703, COUNCIL 57,

AFL - CIO

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INTRODUCTION

Representatives of Local 2703, Council 57, American Federation of State, County, and Municipal Employees, AFL-CIO (the "Union") and representatives of the City of Atwater (the "City") have met and conferred in good faith regarding wages, hours, and other terms and conditions of employment for employees of the "Clerical Employees Unit," which are listed in Appendix A, have exchanged fully information, opinions, and proposals, and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees which are within the scope of representation.

This Memorandum of Understanding ("MOU") is entered into pursuant to the Meyers-Milias-Brown Act ("MMBA") and has been jointly prepared by the Parties.

ARTICLE 1: PURPOSE

The purposes of this MOU are to promote and provide for harmonious relations, cooperation, and understanding between the City and the Union and to provide an orderly and equitable means of resolving any misunderstandings or differences which may arise regarding wages, hours, and other terms and conditions of employment.

ARTICLE 2: RECOGNITION

Section 2.1: Certification of Employee Organization and Recognition of Exclusive Representative

The process for establishing a Bargaining Unit, recognizing a Certified Employee Organization and/or an Exclusive Representative of a Bargaining Unit, and separation of an employee classification from a Bargaining Unit shall proceed as set forth in Resolution No. 2581-10, as may be amended from time to time.

Section 2.2: Status of Union as Certified Employee Organization and Exclusive Representative

The Union is recognized as the Certified Employee Organization and Exclusive Representative, as provided in Resolution No. 2581-10, as may be amended from time to time, for Regular employees assigned to classifications in the Clerical Employees Unit, which are set forth in Appendix A. Any modification to a classification within the Clerical Employees Unit shall be subject to the meet and confer process. Notwithstanding the foregoing, this MOU does not apply to employees who are considered Confidential Employees.

Section 2.3: Agency Shop Agreement

This MOU shall constitute an Agency Shop Agreement.

Section 2.4: Meet and Confer Obligation

The City and the Union shall meet and confer on all changes to policies, procedures and rules affecting wages, hours and other terms and conditions of employment.

ARTICLE 3: UNION MEMBERSHIP, DUES AND SERVICE FEES

Section 3.1: Rights of Employees

Employees of the City shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the City also shall have the right to refuse to join or participate in the activities of employee organizations. It shall be an additional right of the employees to represent themselves individually in their employee relations with the City. Neither the City nor the employee organizations shall interfere with, intimidate, restrain, coerce, or discriminate against employees because of the exercise of their rights under this Section.

Section 3.2: Union Membership

Upon hiring of a new employee for a position that falls within the Clerical Employees Unit, the City shall deliver to the employee a written notice stating that the City acknowledges the Union as the Certified Employee Organization and Exclusive Representative for all employees in the Clerical Employees Unit.

Union membership is not mandatory and all employees in the Clerical Employees Unit shall have the right to decide whether to become a member of the Union. However, all employees in positions which fall within the Clerical Employees Unit shall be subject to this MOU, regardless of their participation in the Union.

All employees in the Clerical Employees Unit, who are not already Union members and who elect to become Union members, shall make application for membership within one (1) month following their date of employment.

Section 3.3: Union Dues and Service Fees

All employees in the Clerical Employees Unit and shall pay all required Union dues or pay to the Union, each month through payroll deduction.

Employees in the Clerical Employees Unit who elect not to become Union members shall pay a service fee as a contribution toward the administration of this MOU in an amount equal to the regular monthly Union dues.

Any employee in the Clerical Employees Unit who is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support the Union. Such employee shall, in lieu of periodic dues, or service fees, pay sums equal to the dues or service fees, to a non-religious, non-labor, charitable fund, exempt from taxation under Section 501(c) of the Internal Revenue Code. Proof of such payments shall be made on a monthly basis to the City as a condition of continued exemption from the requirement to pay Union dues or service fees.

Section 3.4: Mandatory Compliance

Compliance with Article 3 is a term and condition of employment for all employees in the Clerical Employees Unit.

The Union shall be responsible for enforcing the requirements of this Article.

Section 3.5: Scope of Representation

A. The scope of representation shall be limited to all matters relating to employment conditions and employer-employee relations, including but not limited to, wages, hours, and other terms and conditions of employment, except, however, that the scope of representation shall not include consideration of the merits, necessity, or organization of any service or activity provided by law or executive order.

B. An Exclusive Employee Organization shall be the sole representative of all employees in the Clerical Employees Unit and shall represent all employees of the Unit, except that an employee of the Unit shall have the right to represent him/herself in his/her employment relations with the City.

Section 3.6: Meetings During Working Hours

Authorized representatives of Certified Employee Organizations and Exclusive Representatives shall be allowed reasonable access to employees of the Clerical Employees Unit during work hours for representational purposes including the processing of grievances. Such authorized representatives are to notify respective Department Directors in advance of the date, time and location of such meetings and ensure that the proposed meeting with not unreasonably interfere with operational needs of the Department. Department Directors shall provide reasonable opportunities for employees to participate in such meetings. Work time devoted to such visits shall not exceed such time as is reasonably necessary to handle the business at issue.

Section 3.7: Distribution of Materials to Employees

Space shall be made available to Certified Employee Organization and Exclusive Representative for the placement of bulletin boards within the City only at such facilities where the Certified Employee Organization or Exclusive Representative has members and provided such use does not interfere with the needs of the various Departments. The Certified Employee Organization and Exclusive Representative shall also be permitted to distribute materials to employees via the City's email system. Notices shall be dated and shall identify the Certified Employee Organization or Exclusive Representative responsible for their issuance. The employee organizations will be responsible for insuring that material posted is of current interest and that out-of-date material is removed in a timely manner. All material distributed pursuant to this Section shall be limited to topics relevant to terms and conditions of employment. The Certified Employee Organization or Exclusive Representative shall provide a copy of the proposed material to the Human Resources Department to ensure compliance with this Provision.

Section 3.8: Stewards

Certified employee organizations may have a up to four (4) employees who serve as official representatives ("Stewards") released from work without loss of compensation when meeting and conferring (including labor negotiations, presentation of grievances and disciplinary proceedings) with management representatives where matters within the scope of representation are being considered. The Union shall provide a current list of the Stewards to the Director of Human Resources. Stewards shall obtain permission from their supervisor prior to participating in such meetings

Section 3.9: Contract Negotiations

A. The City and the representatives of Certified Employee Organizations and the Exclusive Representatives shall have the mutual obligation to personally meet and confer within a reasonable period of time in order to exchange freely information, opinions and proposals and to endeavor to reach agreement on matters within the scope of representation.

B. Upon commencement of the meet and confer process, the parties shall refrain from making public statements to the press until impasse has been declared by either party in writing. Nothing contained herein shall preclude the parties from the exercising of rights granted them by City, State, or Federal laws.

Section 3.10: Memorandum of Understanding

Upon reaching a tentative agreement, a written memorandum of understanding shall be prepared and shall be presented to members for ratification, and upon ratification by the members, shall be presented to the City Council for adoption.

Section 3.11: Impasse

Impasse procedures shall be used only when all other attempts at reaching an agreement through meeting and conferring in good faith have been unsuccessful. When an impasse has been reached, the parties shall proceed pursuant to provisions of the MMBA, provided, however, that the parties shall participate in good faith in mediation at no cost through the California State Mediation and Conciliation Service. If there is a cost to participate in the mediation, mediation shall be permissive, not mandatory.

Section 3.12: Fact-Finding

Fact-finding shall occur, if at all, in accordance with the applicable provisions of the MMBA.

Section 3.13: Cost

The cost of mediation, if any, and fact-finding proceedings, if any, shall be borne equally among all parties involved.

Section 3.14 Labor-Management Committee

A. There is hereby established a special joint committee for the purpose of discussing common problems or issues of concern not otherwise subject to collective bargaining. The Union and the City may each designate up to three (3) representatives to serve on the committee.

B. The committee shall meet at such times as are mutually agreed to and as requested by one (1) or both parties. The party or parties requesting to meet will provide an agenda for items to be discussed. All items presented by one (1) or both parties will be addressed. Meetings will be held during normal working hours at no loss of pay to participants. The committee shall make recommendations which may be implemented by the appropriate authorities.

ARTICLE 4: NONDISCRIMINATION

There shall be no discrimination against any employee or applicant for employment on the basis of race, creed, color, religion, national origin, sex, sexual orientation, gender identity, marital status, pregnancy, ancestry, physical or mental disability, medical condition, age, citizenship status, military or veteran status, genetic information, or any other basis protected by applicable Federal, State or local law.

ARTICLE 5: APPOINTMENT AND PROBATIONARY PERIODS

Section 5.1: Medical Examinations and Drug Screening

Medical examinations, drug screening and/or fitness for duty examinations for all employees may be required in the sole discretion of the City Manager as part of the hiring process. If required, the cost of such examination shall be paid by the City.

Section 5.2: Criminal Background Clearance

A criminal record background check shall be conducted as part of the hiring process.

Section 5.3: In-House Recruitment / External Recruitment

All current City employees, who are serving in any capacity, and former City employees who are on a current recall or reemployment list, may participate in the in-house recruitment process for any position subject to this MOU. To be considered for a position, such persons must meet the minimum qualifications for the position. Participation in an in-house recruitment process does not guarantee selection for an open position. The City may use external recruitment to fill a position subject to this MOU if the position is not filled through the in-house recruitment process.

Section 5.4: Initial Probationary Period

All newly hired employees shall be required to complete an initial probationary period of a minimum of six (6) months. At the end of six (6) months, a performance evaluation shall be conducted pursuant to Section 6.6. During the initial probationary period, employees are

considered at will, may be terminated at any time without right of appeal or hearing, and the provisions of Sections 12.2 and 12.3 shall not apply.

Section 5.5: Promotional/Transfer Probationary Period

All employees who are promoted to any new position, regardless of classification, and all employees who are transferred to any new classification shall be required to complete a probationary period of a minimum of six (6) months. Employees who are promoted or transferred, but who have already successfully completed an initial probationary period, and who do not successful complete the promotional or transfer probation, may move back to their previous position.

ARTICLE 6: SALARIES

Section 6.1: Salary Ranges

The City and Union will consider adjustments to salary ranges for all employees in the Clerical Employees Unit on an annual or more frequent basis.

A. The City and the Union will discuss implementing the three and a half percent (3.5%) salary increase, which has been deferred since July 1, 2011.

B. The City and the Union will discuss eliminating the twenty-six (26) furlough days, or portion thereof, which have been in place since July 1, 2011.

Section 6.2: Job Classification Review and Compensation Adjustments

The City recognizes the need to periodically review job classifications for purposes of evaluating the applicability of specific job related requirements and to evaluate associated salary ranges. To this end, the City and the Union agree to meet and confer through the Labor-Management Committee to review the job classifications in the Clerical Employees Unit and evaluating possible equity adjustments.

Section 6.3: Payment and Administration

All employees shall be paid every other Thursday for the prior two (2) work weeks.

Section 6.4: Deductions in Compensation

Any employee who works less than a full pay period, except when using earned vacation, compensatory time, paid holiday or paid sick leave, shall be compensated based on the number of hours actually worked in that pay period.

Section 6.5: Salary of New Employees

The first step of the salary range for each classification of employees is the minimum rate that will be paid for employees in that classification and shall normally be the hiring rate for the classification. In cases where it is difficult to secure qualified personnel, or if a person is hired

who has prior years of service performing similar duties (i.e. a lateral appointment), the City Manager may set the hiring rate above step 1.

Section 6.6: Performance Evaluations

Each employee shall be evaluated after completing six (6) months of service ("Initial Probationary Period"). The purpose of this initial evaluation is to determine whether the employee has performed in a manner that justifies changing the employee's status to "Regular" or extending their probationary status.

In addition to the initial evaluation, each employee shall be evaluated on an annual basis, with each evaluation to occur at or near the employee's anniversary date. If, in the discretion of the City, the employee is performing at a less than satisfactory level, a meeting shall be held to discuss the performance issues. The employee shall be provided with written documentation regarding corrective actions that the employee needs to take. The purposes of conducting performance evaluations are to assess each employee's performance of their job duties and determine whether salary adjustments are appropriate.

Performance evaluations shall be conducted in writing by the Director of the Department in which the employee is assigned, or his or her designee. The evaluations shall examine the employee's performance of various categories set forth on the evaluation form and shall also include an overall evaluation rating. Performance ratings of less than "satisfactory" shall include a written explanation for the rating and provide guidance to the employee to assist the employee in achieving more favorable ratings.

Each evaluation shall be discussed with the employee. Written evaluations may be adjusted by the evaluator as a result of the discussion with the employee. Once an evaluation is in final form following the discussion with between the evaluator and the employee, the employee may make a written request for an appeal of the evaluation to the City Manager. The City Manager shall hear the appeal within ten (10) working days of receiving the appeal request and provide a written response within thirty (30) days of the appeal meeting. However, performance evaluations are not subject to the grievance procedures set forth in this MOU. Employees shall be permitted to submit a written response to any performance evaluation, which shall be attached to the evaluation and maintained n the employee's personnel file.

If an employee receives an overall evaluation of less than "satisfactory", the employee may be re-evaluated after a minimum of six (6) months to determine whether salary adjustments are appropriate. All delayed salary adjustments resulting from less than "satisfactory" performance evaluations shall be prospective and not retroactive, regardless of when the adjustment is made.

An employee's anniversary date does not change regardless of the number of evaluations that occur in a year and regardless of when the employee receives a salary adjustment.

Section 6.7: Increase in Salary Range and Step

A. Every regular employee shall have a normal anniversary of twelve (12) months from the employee's date of hire and will be eligible for advancing through the steps of the relevant salary range on the employee's normal anniversary date.

B. The following general rules apply to advancement through the salary steps: 1) advancement decisions shall be based upon merit as determined through employee performance evaluations; 2) advancement determinations will generally be made at or near the employee's anniversary date in cases of satisfactory performance; 3) employees who receive an overall performance evaluation rating of "satisfactory" or higher shall advance to the next step in the salary range; 4) employees who receive an overall performance evaluation of less than "satisfactory" will not advance to the next step in the salary range at the time of their performance evaluation, but may be eligible for advancement prior to their next anniversary date if re-evaluated as a result of improved performance.

C. Merit salary advancements shall be granted in single step increments within the salary range for a particular classification based upon employee performance evaluations as described in this Section. Department Directors may recommend that employees receive a merit salary adjustment of two (2) steps a maximum of one (1) time during such employee's tenure in a given classification in recognition of outstanding service. Such recommendations shall be an exception to the general rule that adjustments shall be made in single step increments. Merit salary adjustments of two (2) steps shall be subject to prior approval of the City Manager.

D. All step advancements will become effective on the first day of a pay period. Step advancements due to satisfactory performance will be made on the first day of the pay period in which the anniversary date falls, except where a step advancement is a result of a re-evaluation that occurs after the employee's anniversary date, in which case the effective date will be the first day of the pay period in which the step advancement is granted.

Section 6.8: Salary on Promotion

An employee who is promoted from one classification to another classification with a higher salary range shall have the salary adjusted within the new range to guarantee a minimum five percent (5%) increase.

The anniversary date for promoted employees shall change to the effective date of the promotion. Future performance evaluations shall be based upon the employee's new anniversary date.

Section 6.9: Salary on Reclassification

An employee who is reclassified from one classification to another having a lower salary range shall be assigned to a step within the salary range that is close to, but not less than the employee's current salary. Notwithstanding the foregoing, the City Manager may, in his/her sole

discretion, permit the employee to retain his/her current rate of pay, even though it is higher than the salary range for the reclassified position, for a maximum of two (2) fiscal years.

An employee who is reclassified from one classification to another having a higher salary range shall be adjusted within the new range so as to guarantee a minimum of five percent (5%) increase. In addition, an employee who is reclassified within ninety (90) days of the employee's anniversary date shall have his or her annual performance valuation from the employee's former position conducted at the time of the reclassification. If the employee receives an overall rating of "satisfactory", the employee shall receive a merit increase at the time of the reclassification, in addition to being assigned to a step within the salary range which will guarantee a minimum five percent (5%) increase.

A reclassified employee's anniversary date shall change to the effective date of the reclassification. Future performance evaluations shall be based upon the employee's new anniversary date.

Section 6.10: Salary on Transfer

An employee who voluntarily decides to change positions which results in a transfer from a classification with a higher salary range to a classification with a lower salary range shall be assigned to the step in the salary range for the new (lower classification) position which is the closest to, but not less than, the employee's salary range in the former (higher classification) position, not to exceed the maximum step for the new position.

Voluntary changes in positions which result in a transfer from a class with a lower salary range to a classification with a higher salary range shall be governed by Section 6.8 (Salary on Promotion).

The anniversary date for transferred employees shall change the effective date of the transfer. Future performance evaluations shall be based upon the employee's new anniversary date.

Section 6.11: Salary on Demotion

The anniversary date for employees who are demoted for any reason shall change to the effective date of the demotion. Future performance evaluations shall be based upon the employee's new anniversary date.

Section 6.11.1: Demotion for Disciplinary Reasons

An employee who is demoted from a classification with a higher salary range to a classification with a lower salary range as a result of disciplinary action taken against the employee shall be assigned to a step in the salary range for the new (lower classification) position based upon the recommendation of the Department Director, subject to approval of the City Manager.

Section 6.11.2: Demotion in Lieu of Layoff

An employee who is demoted from a classification with a higher salary range to a classification with a lower salary range in lieu of being laid off shall be assigned to the step in the salary range

for the new (lower classification) position that is the sale as the step in the employee's current classification.

Section 6.12: Adjustments in Salary Ranges

Adjustments in the general salary ranges made after the effective date of this MOU shall be made after meeting and conferring with the Union in accordance with the Meyers-Milias-Brown Act, Resolution No. 2581-10, and the City's Personnel Rules and Regulations, and after ratification by resolution of the City Council. Employees affected by the adjustments to the salary ranges shall have their existing salary adjusted to the same relative step in the new salary range.

Section 6.13: Reduced Hour Positions

A. Subject to the terms of the City's Personnel Rules and Regulations related to hiring requirements, the City may hire employees for permanent positions of less than 40 hours per week ("Reduced Hour Positions"). Appointments to "Reduced Hour Positions" shall be processed on a regular Personnel Action Form which shall designate the number of hours to be worked. Reduced Hour Positions shall be subject to provisions of this MOU.

B. An employee holding a Reduced Hour Position may participate in the City's benefit programs as established for Reduced Hour Positions as follows:

1. Reduced Hour Position employees shall participate in the City's retirement plan subject to the same terms and conditions as other City employees.

2. Reduced Hour Position employees who elect to receive medical, vision and/or dental coverage shall pay premiums in the amounts set forth in Section 8.2 of this MOU.

3. Disability insurance will be provided by the City for Reduced Hour Position employees as set forth in Section 8.7 of this MOU.

4. Reduced Hour Position employees shall be eligible for sick leave and vacation in the amounts set forth in Sections 8.3 and 8.5 of this MOU. All other conditions related to the accrual and use of sick leave and vacation will be the same as those for full time regular employees.

5. Reduced Hour Position employees shall be provided holiday pay as set forth in Section 8.4 of this MOU.

6. Reduced Hour Position employees who work a minimum of thirty (30) hours per week shall receive life insurance equal to the employee's annual base salary rounded to the next highest $1,000. The life insurance policy shall only be in effect while the employee is employed by the City.

C. Reduced Hour Position employees are required to complete an Initial Probationary Period on the same terms and conditions as are set forth in Section 5.4 of this MOU.

D. Seniority of Reduced Hour Position employees shall accrue from date of appointment regardless of the number of hours worked by the employee.

E. If the City determines that the hours required of a Reduced Hour Position need to be increased, up to and including, Full-Time employment status, the employee currently holding the Reduced Hour Position shall have the right of first refusal to occupy that position with the increased hourly requirement.

F. Current City employees may volunteer to serve in Reduced Hour Positions. Regular Full-Time employees shall not be required to accept a Reduced Hour Position. However, if the City changes a position from Full-Time to Reduced Hour and the employee currently holding the position declines to accept the Reduced Hour Position, that position may be filled by someone else and the City is not required to find another position for the employee. If two (2) or more employees seek appointment to a Reduced Hour Position, and all other factors are equal, the employee with the most Seniority shall fill the position.

G. The City Manager, in his/her sole discretion, shall have the ability to determine the number of Reduced Hour Positions.

Section 6.14: Salary Adjustment Upon Move to Alternate Position as a Result of the Interactive Process

When an employee is unable to perform the essential functions of his/her current position without an accommodation, and, after engaging in the interactive process with the City it is determined that the City will accommodate the employee by placing him/her in an alternate position, the employee shall be paid at his/her current rate of pay for a maximum of thirty (30) days while in the alternate position. Thereafter, the employee shall be paid at the step in the salary range for the alternate position which is equivalent to the step in which the employee is assigned in his/her current salary range, provided, however, that the maximum decrease in pay that an employee shall be subject to shall be a thirty-five percent (35%) decrease.

ARTICLE 7: WORK WEEK

Section 7.1: Work Week

The City's work week begins at 12:01 a.m. Thursday and ends at 12:00 a.m. on Wednesday.

Section 7.2: Scheduling

A. All Regular Full-Time employees shall be required to take twenty-six (26) furlough days per fiscal year.

B. Employees shall be entitled to two (2) days off per work week. Notwithstanding the foregoing, the City and Union have agreed to a compressed work schedule consisting of

a four (4) day work week, with Regular Full-Time employees working nine (9) hours each day, thereby creating a work week consisting of 36 hours of work.

C. Employee work days and hours will be subject to modification in the event of emergency or other extenuating circumstances. Any changes to scheduled hours will be subject to Section 9.1.

D. The City and Union shall meet to review, monitor, and discuss the financial condition of the City on a regular basis, no less than two (2) times per year, and agree to continue discussions regarding possible strategic collaborations related to work schedules in light of the City's financial status.

ARTICLE 8: MAJOR FRINGE BENEFITS

Section 8.1: Retirement

A. Tier 1

Tier 1 covers Regular status employees hired by the City for the first time on or before November 24, 2011.

1. The City shall provide a retirement program for eligible employees of three percent (3%) at age sixty (60) based upon the Single Highest Year.

2. Employees and the City shall pay their respective contribution amounts as defined by the City's retirement plan.

B. Tier 2

Tier 2 covers Regular status employees hired by the City for the first time on or after November 25, 2011 and determined to be a "Classic Member" under CalPERS guidelines.

1. The City shall provide a retirement program for eligible employees of two percent (2%) at age sixty (60) based upon a three (3) year average final compensation period, and retirement cost of living adjustment shall be two percent (2%) per year as determined by CalPERS.

2. Employees and the City shall pay their respective contribution amounts as defined by the City's retirement plan.

C. Tier 3

Tier 3 covers Regular status employees hired by the City on or after January 1, 2013 and determined to be a "New Member" under PEPRA and CalPERS guidelines.

1. The City shall provide a retirement program for eligible employees of two percent (2%) at age sixty-two (62) based upon a three (3) year average final

compensation period, and retirement cost of living adjustment which shall be determined by CalPERS.

2. Employees shall pay fifty percent (50%) of the normal cost of the expected total normal cost rate for the benefits that apply to new Clerical Employees Unit members on or after January 1, 2013 rounded to the nearest one-quarter of one percent (.25%).

D. For all Retirement Tiers, an employee who retires and who has accrued and unused sick leave may have up to a maximum of two thousand (2,000) hours of that sick leave credited as service for purposes of CalPERS retirement.

Section 8.2: Health Care

Health care plans agreed upon by the parties will be administered as follows:

A. Medical, Dental, and Vision Plan:

1. Medical Coverage:

a. Tier 1

Tier 1 covers Regular status employees who retire on or before December 31, 2014 or who give written notice to the Administrative Manager that they intend to retire within ninety (90) days of December 31, 2014, and who qualified for medical benefits at the time of retirement. The City shall pay 90% of premiums for the cost of CalPERS coverage for the annuitant and eligible dependents, not to exceed the benchmark premium, which is currently Blue Shield Access + HMO. The City has the right to select the benchmark HMO plan each calendar year no less than 10 days prior to the open enrollment period and shall provide notice to annuitants if the benchmark plan is changed from the previous year. The new benchmark plan rates will not take effect until the first of the following year. The eligible annuitant shall pay the remaining 10% of the medical premiums for the annuitant and eligible dependents and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs.

b. Tier 2

Tier 2 employees are defined as Regular status employees hired on or before September 30, 2014 who retire after January 1, 2015 and who qualify for medical benefits at the time they retire.

1. For Regular Full Time Employees

While employed, the City shall pay 90% of premiums for the cost of CalPERS coverage for the employee and eligible dependents,

not to exceed the benchmark premium, which is currently Blue Shield Access + HMO. The City has the right to select the benchmark HMO plan each calendar year no less than 10 days prior to the open enrollment period. The City shall provide notice to employees if the benchmark plan changes from the previous year. The new benchmark plan rates will not take effect until the first of the following year. The employee shall pay the remaining 10% of the medical premiums for the employee and eligible dependents and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs. The employee share shall automatically be deducted from the employee's payroll check in two equal payments each month.

Upon retiring, the City shall contribute in the following amounts toward the premiums for the cost of CalPERS coverage for the annuitant and eligible spouse only, not to exceed the benchmark premium, which is currently Blue Shield Access + HMO. The City has the right to select the benchmark HMO plan each calendar year no less than 10 days prior to the open enrollment period. The City shall provide notice to annuitants if the benchmark plan is changed from the previous year. The eligible annuitant shall pay the remaining amount of the medical premiums and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs.

0 – 5 Years of service	PEMHCA minimum only
6 – 10 Years of service	40% of premium amount for the annuitant only
11 – 15 Years of service	60% of premium amount for annuitant and 50% of premium amount for eligible spouse
16 – 19 Years of service	75% of premium amount for annuitant and 65% of premium amount for eligible spouse
Over 20 Years of service	90% of premium amount for annuitant and 75% of premium amount for eligible spouse

The City shall pay any benefit amount over the PEMHCA minimum amount, as set forth above, directly to annuitant, at the end of each month.

2. <u>For Regular Reduced-Hour Employees</u>

While employed, the City shall contribute the following amounts toward the premiums for the cost of CalPERS coverage for the

employee and eligible dependents, not to exceed the benchmark premium, which is currently Blue Shield Access + HMO. The City has the right to select the benchmark HMO plan each calendar year no less than 10 days prior to the open enrollment period. The City shall provide notice to employees if the benchmark plan changes from the previous year. The new benchmark plan rates will not take effect until the first of the following year. The employee shall pay the remaining amount of the medical premiums for the employee and eligible dependents and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs. The employee share shall automatically be deducted from the employee's payroll check in two equal payments each month.

30 – 39 hours per week	75% of full time benefit
20 – 29 hours per week	50% of full time benefit
Less than 20 hours per week	no contribution

Upon retiring, the City shall contribute in the following amounts toward the premiums for the cost of CalPERS coverage for the annuitant and eligible spouse only, not to exceed the benchmark premium, which is currently Blue Shield Access + HMO. The City has the right to select the benchmark HMO plan each calendar year no more than 10 days prior to the open enrollment period. The City shall provide notice to annuitants if the benchmark plan is changed from the previous year. The new benchmark plan rates will not take effect until the first of the following year. The eligible annuitant shall pay the remaining amount of the medical premiums and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs.

0 – 5 Years of service	PEMHCA minimum only
6 – 10 Years of service	40% of benefit received by full time annuitants
11 – 15 Years of service	60% of benefit received by full time annuitants
16 – 19 Years of service	75% of benefit received by full time annuitants
Over 20 Years of service	90% of benefit received by full time annuitants

The City shall pay any amount over the PEMHCA minimum amount, as set forth above, directly to annuitant at the end of each month.

c. Tier 3

Tier 3 employees are defined as Regular status employees hired after September 30, 2014 and who qualify for medical benefits at the time they retire.

1. For Regular Full Time Employees

While employed, the City shall pay the City shall pay 70% toward the premiums for the cost of CalPERS coverage for the employee and eligible dependents, not to exceed the benchmark premium, which is currently Blue Shield Access + HMO. The City has the right to select the benchmark HMO plan each calendar year no less than 10 days prior to the open enrollment period. The City shall provide notice to employees if the benchmark plan changes from the previous year. The new benchmark plan rates will not take effect until the first of the following year. The employee shall pay the remaining amount of the medical premiums for the employee and eligible dependents and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs. Employee share shall automatically be deducted from employee's payroll check in two equal payments each month.

Upon retiring, for eligible annuitants who elect to participate in the City's medical insurance, the City shall pay only the PEMHCA minimum toward annuitant only coverage. The eligible annuitant shall pay the remaining amount of the medical premiums and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs.

2. For Regular Reduced Hour Employees

While employed, the City shall contribute the following amounts toward the premiums for the cost of CalPERS coverage for the employee and eligible dependents, not to exceed the benchmark premium, which is currently Blue Shield Access + HMO. The City has the right to select the benchmark HMO plan each calendar year no less than 10 days prior to the open enrollment period. The City shall provide notice to employees if the benchmark plan changes from the previous year. The new benchmark plan rates will not take effect until the first of the following year. The employee shall pay the remaining amount of the medical premiums and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs. Employee share shall automatically be deducted from employee's payroll check in two equal payments each month.

30 – 39 hours per week	75% of full time benefit

20 – 29 hours per week	50% of full time benefit
Less than 20 hours per week	no contribution

Upon retiring, for eligible annuitants who elect to participate in the City's medical insurance, the City shall pay only the PEMHCA minimum toward annuitant only coverage. The eligible annuitant shall pay the remaining amount of the medical premiums and shall also be responsible for payment of all deductibles, co-payments, and disallowed costs.

d. In-Lieu Payments: Employees who are eligible to enroll in the City's medical coverage and who deny coverage or elect to enroll in medical coverage through the employee's spouse or registered domestic partner are eligible for in-lieu payments. In-lieu payments for medical coverage only shall be set by City Council resolution.

2. Dental Coverage:

a. Tier 1

Tier 1 covers Regular Full Time employees hired on or before September 30, 2014.

While employed, the City shall pay all premium costs of coverage for the employee and eligible dependents. Employees shall pay all deductibles, co-payments, and disallowed costs.

Upon retiring, annuitants and eligible dependents may elect to remain on the City's dental coverage plan, but the annuitants will be responsible for paying the full amount of the monthly premium amounts, which are established by the City's provider, as well as all deductibles, co-payments, and disallowed costs. Said amounts are subject to change annually. The City shall bill annuitants who elect to continue coverage on a monthly basis for the full amount of the monthly premiums. Non-payment will result in disenrollment of the annuitant and eligible dependents without the option to re-enroll.

b. Tier 2

Tier 2 covers Regular Full Time employees hired after September 30, 2014.

While employed, employees shall participate in the City's dental coverage plan. Eligible dependents are permitted to participate in the City's dental coverage plan, but are responsible for paying the monthly premium amounts, which are established by the City's provider, as well as all deductibles, co-payments, and disallowed costs. The employee share shall automatically be deducted from the employee's payroll check in two

equal payments each month. Said amounts are subject to change annually. The current monthly premium amounts which employees are required to pay are as follows:

Employee only	$0
One dependent	$40
Two or more dependents	$111

Upon retiring, annuitants and eligible dependents may elect to remain on the City's dental coverage plan for the period established by COBRA, but the annuitants will be responsible for paying the full amount of the monthly premium amounts for annuitants and eligible dependents, which are established by the City's provider, as well as all deductibles, co-payments, and disallowed costs. Said amounts are subject to change annually. The City shall bill annuitants who elect to continue coverage on a monthly basis for the full amount of the monthly premiums. Non-payment will result in disenrollment of the annuitant and eligible dependents without the option to re-enroll. Upon expiration of the COBRA period, coverage for annuitant and dependent(s) shall be discontinued.

3. Vision Coverage:

a. Tier 1

Tier 1 covers Regular Full Time employees hired on or before September 30, 2014.

While employed, the City shall pay all premium costs of coverage for the employee and eligible dependents. Employees shall pay all deductibles, co-payments, and disallowed costs.

Upon retiring, annuitants and eligible dependents may elect to remain on the City's vision coverage plan, but the annuitants will be responsible for paying the full amount of the monthly premium amounts, which are established by the City's provider, as well as all deductibles, co-payments, and disallowed costs. The City shall bill annuitants who elect to continue coverage on a monthly basis for the full amount of the monthly premiums. Non-payment will result in disenrollment of the annuitant and eligible dependents without the option to re-enroll.

b. Tier 2

Tier 2 covers Regular Full Time employees hired after September 30, 2014.

While employed, employees shall participate in the City's Vision Plan. Eligible dependents are permitted to participate in the City's vision

coverage plan, but are responsible for paying the monthly premium amounts, which are established by the City's provider, as well as all deductibles, co-payments, and disallowed costs. The employee share shall automatically be deducted from the employee's payroll check in two equal payments each month. Said amounts are subject to change annually. The current monthly premium amounts which employees are required to pay are as follows:

Employee only	$0
One dependent	$22
Two or more dependents	$50

Upon retiring, annuitants and eligible dependents may elect to remain on the City's vision coverage plan for the period established by COBRA, but the annuitants will be responsible for paying the full amount of the monthly premium amounts for annuitants and eligible dependents, which are established by the City's provider, as well as all deductibles, co-payments, and disallowed costs. Said amounts are subject to change annually. The City shall bill annuitants who elect to continue coverage on a monthly basis for the full amount of the monthly premiums. Non-payment will result in disenrollment of the annuitant and eligible dependents without the option to re-enroll. Upon expiration of the COBRA period, coverage for annuitant and dependent(s) shall be discontinued.

B. Life Insurance and Accidental Death and Dismemberment Plan:

Effective December 1, 1993, Regular Full-Time and Reduced-Hour (30 hour minimum) employees will receive life insurance and accidental death and dismemberment benefit (if applicable) equal to the employee's annual salary, rounded to the next highest $1,000. The life insurance policy shall only be in effect while the employee is employed by the City.

1. Tier 1

Tier 1 covers Regular Full Time and Reduced-Hour (30 hour minimum) active employees hired on or before September 30, 2014.

While employed, the City shall pay all premium costs of coverage.

2. Tier 2

Tier 2 covers Regular Full Time and Reduced-Hour (30 hour minimum) active employees hired after September 30, 2014.

While employed, employees may participate in the City's Life Insurance and Accidental Death and Dismemberment Plan and shall be responsible for paying one-half (50%) of the monthly premium amounts, which are established by the City's provider.

Section 8.3: Vacation

A. General Rules

1. Regular Full-Time employees and Reduced Hour Employees who are scheduled to work a minimum of thirty (30) hours per week as set forth on their Personnel Action Form begin to accrue vacation on the date of hire, but may not use vacation until the employee completes six (6) months of continuous service.
2. Employees may only use vacation after it has accrued.
3. Vacation accruals may be accumulated to a total of not more than twice the annual accrual at any given time.
4. Requests to use vacation time shall be submitted to the employee's Department Director as far in advance as possible, with a minimum of ten (10) days notice if the vacation request is for more than one (1) week.
5. Vacation requests shall be evaluated and granted based on the date of submittal. If more than one (1) employee requests vacation during the same time period, the vacation requests shall be granted on the basis of Seniority.
6. The accrual of vacation time shall cease when an employee runs out of accrued vacation and sick leave and is not available for work.
7. An employee who terminates employment, retires or is laid off, and who has accrued and unused vacation time shall be paid for that vacation time at the employee's current hourly rate at the time of termination of employment, retirement or layoff.

B. Accrual Rates

There are of 24 pay periods during each calendar year for purposes of computing accruals. Eligible Regular employees accrue vacation during each qualifying pay period at the rates set forth in this Section. A qualifying pay period is one in which the Regular employee draws pay in a normal pay period for a minimum of one-half (1/2) of the hours he/she is designated to work on a weekly basis on his/her Personnel Action form.

Regular Full-Time employees accrue vacation at the following rates:

Date of Hire - Year 4	3.33 hours per qualifying pay period
Years 5 – 9	5 hours per qualifying pay period
Years 10 and up	6.67 hours per qualifying pay period

Employees holding Reduced Hour Positions accrue vacation at reduced rates depending on the number of hours they are designated to work on a weekly basis on their Personnel Action forms using the following parameters:

30-39 hours per week	75% of the Regular Full-Time Employee accrual rate
20-29 hours per week	0% of the Regular Full-Time Employee accrual rate
10-19 hours per week	0% of the Regular Full-Time Employee accrual rate

Section 8.4: Holidays

A. General Rules

1. Regular Full-Time employees and Reduced Hour Employees who are scheduled to work a minimum of thirty (30) hours per week as set forth on their Personnel Action Form shall be paid for holidays as set forth in this Section.
2. A holiday falling within a vacation period shall not constitute a vacation day.
3. A holiday occurring while an employee is on sick leave shall not count against the employee's sick leave credits.
4. When a holiday falls on Friday or Saturday, the holiday shall be observed the previous Thursday.
5. If Christmas and New Year's Day fall on a Saturday, they will be observed the following Monday d the day before Christmas Day and the day before New Year's Day will be observed on the previous Thursday.
6. When a holiday falls on a Sunday, it will be observed on the following Monday.
7. An employee scheduled to work on a City observed holiday will be entitled to one and one-half (1½) times the employee's normal rate of pay for actual hours worked on the holiday.
8. Employees who are out of work and are receiving Short Term Disability pursuant to Section 8.7 are not paid entitled to Holiday pay.

B. The City observes the following holidays:

New Year's Day
Martin Luther King's Birthday
President's Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
The day after Thanksgiving Day
The day before Christmas
Christmas Day
The day before New Year's Day.

C. Floating Holidays: On each July 1, employees shall be entitled to one (1) floating holiday, which shall be used by June 30 of the following year. There will be no carryover of the floating holiday from year to year.

Section 8.5: Sick Leave

A. General Rules

1. Regular Full-Time employees and Reduced Hour Employees who are scheduled to work a minimum of thirty (30) hours per week as set forth on their Personnel Action Form begin to accrue sick leave on the date of hire, but may not use sick leave until the employee completes six (6) months of continuous service. However, an employee may request permission from the City Manager to use sick leave prior to completing six (6) months of continuous service in the event of

a bona fide illness. Requests for early use of sick leave may be grated in the City Manager's sole discretion.

2. Employees may only use sick leave after it has accrued.
3. Sick leave shall only be used for illness-related leaves and shall not be used by employees to take vacation.
4. Department Directors may request a note from an employee's physician to justify use of sick leave.
5. An employee who knows that he/she will need to be absent from his/her regular duties or responsibilities in advance of the date on which the leave is to be taken shall notify his/her supervisor or Department Director as soon as the employee becomes aware of the need for leave. Except where the need to use sick leave is not known in advance, all requests for the use of sick leave shall be pre-approved by the employee's immediate supervisor or Department Director.
6. The accrual of vacation time and sick leave time shall cease when an employee runs out of accrued vacation and sick leave and is not available for work.
7. An employee who terminates employment, retires or is laid off, and who has accrued and unused sick leave shall be paid for that sick leave up to a maximum of three-hundred forty (340) hours at the employee's current hourly rate at the time of termination of employment, retirement or layoff.
8. An employee who retires and who has accrued and unused sick leave may have up to a maximum of two thousand (2,000) hours of that sick leave credited as service for purposes of CalPERS retirement.

B. Accrual Rates

There are of 24 pay periods during each calendar year. Eligible Regular employees accrue sick leave during each qualifying pay period at the rates set forth in this Section. A qualifying pay period is one in which the Regular employee draws pay in a normal pay period for a minimum of one-half (1/2) of the hours he/she is designated to work on a weekly basis on his/her Personnel Action form.

Regular Full-Time employees accrue sick leave at the rates of four (4) hours per qualifying pay period.

Employees holding Reduced Hour Positions accrue sick leave at reduced rates depending on the number of hours they are designated to work on a weekly basis on their Personnel Action forms using the following parameters:

30-39 hours per week	75% of the Regular Full-Time Employee accrual rate
20-29 hours per week	0% of the Regular Full-Time Employee accrual rate
10-19 hours per week	0% of the Regular Full-Time Employee accrual rate

Section 8.6: Bereavement Leave

A. General Rules

1. Regular Full-Time employees and Reduced Hour Employees who are scheduled to work a minimum of thirty (30) hours per week as set forth on their Personnel Action Form are eligible for up to a maximum of three (3) work shifts of paid bereavement leave per incident following the death of a covered relative. For out

of state funerals, up to an additional two (2) work shifts of paid bereavement leave per incident may be granted by the City Manager in his/her sole discretion.

2. Department Directors and the City Manger may require evidence of the death of a covered relative prior to approving bereavement leave.

B. Covered relatives include an employee's:

Spouse	Grandparent
Domestic Partner	Grandparent-in-law
Father	Grandchild
Mother	Nephew
Father-in-law	Niece
Mother-in-law	Spouse of Nephew or Niece
Child	Uncle
Step child	Aunt
Foster child	First Cousin
Sibling	Other close relative who resided with the employee at the time of death
Spouse of Sibling	
Sibling of Spouse	

Section 8.7: Disability

A. This Section applies to all Full-Time employees and Reduced Hour Employees who are scheduled to work a minimum of thirty (30) hours per week as set forth on their Personnel Action Form. This Section applies to all Disabilities, other than those which constitute Workers' Compensation Disabilities.

B. An employee who suffers a Disability while employed by the City will be paid by the City at the rate of sixty-six and two-thirds percent (66.67%) of his/her regular hourly rate for a maximum of six (6) months ("Short Term Disability").

C. An employee eligible for Short Term Disability may utilize accrued time off to supplement the amount they receive so the employee will earn a full check.

D. The City's Short Term Disability Plan becomes effective after a seven (7) day waiting period has elapsed from the last day worked. Employees are responsible for paying the difference in the disability premium between a fourteen (14) day waiting period and the seven (7) day waiting period. This amount will be taken in the form of a payroll deduction on a bi-monthly basis.

In addition the following tiers have been established for disability cost-sharing premiums:

1. Tier 1

Tier 1 covers Regular Full Time and Reduced-Hour (30 hour minimum) active employees hired on or before September 30, 2014.

While employed, the City shall pay all premium costs of coverage.

2. Tier 2

Tier 2 covers Regular Full Time and Reduced-Hour (30 hour minimum) active employees hired after September 30, 2014.

While employed, employees may participate in the City's Short Term Disability Plan, and shall be responsible for paying one-half (50%) of the monthly premium amounts, which are established by the City's provider.

E. The City may elect to self-fund or utilize insurance to fund the Short Term Disability Plan described herein.

F. The City shall maintain medical, dental, and vision coverage according to the terms of Section 8.2 for the employee and eligible dependents for a maximum of six (6) months from the date the employee runs out of accrued time off and is not able to return to work as a result of a Disability, provided that the employee continues to pay the amounts designated to be paid by the employee as set forth in Section 8.2.

G. Employees who are out of work and are receiving Short Term Disability are not paid entitled to Holiday pay.

H. The accrual of vacation time and sick leave time shall cease when an employee runs out of accrued vacation and sick leave and is not available for work.

Section 8.8: Catastrophic Leave

All requests under this Section shall be considered and approved on a case by case basis in the sole discretion of the City Manager. "Catastrophic Leave" is paid leave donated to an employee where the employee or the employee's direct family member, as defined herein, has suffered a major non-job related physical or mental illness, injury or disability and the employee has exhausted or is about to exhaust all accrued leaves and is not receiving compensation from any other sources (i.e. workers' compensation or disability). In such circumstances, an employee may be entitled to receive and use the accrued vacation, sick and/or compensatory leave time earned by another employee to extend the employee's ability to take paid leave. For purposes of this Section, the term "direct family member" shall include the employee's: spouse, child, father, mother, stepfather, stepmother, father-in-law, mother-in-law, brother, sister, grandparent, grandchild, or foster child. Both the donor and the recipient must be non-probationary, Regular, Full-time employees. Catastrophic Leave requests shall conform to the following criteria:

A. Requests for donation of accrued vacation, sick, and/or compensatory leave time shall be processed in accordance with procedures specified by the City Manager.

B. All donations shall be voluntary. Donated leave time shall not exceed more than twenty-five percent (25%) of the donor's accrued vacation, sick, and/or compensatory leave time totals at the time of the request.

C. All donations shall be made in whole hour increments.

D. All donations, once approved, shall be unconditional and irrevocable.

E. Once a donation request has been granted, all time utilized shall be deducted from the donor's account on an as-needed basis, per pay period, and shall thereafter be treated the same as though it had been earned by the recipient.

F. Generally, the total leave credits received by an employee shall normally not exceed three (3) months for any single occurrence within a twelve (12) month period.

ARTICLE 9: OTHER COMPENSATION

Section 9.1: Overtime Work

A. It is the City's policy to minimize the use of overtime. If an employee's Department Director determines overtime work by the employee is necessary, he/she may allow overtime to be worked.

B. In the event that equivalent time off is given to an employee in lieu of overtime pay ("Compensatory Time Off"), the maximum amount of Compensatory Time Off in lieu of overtime pay an employee is permitted to accumulate at any one time shall be sixty (60) hours. Employees must be paid for any over time in excess of sixty (60) hours of accumulated Compensatory Time Off.

C. When the City knows in advance that overtime work will be required, it will give as much advance notice as possible to affected employees. The Parties recognize that advance notice may not be possible in the case of an emergency.

D. The City shall not change work schedules to avoid the payment of overtime.

E. Overtime shall be computed in accordance with the FLSA.

Section 9.2: Call Back Pay

A. "Call Back Pay" is the pay the employee receives for all time worked, or for the time in which the employee has reported back to work after the employee, having completed his/her last regularly scheduled shift, left the work location and is requested to report back to work.

B. An employee not subject to Section 9.2.B. is guaranteed to be paid for at least two (2) hours of service, paid at one and one-half the employees' hourly rate of pay, each time the employee is called back to work until the employee has actually worked forty (40) hours in a work week even though the work to be performed takes less than two (2) hours. After the employee has actually worked forty (40) hours in a work week, employee shall be compensated in accordance with FLSA.

C. In the event of a call back, an employee who has not yet worked forty (40) hours in a work week, and is thus not entitled to overtime pay in accordance with FLSA, shall be paid at the rate of time and one-half of the employee's hourly rate. Once an employee has actually worked forty (40) hours in a work week, while on a call back, the employee

shall be compensated in accordance with FLSA. Time spent at home by the standby person answering and making phone calls is not considered call back time. The Union and the City agree to monitor costs/benefits related to call backs being paid at the time and one-half hourly rate without regard to the forty (40) hour credit for cost effectiveness and efficiency.

D. Each department shall establish a uniform "Call Back" policy and procedure for emergencies. Each policy shall include, but not be limited to: 1) equal distribution for call-backs of qualified employees; and 2) establishment of voluntary call-back lists.

Section 9.3: On the Job Injury

A. All employees shall immediately report any and all injuries that occur while at work to their Department Director, contact the Nurse's hotline, record the injury in the Injury Log, and complete all paperwork required by law (i.e. DWC-1), regardless of how minor you believe the injury to be. Employees who are not physically able to complete the foregoing shall notify their Supervisor so he/she can do so.

B. Employees in this Clerical Employees Unit shall be entitled to Worker's Compensation benefits mandated by the State of California Labor Code, including any legally binding change in those benefits which the State of California may adopt during the term of this MOU.

C. Employees absent from work as a result of an industrial injury may use accumulated sick leave, vacation time and/or Compensatory Time Off to supplement Workers' Compensation benefits up to the full amount of the employee's regular rate of pay. Employees can also use their floating holiday to receive compensation during the three (3) day waiting period.

D. Medical examinations and/or fitness for duty examinations for all employees may be required in the sole discretion of the City Manager before an employee returns to work following an injury. If required, the cost of such examination shall be paid by the City.

Section 9.4: Jury Duty and Court Appearances

A. An employee who receives a summons to appear for jury duty or to serve as a witness shall promptly provide his/her Department Director with a copy of the summons.

B. An employee summoned for attendance by any court for jury duty during his/her normal working hours shall receive compensation for the time spent while appearing for jury duty at their normal hourly rate of pay, but the time the employee spends at jury duty shall not count as time worked for the purposes of computing overtime. Employees who receive compensation for jury service shall give such remit that compensation to the City.

C. An employee who summoned for appearance as a witness as a result of his/her employment with the City during his/her normal working hours shall be deemed to be on

duty while appearing as a witness and shall be paid as though at work. Employees who receive a witness fee shall give all such pay to the City.

D. An employee summoned for appearance as a witness as a result of his/her employment with the City outside of his/her normal working hours shall be compensated for the time spent in transit, in preparation, while waiting to appear, and while testifying, or shall be compensated for two (2) hours, whichever is greater, at the employee's normal rate of pay or at the rate of time and one-half of the employee's normal rate of pay if such time causes the employee to work more than forty (40) hours in the applicable work week.

E. An employee summoned for appearance at jury duty or as a witness shall report to work before and/or after the schedule appearance as determined by the employee's Department Director.

Section 9.5: Mileage Allowance

An employee required to keep a private automobile for use in carrying out his/her official duties as a City employee, as well as an employee who is occasionally required to use a private automobile in the execution of his/her official duties as a City employee, shall be reimbursed by the City at the Standard Mileage Rate that is published by the IRS. Employees acknowledge that different rates are established by the IRS for use of personal vehicles when a City vehicle is available.

Prior authorization for use of a private automobile must be obtained from the employee's Department Director.

Employees who seek to use their own vehicle in lieu of an assigned City-owned vehicle must comply with the City's Vehicle Policy.

Section 9.6: Travel Expense

A. Except where otherwise provided by law, any employee of the City, in performance of his/her duty, shall not receive compensation for expenses of transportation, meals, lodging and incidentals, unless such expenses are incurred under one of the following circumstances:

1. Such employee is required to travel more than two (2) hours away from his/her regularly established headquarters;

2. Such employee is required to attend a meeting or training at which a meal is not served during the meeting or training;

3. Such employee is required to stay overnight for a meeting or training and dinner is not provided; or

4. Where any employee is authorized in advance by the City Manager to attend any school, class, conference, convention, or meeting at which representation or

participation will benefit the City and the employee incurs expenses as a result thereof.

B. All travel expenses shall be reimbursed at the rates established by the IRS.

Section 9.7: Uniform and Safety Equipment

A. If the City requires uniforms to be worn by any employee, the uniforms shall be supplied, replaced, and maintained by the City and employees shall not receive a uniform allowance. Uniform benefits are not PERSable as special compensation

B. Department Directors shall prepare a written policy identifying when safety shoes are required to be worn by employees, the style and type of the required shoes, and the amount each employee is permitted to spend on the purchase of required shoes on an annual basis. Where the City requires safety shoes to be worn, the employees shall wear the shoes at all times while on duty..

C. City will provide prescription lenses as needed for respiration masks and safety goggles.

Section 9.8: Bilingual Pay

A. Up to two (2) employees in the Clerical Employees Unit who are fluent in both English and Spanish may be selected by the City Manager, in his/her sole discretion, to serve as the City's interpreter(s).

B. The City's Spanish-English interpreter(s) shall be paid as follows ("Bilingual Pay"):
- Interpreters selected prior to the Effective Date of this MOU shall be paid an additional five percent (5%) above their monthly base pay rate.
- Interpreters selected after the Effective Date of this MOU shall be paid $100 per month

C. An employee who serves as a City Spanish-English interpreter shall not qualify for Bilingual Pay if the employee will be, or is, absent from work for any reason for more than two (2) consecutive pay periods, in which case, the City may select another employee to serves as a City Spanish-English interpreter. The City Manager, in his/her sole discretion, will determine whether an employee who served as a City Spanish-English interpreter and returns to work after being absent for any reason for more than two (2) consecutive pay periods will be reassigned to serve as an interpreter.

D. Eligibility to serve as a City Spanish-English interpreter under this Section shall be determined by successfully passing the Spanish-English interpreter's oral test administered by the County of Merced.

Section 9.9: Temporary Upgrade

When an employee is assigned by a Department Director to perform duties in addition to those that fall within the employee's job description, the employee shall receive a salary increase of up to ten percent (10%) during the pay period that the employee is actually performing the

additional duties on an hour by hour basis. The actual amount of the salary increase shall be based upon the quantity and quality of the additional duties being performed, as determined in the sole discretion of the City Manager.

Section 9.10: Required Certification

If a test or required training for renewal of a mandatory certification or license is only offered during the normal working hours of an employee, and such certification or license is required by the City for the employee's job classification, the City will pay all costs directly related to taking the required test or participating in the required training. The employee must take the test or participate in the required training at the site which is closest to Atwater and must give sufficient advance notice to permit the City to cover the employee's absence. If the test or required training is offered outside of the normal working hours of an employee, the employee shall have the option to switch their day off to the day of the test or required training within the same workweek on a day that falls after the test or required training. When an employee is given time off with pay to take the test or participate in the required training, the time spent by the employee to take the test or participate in the training shall not count as hours worked for purposes of computing overtime. If the employee elects not to switch his/her day off with the date of the test or required training, the employee shall not be paid for the time spent taking the test or participating in the test or the required training.

ARTICLE 10: SENIORITY

A. Seniority is defined as the Regular Full-Time and Reduced Hour employee's length of continuous service with the City since his/her last date of hire, except as otherwise provided herein.

In the event that the length of continued service with the City is equal, Seniority for the purpose of layoff will be defined in the following order:

1. Length of service within the department to which assigned;

2. Length of service within the classification to which assigned;

3. Date application for employment was received.

4. Regular Full-Time employees shall have Seniority over Regular Reduced Hour employees with the same length of continuous service.

B. "Continuous service" as used herein means an employee's total continuous length of service with the City since his/her last date of hire without break or interruption, provided that layoff of one (1) year or less, any suspension for disciplinary purposes, absence on authorized leave with or without pay and absence while receiving temporary total disability benefits under the California Worker's Compensation Act, shall not constitute a break or interruption in service within the meaning of this Article.

C. Seniority starts to accrue only when an employee achieves Regular status. Temporary, probationary and seasonal employees do not accrue Seniority. If a temporary,

probationary or seasonal employee becomes a Regular employee and satisfactorily completes his/her initial probationary period of employment with the City as a Regular employee, Seniority shall start to accrue on the date established by Section 10.A.

D. A list of Regular employees arranged in order of their Seniority as defined herein shall be maintained and made available for examination by employees. The Seniority list will be revised and updated at the end of each fiscal year. A copy of the same shall be transmitted to the Union.

E. Where two (2) or more employees were appointed on the same date, their Seniority shall be determined in the order in which they filed their application for employment, as determined by the date that appears on the application forms.

ARTICLE 11: SAFETY

A. Both the City and the employees shall ensure that work is performed by all employees with a maximum degree of safety, consistent with requirement to conduct efficient operations.

B. Each employee covered by this MOU shall comply with all safety rules and regulations in effect and any subsequent rules and regulations that may be adopted. Any employees involved in, having knowledge of, or witnessing any accident and safety hazard shall immediately report the same to the employee's supervisor or Department Director and shall, if requested, give full and truthful testimony as to same.

C. The City shall provide copies of all safety rules and regulations to all employees at the time of hire and when updated, and shall also have the same available at the following locations: the Corporation Yard, Police Department and City Hall. The City shall review all safety rules and safety practices and update the same as appropriate. The Union and the City shall meet and confer regarding any changes to the safety rules and safety practices pursuant to Section 2.4.

D. The City shall continue to supply employees with safety equipment required by the City and/or CAL OSHA. All employees shall use City supplied safety equipment only for the purposes and uses stated in the applicable safety rules and regulations.

ARTICLE 12: DISCIPLINARY ACTION

Section 12.1: General Rules Related to Disciplinary Action

A. Change in shift assignments shall not be used as a disciplinary measure.

B. Medical examinations and/or fitness for duty examinations for all employees may be required in the sole discretion of the City Manager as part of the disciplinary process. If required, the cost of such examination shall be paid by the City.

Section 12.2: Procedure for Punitive Dismissal, Suspension of More than Three (3) Days, Demotion, or Reduction in Pay

A. New City Employees - All employees who have not attained the status of Regular employee may be dismissed, suspended, demoted, or reduced in pay at any time and for any reason, in the discretion of the City Manager.

B. Regular Employees – This Section applies to all Regular employees, including those serving in a probationary period due to a promotion or transfer to a new classification. The following procedural steps shall be followed with respect to the City taking action against a Regular employee involving punitive dismissal, suspension of more than three (3) days, demotion, or reduction in pay.

1. Ten (10) days prior to taking any such action written notice of the proposed action shall be given to the employee. Said notice shall contain the following:

   a. The proposed action to be taken.

   b. The date set for the proposed action.

   c. The reasons for the proposed action.

   d. A copy of the charges and materials upon which the proposed action is based, if any, provided, however, that the names of the complainants and any potential witnesses shall be redacted from the charges and materials provided to the employee. Notwithstanding the foregoing, any written statement which is prepared and signed by a complainant or witness may be disclosed to the employee.

   e. A statement advising the employee that he/she has a right to respond to the charges, either in writing or orally, to the person imposing the proposed action prior to the time the action is taken and informing the employee that he/she has the right to be represented at all stages of the proceedings by counsel or other person of his/her choice at the employee's expense.

2. The employee may request a *Skelly* hearing to respond to the notice of proposed action. If a *Skelly* hearing is requested, the following rules apply:

   a. The *Skelly* hearing shall be held within ten (10) days of the request, or at such later date as the employee and the City may agree.

   b. The City Manager or his/her designee shall serve as the City's official for purposes of conducting the *Skelly* hearing. If a person other than the City Manager serves as the City's official, that person shall be a neutral party who was not involved in the matter at issue, and shall have ability to make a binding decision on the matter.

c. The employee shall have the right to be represented by counsel or other person of his/her choice at the employee's expense, and shall be given the opportunity to respond to the charges and to present any new information for consideration by the City. The employee's response may include witnesses and/or documentation.

d. Within a reasonable time following the hearing, the City shall issue a written decision on the matter, a copy of which shall be given to the employee. If the written decision imposes dismissal, suspension or demotion of the employee, the decision shall inform the employee of the date on which such action will be taken.

e. Both the City and the employee have the right to request that the time for imposing the action taken be postponed, which request may be granted in the discretion of the City Manager.

3. If action will be taken pursuant to this Section, a Personnel Action Form will be completed and placed in the employee's personnel file.

4. The employee shall have a right to appeal the decision on the proposed action to the City Council within five (5) working days from the date the employee is notified of the City's decision. If the City Council agrees to hear the appeal, a public hearing will be held within thirty (30) days of receipt of the appeal. The City Council shall issue their findings and decision within five (5) working days of said hearing. In the event the City Council refuses to hear the appeal, the City Council will give written notice of such refusal to the employee within (20) days of receipt of said appeal. A copy of the notice shall be provided to the Union office and Chief Steward.

5. If a satisfactory settlement is not reached, or if the City Council refuses to hear the appeal, the employee or Union may request arbitration within fifteen (15) days from date of the City Council's findings and decision, or date of the City Council's refusal to hear the appeal. The party requesting arbitration shall provide written notice of the request to the other party.

6. The arbitration proceedings shall be conducted by an arbitrator, to be mutually selected by the parties within ten (10) calendar days after the submission of written demand for arbitration. If the parties are unable to mutually agree as to the selection of an arbitrator within such time limit and either party continues to demand arbitration, either party may request the California State Mediation and Conciliation Service to provide a list of five (5) arbitrators. Within ten (10) days after receipt of said list, the parties shall meet at City Hall for the purpose of selecting the arbitrator. Each party shall have the right to strike two (2) names from the list of arbitrators as submitted. The party requesting arbitration shall have the right to strike the first name and the other party shall then strike one (1) name with the same process being repeated so that the person remaining on the list shall be the arbitrator. The arbitration hearing shall be held within twenty (20)

days after selection of the arbitrator or as soon thereafter as the arbitrator is available.

7. Each party shall have the right to be represented by counsel or other person of his/her choice at that party's expense.

8. The arbitrator shall be requested by the parties to issue a decision within thirty (30) calendar days after the conclusion of the hearing.

9. There shall be no appeal from the arbitrator's decision. The arbitrator's decision shall be final and binding on the Union, the City, and on all Clerical Employees Unit employees, except where there has been an allegation of fraud or similar misconduct by the arbitrator, or where an error appears on the face of the arbitrator's award which causes substantial injustice to one or more of the parties. If the foregoing circumstances exist, the Parties may conduct a second and final arbitration on the same terms and conditions as are stated in this Section.

10. The arbitrator's expenses shall be shared by the parties. In the event that the arbitrator makes a compromised decision, the arbitrator's expenses shall be apportioned to the parties by the arbitrator based on the relative merits of their respective cases. The City will advance the costs of arbitration and obtain reimbursement, if appropriate, for the Union's or employee's share. Each party shall be responsible for compensating its own representatives and witnesses. If a party desires that a record of the testimony be made at the proceedings, it may cause such a record to be made at its expense provided, however, that it supplies the arbitrator and the other party or parties with copies of such record at no expense to the other party or parties.

11. Any time limitation provided in this Section may be waived in writing by mutual agreement of the parties or their designated representatives. If either party fails to comply with any time limitation or extension thereof, absent written waiver of same, the appeal shall automatically be resolved in favor of the other party.

12. An aggrieved employee shall have the right to process a grievance pursuant to the provisions of this Section individually, by the Union, and/or by an attorney at law. This arbitration clause shall govern all disputes involving dismissal, suspension of more than three (3) days, demotion, or reduction in pay. The City and employees agree to be bound by this arbitration clause and agree to waive the right to resolve any such dispute by filing a lawsuit in a court of law.

Section 12.3: Procedure for Suspensions of Three (3) Days or Less

For suspension of any employee of three (3) days or less, the procedure shall be as follows:

A. Ten (10) days prior to taking any such action written notice of the proposed action shall be given to the employee. Said notice shall contain the following:

1. The proposed action to be taken.
2. The date set for the proposed action.
3. The reasons for the proposed action.
4. A statement that any materials upon which the proposed action is based are available for the employee's inspection, provided, however, that the names of the complainants and any potential witnesses shall be redacted from the charges and materials provided to the employee. Notwithstanding the foregoing, any written statement which is prepared and signed by a complainant or witness may be disclosed to the employee.
5. A statement advising the employee that he/she has a right to a hearing before the City Manager if requested within five (5) working days after receipt of said notice.

B. If the employee requests a hearing, the City Manager or his/her designee shall schedule a hearing and advise the employee of the time and place of the hearing. If a person other than the City Manager will hold the hearing, that person shall be a neutral party who was not involved in the matter at issue, and shall have ability to make a binding decision on the matter.

C. The employee shall have a right to be represented at the hearing by a Union representative or other person of his/her choice at the employee's cost.

D. The decision of the City Manager or his/her designee shall be final.

ARTICLE 13: LAYOFF AND REINSTATEMENT

Section 13.1: Layoffs

The City Manager may lay off employees when, in his/her sole discretion, a layoff is appropriate for any of the following reasons: lack of work, lack of funds or a change in operations or organization. The following rules apply whenever a layoff occurs:

A. Layoffs shall be made on the basis of seniority as defined in Article 10 of this MOU. The City shall provide the Union not less than twenty (20) working day's notice of anticipated layoffs.

B. No Regular employee shall be laid off from any classification while there are temporary, probationary, or seasonal employees working in the same classification.

C. In the event an employee becomes subject to layoff in his/her classification, he/she shall be permitted to take a position in a lower or equivalent classification for which the employee meets the minimum qualifications, or in a lower classification in which the employee has successfully completed probation and the employee meets the minimum qualifications. The employee shall be paid at that classification's rate of pay. The employee shall have two (2) business days to determine whether to exercise the bumping rights set forth herein. Any employees in such lower or equivalent classification subject to layoff by virtue of the provisions of this paragraph shall be laid off in accordance with the provisions of paragraphs "A" and "B" of this Section.

D. If proposed layoffs qualify as a reduction in workforce, the City shall comply with all applicable laws.

Section 13.2: Reinstatement

A. The names of regular employees who have been laid off shall be placed on a layoff list to be maintained by the Personnel Department, and shall be eligible for re-employment for a period of two (2) year after the layoff. In the event that the City decides to re-hire for a position in which there has been a previous layoff, the City shall offer to rehire employees from the layoff list in the reverse order of layoff, provided, however, that such employee(s) are fully qualified for the classification based upon the minimum qualifications stated in the job description, as determined in the sole discretion of the City Manager, and further provided such employee(s) return to work within fourteen (14) calendar days after notification of the offer of re-employment.

B. Where an employee has accepted a position in a lower or equivalent classification by virtue of the provisions of Section 13.1, he/she shall be offered reinstatement to his/her former position if the City elects to rehire for the former position when the same becomes available. Employees qualifying for reinstatement pursuant to this Section shall be reinstated in the reverse order of layoff within two (2) years after the layoff. After (2) years from the date of the layoff, employees must meet the minimum qualifications for the position to be reinstated.

C. Where, by virtue of a layoff, either a Full-Time or Reduced Hour employee takes a position in lower classification pursuant to the provisions of Section 13.1, such employee shall be credited with classification seniority earned prior to transfer. Where, however, a Full-Time employee takes a Reduced Hour position in the same classification, he/she shall not be laid off until all Reduced Hour employees in such classification have been laid off.

D. Subject to the restrictions set forth in Section 13.2.A., no new Clerical Employees Unit employees shall be hired in any classification until all Clerical Employees Unit employees who have been laid off from a higher or equal and like or similar classification have been offered reinstatement.

E. The provisions of this Section do not apply where the City creates a new position.

F. If a position is reclassified, the provisions of this Section will apply if the employee that had been laid off meets the minimum qualifications stated in the job description for the reclassified position, as determined in the sole discretion of the City Manager.

ARTICLE 14: RESIGNATION

Section 14.1: Voluntary Resignation

An employee wishing to resign from City employment in good standing shall file with his/her Department Manager at least two (2) weeks before leaving the service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the City

Manager with a statement by the Department Director as to the resigned employee's service performance and other pertinent information concerning the cause for resignation. Failure to comply with this rule shall be entered on the service record of the employee and may be cause for denying future employment by the City. The absence of an employee who fails to give notice shall be reported to the City Manager's office immediately.

Section 14.2: Implied Resignation

An employee who willfully absents himself/herself from work for a period in excess of two (2) consecutive working days without the permission of his/her Department Director or refuses to report for work when scheduled to do so without good cause may be deemed by the City Manager to have resigned from his/her position.

ARTICLE 15: LEAVES

Section 15.1: Leave of Absence without Pay

A leave of absence without pay may be granted to an employee provided the employee has first used all accruals. All requests for leaves of absence without pay, regardless of length, shall be submitted to the City Manager. Such leaves shall not exceed a period of twelve (12) weeks unless a finding of unusual and special circumstances is made and granting the leave will not cause an undue hardship on the City.

Section 15.2: Leave of Absence – Military

Employees shall be afforded all rights pertaining to military leaves of absence as are required by State and Federal law. A military leave of absence shall not include a leave for civilian employment of any nature.

ARTICLE 16: GRIEVANCE PROCEDURE

It is the policy of the City that all grievances of employees relating to working conditions be resolved at the lowest level of supervision possible depending on the circumstances giving rise to the grievance. All grievances shall be presented in accordance with the following rules, with the presentation to be made at the lowest appropriate step.

A. Step 1. The employee, with or without the employee representative/certified organization representative, shall discuss the grievance with the employee's immediate supervisor within ten (10) calendar days of the date the grievance arises or the employee learns of its occurrence. The supervisor shall attempt to resolve the matter and shall respond to the employee within three (3) working days.

B. Step 2. If the grievance is not settled by the employee's immediate supervisor, it shall be presented in writing by the employee or employee representative/certified organization representative to the employee's Department Director within seven (7) calendar days after the supervisor's response is due. The employee's Department Director shall respond to the employee in writing within three (3) working days.

C. Step 3. If the grievance still remains unresolved, it shall be presented by employee or employee representative/certified organization representative to the City Manager in writing within seven (7) calendar days after the response of the employee's Department Director is due. The City Manager shall respond in writing to the employee within five (5) working days.

D. Step 4. If the grievance remains unresolved, either party may, within fifteen (15) calendar days after the reply of the City Manager is due, by written notice to the other, request a hearing before an arbitrator whose decision shall be final and binding on the parties.

E. Step 5. Arbitration shall be conducted in accordance with Section 12.2.B.5 – 12.2.B.12.

ARTICLE 17: MISCELLANEOUS

Section 17.1: Personnel Reports and Records

A. The City Manager shall require information relating to personnel actions to be kept and reported on such forms as he/she may direct. All personnel records shall be maintained by the City for at least five (5) years after the termination of the employee's employment.

B. An employee, or, upon presentation of written authorization from the employee, an employee's representative, shall have access to the employee's official personnel file upon request. Such access shall be during normal working hours and shall be monitored by the City.

C. Nothing of a derogatory nature shall be placed in the file unless the employee has been given a copy of the material. An employee may respond in writing to such material and the response shall also be placed in the official personnel file.

D. All requests for verification of employment (for current and prior employees) shall be submitted to the Department of Human Resources. Prior to releasing any information in response to a request for verification of employment, the Human Resources Department shall obtain the written consent of the employee.

Section 17.2: Other Employment

No full time employee shall engage in any outside employment without first obtaining the permission of the City Manager, which shall not be unreasonably denied. No full time employee shall engage in outside activity which is incompatible or in conflict with his/her duties to and/or employment with the City.

Section 17.3: Employment of Relatives

Close relatives of employees may not be hired for positions in the same department of City service without prior approval of the City Manager, which may be granted in his/her sole discretion. Only Regular employees are considered in City service for purposes of this Section. For purposes of this Section, the term "close relatives" is intended to include: parents, spouses,

domestic partners, partners residing in the same household, children, foster children, siblings, siblings of spouse, spouses of siblings, father-in-law, mother-in-law, grandparents, grandchildren, nephews, nieces, aunts, uncles, first cousins, or spouses of nephews, nieces, aunts or uncles.

Section 17.4: Training

A. The City recognizes the need to provide an ongoing program of training for all employees to ensure that they are able to maintain an acceptable level of knowledge, skills, and abilities related to their positions and the performance of their job duties and responsibilities. To this end, the City agrees that job-related training will be equally distributed among classifications according to need. Need shall be evaluated and determined through the development and implementation of an annual training plan within each Department. Where a training program is offered by the City and an employee is requested or required by the City to attend, the City shall pay the cost thereof.

It is agreed that all Regular status employees will receive first consideration for all training provided that such training is relevant to their job duties and classification. It is also agreed that there may be times where a probationary temporary or seasonal employee may require training in order to perform his/her assigned duties and responsibilities and thus those employees shall be considered for training.

B. The City agrees that employees may desire to enroll in training and/or academic courses that may provide the employee with general or specific skills and/or knowledge that contributes to their ability to perform their current position or enhances promotional opportunities. In those cases, the employee may have one-half (½) of the cost (including course fees, books, materials and tuition) paid by the City if prior approval is obtained from the City Manager. Approved reimbursements shall be made upon successful completion of the course. To participate in this program, employees are required to complete the required City request form and turn it into the Human Resources Department.

Section 17.5: Medical Exams / Fitness for Duty Exams

Medical examinations and/or fitness for duty examinations for all employees may be required in the sole discretion of the City Manager. Such examinations may occur as part of the hiring and disciplinary processes, and before an employee returns to work following an injury. If required, the cost of such examination shall be paid by the City.

Section 17.6: Subcontracting

The City may consider subcontracting for work or service normally performed by employees of the Clerical Employees Unit for justifiable business purposes. Whenever the City proposes to do so, the Union will be notified no later than sixty (60) calendar days prior to the date of subcontracting. The Union will have the right to meet with the City to discuss the proposed action. In the event of a vacancy in any position, the City may subcontract to fill said position on

a temporary basis not to exceed sixty (60) days upon giving the Union seven (7) days written notice.

Section 17.7: Discriminatory Workplace Harassment Policy

The City has a Discrimination and Workplace Harassment Policy, which has been implemented to protect the interests of all employees. All employees shall comply with the terms of the Policy. The City is a member of the Employer Risk Management Authority (ERMA) through its membership in the Central San Joaquin Valley Risk Management Authority. The City will investigate all complaints of harassment and wrongdoing in the workplace.

ARTICLE 18: CONCERTED ACTIVITIES

A. It is agreed and understood that there shall be no concerted activities during the term of this Agreement, including strikes, work stoppages, slowdowns, or other willful interference with the operations of the City, in accordance with the California Supreme Court's rulings in this area.

B. The City agrees not to lock out the members of the Clerical Employees Unit during the terms of this Agreement.

C. The Union recognizes the provisions of this MOU.

ARTICLE 19: CITY RIGHTS

A. The Union recognizes that the City has and will continue to retain, whether exercised or not, the unilateral and exclusive right to operate, administer and manage its municipal services and work force performing these services in all respects subject to the terms of this MOU.

B. The City Manager and Department Directors have, and will continue to retain, exclusive decision-making authority on matters not officially and expressly modified by specific provisions of this MOU, and such decision-making shall not in any way, directly or indirectly, be subject to the Grievance procedure contained herein.

C. The exclusive rights of the City shall include, but not be limited to, the following right: to determine the organization of City government and the purpose and mission of its constituent agencies, to set standards of service to be offered to the public, and through its management officials, to exercise control and discretion over its organization and operations, to establish and effect administrative regulations and employment rules and regulations consistent with law and the specific provisions of this MOU, to direct its employees, to take disciplinary action for just cause, to relieve its employees from duty because of lack of work or for other legitimate reasons, to determine whether goods or services shall be made, purchased or contracted for, to determine the methods, means and personnel by which the City's services are to be provided, including the right to schedule and assign work and overtime, and to otherwise act in the interest of efficient service to the community.

ARTICLE 20: CONCLUSIVITY

A. This MOU is the sole and entire agreement between the City and the Union and shall supersede all prior Memoranda of Understanding for the Clerical Employees Unit. Wherever there is a direct conflict, this MOU shall supersede all existing personnel rules, regulations and resolutions.

B. Benefits and working conditions provided for by this MOU shall not vest in/to the Union or an employee but shall remain in full force and effect only for the term of the MOU except as otherwise provided herein.

C. Any agreement, alteration, understanding, variation, waiver or modification of any of the terms or provisions contained in this MOU shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto.

ARTICLE 21: SAVINGS CLAUSE

If any provision of this MOU, or any addendum or side letter hereto should be held to be invalid by operation of law, or by a court of competent jurisdiction, or if compliance or enforcement of any provision of this MOU should be restrained by such court or by the enactment of superseding rule, regulation, law or order by any governmental authority other than the City, such provision shall immediately be suspended and shall be of no force or effect, and the parties shall be immediately suspended and be of no force and effect, and the parties shall immediately begin the meet and confer process for the purpose of arriving at a mutually satisfactory replacement for such provision. Invalidation of this MOU or any provision hereof shall not invalidate any remaining portions unless those remaining portions were contingent upon the operations of the invalidated section.

ARTICLE 22: TERM OF AGREEMENT

A. This MOU shall be effective July 1, 2014, and shall remain in full force and effect through June 30, 2017. This MOU shall renew automatically year to year thereafter unless either party notifies the other in writing a minimum of ninety (90) days prior to June 30, 2017 that it desires to modify or terminate its terms.

B. In the event a notice of intent to modify or terminate this MOU is served by a party, negotiations shall begin as soon as mutually acceptable, but no later than sixty (60) days prior to the applicable date set for termination of this MOU (i.e. June 30 of the relevant year). Upon mutual agreement, the parties may exchange their respective written proposals for modifying the Agreement at least seven (7) days in advance of the first scheduled meeting.

C. This MOU shall remain in full force and effect during the period that negotiations are underway until such time as a successor agreement is executed by the parties.

D. During the Term of this MOU, either party retains the right to reopen the MOU to discuss wages, health benefit contributions, and the provisions for retirement. This may occur only once in each calendar year. The requesting party must submit a written notice of

intent to reopen the MOU no later than April 1st of each calendar year, 2015 and 2016. Negotiations shall begin no later than thirty (30) days from the date of receipt of the request.

ARTICLE 23: DEFINITIONS

The words and terms defined in this Section shall have the following meanings. Any term not defined herein which is defined in the MMBA shall have the meaning set forth therein.

A. "Bargaining Unit" shall mean a unit of Regular status City employees for the purposes of representation in employer-employee relations matters.

B. "Business Agent" shall mean the person designated by the Certified Employee Organization to represent the Certified Employee Organization and the employees in the Clerical Employees Unit with respect to wages, hours, terms and conditions of employment.

C. "Certified Employee Organization" shall mean an employee organization which has been recognized for representation purposes pursuant to the procedures set forth in Resolution No. 2581-10.

D. "City" shall mean the City of Atwater, a political subdivision of the State of California, and where appropriate in this MOU, "City" refers to the City Council and/or City Manager.

E. "City Council" shall mean the City Council of the City of Atwater.

F. "City Manager" shall mean the administrative head of the government of the City appointed by the City Council. Powers, rights, and duties of the City Manager established in this MOU may be delegated by the City Manager, in his/her sole discretion to another City employee.

G. "Confidential Employee" shall mean any employee who has access to confidential information contributing significantly to the development of management positions.

H. "Consult" shall mean the verbal or written communication for the purpose of presenting and obtaining views or advising of intended actions.

I. "Disability" shall mean any illness, injury (other than an injury falling under workers' compensation guidelines) or disability which incapacitates the employee or renders the employee incapable of performing the duties of his/her position, even with a reasonable accommodation, as certified to by a licensed physician.

J. "Employee" shall mean any Regular status employee of the City subject to this MOU.

K. "Employee Relations" shall mean the employment relationship between the City and its employees and their certified and/or exclusive employee organization.

L. "Exclusive Representative" shall mean an employee organization selected by the Clerical Employees Unit to be the sole representative of all employees in that Unit pursuant to the procedures set forth in Resolution No. 2581-10 (as may be amended from time to time) and Government Code § 3502.5. The Exclusive Representative shall be the sole representative of all employees in the Clerical Employees Unit and shall represent all employees of the Unit, except that an employee of the Unit shall have the right to represent him/herself in his/her employment relations with the City.

M. "Fact-finding" shall have the definition set forth in the MMBA.

N. "FLSA" shall mean the Fair Labor Standards Act.

O. "Full-Time Employee" shall mean an employee assigned to a position for an indefinite period of time whose schedule requires a normal work week of forty (40) hours of work.

P. "Grievance" shall mean any disagreement concerning the interpretation or application of a written memorandum of understanding or of personnel rules, department rules, and regulations governing personnel practices or working conditions, and the procedure shall be established in the Personnel Rules. An impasse in meeting and conferring upon the terms of a proposed memorandum of understanding is not a grievance.

Q. "Impasse" shall have the definition set forth in the MMBA.

R. "Management Employee" shall be those employees specified in the City's Personnel Rules and Regulations.

S. "Mediation" shall have the definition set forth in the MMBA.

T. "Meet and Confer" shall have the definition set forth in the MMBA.

U. "MMBA" shall mean the Meyers-Milias-Brown Act (California Government Code § 3500, *et seq.*, as amended).

V. "Payroll Deduction" shall mean an arrangement under which the City deducts from the salary of the employee sums of money for various purposes including dues or service fees.

W. "Probationary Employee" shall mean an individual appointed to a position which requires successful completion of a probationary period, as described in Article 5, and who has not yet successfully completed the probationary period.

X. "Reduced Hour Employee" shall mean an employee assigned to a position for an indefinite period of time whose schedule requires a normal work week of less than forty (40) hours of work.

Y. "Regular Employee" shall mean an employee assigned to a position, other than a temporary or seasonal position, for an indefinite period of time and who has successfully completed the initial probationary period described in Article 5.

Z. "Representative" shall mean a person who is authorized and designated by the certified employee organization to represent the Clerical Employees Unit in dealing with the City.

AA. "Seasonal Employee" shall mean an individual assigned to a position which is established for a specified season.

BB. "Seniority" shall mean the employee's length of continuous service with the City since his/her last date of hire, except as otherwise provided in Article 10.

CC. "Supervisory Employee" shall mean any employee who is not a member of the Clerical Employees Unit having authority to exercise independent judgment in the interest of the City to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees or having the responsibility to direct them or to adjust grievances or to effectively recommend such action, if, in connection with the foregoing the exercise of such authority is not merely routine or clerical in nature and requires the use of independent judgment.

DD. "Temporary Employee" shall mean an employee assigned to a position which is established for a specified period of time.

EE. "Workers' Compensation Injury" shall mean an injury suffered by an employee in the course of performing his/her job duties, which is covered by California's workers' compensation laws.

FOR THE UNION:

Nancy Vinson, Business Agent,
AFSCME Local 2703, Council 57, AFL-CIO

Sandy Rahn, Steward

FOR THE CITY:

Frank Pietro
City Manager

Jeanna Del Real
Administrative Manager

Stacy Henderson
Deputy City Attorney

ATWATER CLERICAL EMPLOYEES UNIT
APPENDIX A

CLASSIFICATIONS:

Account Clerk I
Account Clerk II
Account Clerk III
Accountant I
Accountant II
Accounting Technician
Administrative Assistant I
Administrative Assistant II
Administrative Engineering Technician I
Administrative Engineering Technician II
Administrative Engineering/Building Technician I
Administrative Engineering/Building Technician II
Executive Assistant
Human Resources Assistant
Office Assistant
Payroll Technician
Project Accountant
Secretary to the City Mananger