

MEMORANDUM OF UNDERSTANDING

BETWEEN

CITY OF COLUSA

AND

COLUSA CITY EMPLOYEES ASSOCIATION

July 1, 2010 – June 30, 2011

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**MEMORANDUM OF UNDERSTANDING**

**THIS MEMORANDUM OF UNDERSTANDING**, made and entered into on July 20, 2010 by and between the designated representatives of the CITY OF COLUSA (a public agency as defined in Section 3501(c) of Chapter 10 of Division 4 of Title I of the Government Code of the State of California), hereinafter referred to as the **CITY**, and the authorized representatives of the CITY OF COLUSA EMPLOYEES' ASSOCIATION, hereinafter referred to as the **ASSOCIATION**,

**WITNESSETH THAT:**

WHEREAS, the parties hereto desire to facilitate the peaceful adjustment of differences that may from time to time arise between them, to promote harmony and efficiency to the end that the CITY, ASSOCIATION and the general public may benefit therefrom, and to establish fair and equitable wages, hours and working conditions for certain hereinafter designated employees of the CITY.

**NOW, THEREFORE**, the parties hereto do agree as follows:

**TITLE 1. PREAMBLE**

**1.1 PRINCIPALS**

The parties acknowledge the provisions of Chapter 10 (Section 3 500, et seq.) Of Division 4 of Title of the Government code of the State of California.

**1.2 NON-DISCRIMINATION**

It is the policy of the CITY and ASSOCIATION not to, and neither party will, interfere with, intimidate, restrain, coerce or discriminate against any employee because of race, creed, sex, color, handicapping condition, age or national origin. Should an employee feel discriminated against they have the right to file a formal grievance either in accordance with the City Council Equal Employment Opportunity Policy, Resolution # 00-36, which is incorporated herein by reference or by filing a grievance in accordance with Title 14 of this Memorandum of Understanding.

**1.3 RIGHTS OF EMPLOYEES**

Employees have the right to organize or join the employee organization for the purpose of representation on all matters of employer-employee relations. Employees are free to join or not to join an employee organization and shall have the right to refuse to join or

participate in the activities of the employee organization. Membership or non-membership in an employee organization is not a condition of employment and the employee will not be granted preferential treatment nor will he/she be withheld from equitable treatment because of either membership or non-membership in such an organization. Each employee has the right to represent himself individually in his employment relations with the CITY. Employees shall not have the right to strike or to recognize a picket line of a labor organization while in the course of the performance of their official duties.

#### **1.4 CITY RIGHTS**

CITY retains, solely and exclusively, all the rights, powers and authority exercised or held prior to the execution of this Memorandum of Understanding, except as expressly limited by law or this Memorandum of Understanding. Without limiting the generality of the foregoing, the rights, powers, and authority retained solely and exclusively by CITY include, but are not limited to, the following: To manage and direct its business and personnel; to manage, control and determine the mission of its departments, building facilities, and operations; to direct the work force; to hire, transfer, promote, terminate and maintain the authority over and efficiency of its employees; to establish work standards, schedules of operation and reasonable work load; to specify or assign work requirements; to schedule working hours and shifts; to determine the type and scope of work to be performed by CITY'S employees and the services to be provided; to classify positions; to determine the methods, processes, means and places of providing services.

#### **1.5 SECTION TITLES**

Section Titles in this Agreement are for identification purposes only, and are not to be used for the purpose of interpreting either the intent or the meaning of the language of any section.

### **TITLE 2. RECOGNITION**

#### **2.1 RECOGNITION**

The CITY recognizes the CITY OF COLUSA EMPLOYEES' ASSOCIATION, hereinafter referred to as the ASSOCIATION, as the exclusive representative of all employees of the CITY who hold a classification listed on Exhibit A. The provisions of this Memorandum of Understanding, hereinafter set forth, shall apply only to those employees of the CITY for whom CITY OF COLUSA EMPLOYEES' ASSOCIATION is the established exclusive representative.

#### **2.2 APPLICABILITY**

The provisions of this Agreement shall be limited to their application to employees of CITY in the bargaining unit described in Section 2.1. Wherever the words "employee" and "employees" are used in this Agreement, they shall, unless otherwise noted, be

construed to refer only to the employees described in Section 2.1 for whom ASSOCIATION is the exclusive bargaining representative of said employees.

### **TITLE 3. ASSOCIATION ACTIVITY**

#### **3.1 NON-DISCRIMINATION**

Neither the CITY nor the ASSOCIATION shall interfere with, intimidate, restrain, coerce, or discriminate against any employee because of his membership, or non-membership, in ASSOCIATION or his activity on behalf of ASSOCIATION.

#### **3.2 REPRESENTATIVES OF ASSOCIATION**

The ASSOCIATION'S representatives shall have the right of reasonable access to bargaining unit members outside of their assigned duties; before and after work hours, at meals and break periods; and at other times as needed.

#### **3.3 USE OF CITY FACILITIES**

The ASSOCIATION is permitted to conduct meetings in CITY facilities, depending upon availability of space.

#### **3.4 NEGOTIATIONS**

ASSOCIATION representatives shall be allowed time off to meet with CITY to negotiate changes in the Memorandum of Understanding or new conditions not covered in the Agreement. CITY shall compensate this time off at the normal rate of pay. Time spent in actual negotiation with CITY and/or committee caucus for purposes of discussing negotiations, during regular shift hours, shall be considered hours worked for purposes of determining overtime. Time spent in negotiation/caucus after employee's regular shift shall not be compensated, nor considered hours worked for the purpose of calculating overtime. Employee must provide one (1) week advance notice to supervisor of scheduled negotiations and/or caucus. If meetings are scheduled on short notice employees shall inform their supervisor as soon as possible. The maximum number of employees present at negotiations shall be three (3). One (1) representative from the City Hall staff, one (1) from the Street/Garbage Department, and one (1) from the Water/Sewer Department, unless otherwise authorized by the CITY.

#### **3.5 DUES DEDUCTION**

The CITY agrees that after receipt by the payroll department of a voluntary written and signed authorization from an employee, to deduct from the wages of said employee the amount of monthly dues as certified on such form, and forward said amount to the ASSOCIATION. The ASSOCIATION agrees to indemnify, defend, and hold the CITY harmless against all claims, demands, expenses, judgments, or their liability on account of dues or charges collected by the CITY pursuant to this agreement, and paid over to the ASSOCIATION.

### **3.6 AGENCY SHOP**

Pursuant to Government Code Section 3500 and all appropriate subsections, at such time that the ASSOCIATION is authorized to enact an Agency Shop (Fair Share Fee) arrangement, this section supercedes Section 3.5:

#### **3.6.1 ASSOCIATION RESPONSIBILITIES**

ASSOCIATION agrees that it has a duty to provide fair and nondiscriminatory representation to all employees in the bargaining unit, which have elected by secret ballot in accordance with the law to apply this agency shop agreement regardless of whether or not they are members of ASSOCIATION. All employees in, and all employees subsequently hired, promoted, demoted or transferred into classification in the bargaining units shall as a condition of employment fulfill one of the following:

1. Become and remain a member of ASSOCIATION; or
2. Pay to ASSOCIATION a fair share fee in an amount which does not exceed the amount which may be lawfully collected under applicable constitutional, statutory and case law, and which under no circumstances shall exceed the monthly dues initiation fees and approved assessments made during the term of this memorandum of understanding; or
3. Do both of the following:
  - a. Execute a written declaration to ASSOCIATION with a copy to the CITY that the employee is a member of a bona fide religion, body or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment; and
  - b. Pay a sum equal to the dues, initiation fees and approved assessments to a nonreligious, non-labor, charitable fund exempt from taxation under Internal Revenue Service Code Section 501(c) (3), chosen by the employee from the following charities:
    - i. To be determined by ASSOCIATION
    - ii. To be determined by ASSOCIATION
    - iii. To be determined by ASSOCIATION

The employee shall have, on a monthly basis, a payroll deduction of ASSOCIATION dues, fair share fees or charitable contribution based upon the current dues, assessment and fees schedule authorized by ASSOCIATION.

#### **3.6.2 SEPARATION FROM UNIT**

The provisions of Section 3.6 shall not apply during such period that an employee is separated from the representation unit but shall be reinstated upon the return of the employee to the representation unit. The term "separation" includes

transfer, promotion, demotion, or reclassification out of the unit, lay-off, and leave of absence with duration of more than thirty (30) days.

### **3.6.3 COMPLIANCE**

An employee currently in a job classification in the Miscellaneous Unit represented by ASSOCIATION shall be provided with a Payroll Deduction Form by ASSOCIATION. If the form authorizing payroll deduction for ASSOCIATION dues, fair share fees, initiation fee, or charitable contribution is not returned to ASSOCIATION within thirty (30) calendar days after notice of this fair share and initiation fee, ASSOCIATION may, in writing, direct the CITY to withhold the fair share fee and the initiation fee from the employee's salary, in which case the employee's monthly salary shall be reduced by an amount equal to the fair share and initiation fees, and the CITY shall pay an equal amount to ASSOCIATION. All new employees shall be given a Payroll Deduction Form during the employee orientation and requested to select one of the options. Should the new employee fail to complete the form during the orientation the CITY shall inform ASSOCIATION of the employee's name, classification and department. After a 30 day period, ASSOCIATION will, in writing, direct the CITY to deduct the appropriate fair share fees and initiation fee. Such amounts shall then be withheld from the employees' monthly salary.

### **3.6.4 FORFEITURE OF DEDUCTIONS**

If the balance of an employee's wages, after all other involuntary and insurance premium deductions are made in any one pay period, is not sufficient to pay deductions required by the memorandum of understanding, no such deduction shall be made for that period.

### **3.6.5 HOLD HARMLESS**

In accordance with government Code section 3502.5 (b), ASSOCIATION agrees to hold the CITY harmless from all claims, demands, suits or other forms of liability that may arise against the CITY for or on account of any deduction made from the wages of such employees pursuant to this memorandum of understanding.

### **3.6.6 REPORTING REQUIREMENTS**

ASSOCIATION shall comply with all applicable provide of Government Code Section 3502.5 (f) with regards to financial reporting.

Employees who fail to provide ASSOCIATION with a correct mailing address or who fail to notify ASSOCIATION of changes in their mailing address and who because of such failure do not receive any notice required by law shall be entitled to such notice only upon contacting ASSOCIATION to request such notice.

### **3.6.7 DURATION**

Notwithstanding the expiration of any memorandum of understanding between the CITY and ASSOCIATION this agreement shall continue in effect until rescinded as permitted by law.

#### **TITLE 4. UNLAWFUL HARASSMENT**

- 4.1** The CITY and ASSOCIATION strongly disapprove of any form of harassment in the workplace. Employees are encouraged to communicate with each other regarding behavior or comments, which are offensive or harassing in nature. Employee(s) should inform the offending party that their behavior and/or comments are unwelcome and will not be tolerated. Should this not resolve the matter, employees have the right to pursue a formal complaint in accordance with the CITY Council Unlawful Harassment Policy #00-04, which is incorporated herein by reference.

#### **TITLE 5. DEFINITIONS**

**5.1 ANNIVERSARY DATE**

The employee's anniversary date for purposes of performance evaluations and salary step advancement shall be the employee's date of hire with the CITY. With the implementation of pay for performance all anniversary dates for the purpose of performance evaluations shall be synchronize to the month of October beginning October of 2011.

**5.2 CALLBACK**

When an employee is not required to remain available but is contacted and requested to return to work after being released from their regular shift or on a day off.

**5.3 IMMEDIATE FAMILY**

Includes spouse, parent, step-parent, parent-in-law, child, step-child, brother, sister, grandparent, grandchild, legal guardian or person for which the employee is the legal guardian.

**5.4 PAYDAY**

Salaries shall be paid at monthly intervals on the last working day of the month.

**5.5 STANDARD WORK SCHEDULE**

Forty (40) hours per week (eight (8) hours per day, for five (5) consecutive days) Monday through Friday.

For the duration of this MOU, July 1, 2010 – June 30, 2011, this work schedule shall be modified to 4 nine (9) hour days with the employee receiving 4 hours of mandatory paid time off (PTO) per week.

For the duration of this MOU the following provisions shall be controlling over any other conflicting provision in this MOU.

- City Hall will be open Monday through Thursday 7:30-5:30, and closed on Friday.
- Public works staff must alter days to include coverage on both Monday and Friday with no additional overtime.
- For Holidays scheduled on a normal day off – no additional day off will be granted. The employee will receive 8 hours of additional pay at the regular hourly rate.
- For holidays on a work day the employee receives 8 hours of holiday. The employee must take 1 additional hour from vacation leave to account for the total 9 hours.
- Employees in public works shall be granted their preferred schedule so long as there is sufficient coverage to meet operational needs as determined by the Department Head.
- Scheduled hours of work must be approved by the Department Head based on “Operational need”.

#### **5.6 STANDBY**

When an employee is required to remain available to report to work within a reasonable period of time not to exceed sixty (60) minutes. The employee is required to contact the customer within 15 minutes regarding the complaint of concern. Such standby shall be considered restricted if the employee is expected to respond immediately without regard to personal business.

#### **5.7 WORK HOURS**

Hours for determining overtime status includes all paid time, except paid vacation.

**5.8 WORK SCHEDULE** - A specific schedule of hours and days during which the employee is assigned to perform work for the CITY.

#### **5.9 WORK WEEK**

The workweek for purposes of determining overtime shall consist of seven (7) consecutive calendar days, Monday through Sunday, beginning at 12:01 A.M. Monday.

## TITLE 6 SALARY AND OVERTIME

### 6.1 PAY FOR PERFORMANCE

The Pay for Performance program is designed to replace annual merit step increases. On an annual basis an employee will be given a salary increase commensurate with their overall performance based on an annual performance evaluation. Unlike the merit step increase program it replaces, pay for performance allows for annual salary increases from 0-15%. (See provision 6.4)

### 6.2 SALARY BANDS

Each classification has a salary band with minimum entry salary and a maximum salary. Additionally, employees that have documented "Extraordinary Performance" may exceed the salary band maximum salary by 0-15%. (See provision 6.6)

- A. Entry salary for classification
- B. Maximum pay for performance salary for classification
- C. Extraordinary performance band (0-15% above B)

### 6.3 SALARY BAND ADJUSTMENTS

Salary Bands can be adjusted in the following ways:

#### 6.3.1 NEGOTIATED INCREASES

Salary bands shall be adjusted at the conclusion of bargaining unit negotiations to reflect any negotiated COLA. However, when such COLA is applied to the salary band no employee is guaranteed an increase. Individual increases are subject to performance review (see provision 6.4)

#### 6.3.2 EQUITY INCREASES

Salary Bands shall be adjusted on an equity basis at anytime upon the recommendation of the Department Head, the availability of funding, the concurrence of the City Manager and the ratification of the City Council. Any individual salary equity adjustments do not require a performance evaluation.

#### 6.3.3 ADDITIONAL INCREASES

Periodically additional recurring monies may become available for salary. Such increases shall be subject to the meet and confer process pursuant the Myers Milias Brown Act.

### 6.4 PERFORMANCE REVIEWS

Annual Pay for Performance Reviews will be scheduled for October of each year, beginning in October 2010. These will establish the performance goals for each individual for the 1 year review period.

### 6.5 PERFORMANCE INCREASES

An employee shall be eligible for a performance increase from 0 to 15 % in base salaries, or a one-time bonus of 0% to 15 % of salary on the first day of a pay period following the employee's anniversary date. No employee shall exceed the Salary Band Maximum except as provided under '6.6' below.

Performance increases shall not be automatic and shall be reviewed and approved by the City Manager, prior to discussing with the employee.

If an October review date is missed due to an error, a performance increase shall not be automatic. The employee shall notify the immediate supervisor in writing of the error and an evaluation shall be made within 30 calendar days from the date of such notice. If the employee is granted a performance increase, such increase shall be retroactive to the anniversary date.

#### **6.6 EXTRAORDINARY PERFORMANCE**

An employee is eligible to exceed the Salary Band maximum for their classification whenever his/her performance has achieved a substantial improvement or efficiency, or substantial savings or income to the City, beyond what is normally expected in the job assignment.

Such performance shall be reviewed and documented by a committee comprised of the Department Head (Or in the event of a department head evaluation by the City Manager) recommending such increase, the City Manager and two City Council Members appointed by the City Council for such purposes. The Committee's recommendation shall be brought to a "closed session" of the City Council to discuss the employee's performance and eligibility for Exceeding Salary Band maximum. The employee shall not be apprised of the Department Head's or City Manager's tentative recommendation until and unless approved in writing by the City Manager, after such closed session.

In the event such increase is not approved to exceed Salary Band maximum, the requesting department head or City Manager, shall rewrite such performance evaluation to reflect the performance limits of the Salary Band maximum.

An employee receiving Extraordinary Performance Pay shall be eligible for a one-time bonus of up to 15% percent, or an ongoing salary adjustment of up to 15%, and have such pay begin or retroactively be paid on the first day of a pay period following the employee's anniversary date.

#### **6.7 PROBATIONARY INCREASE**

An employee who has achieved regular status and successfully completed probation shall be eligible to receive performance increase from 0 to 15% on the first day of a pay period following successful completion of the probationary period.

## **6.8 IMPLEMENTATION**

The first Pay for Performance salary increases will become effective October 2011 after 12 months under the pay for performance system.

An employee receiving a review outside of the normal annual review cycle of October – September will have their October pay for performance salary increase pro-rated based on the number of months since their last pay increase.

For the duration of this MOU any increase pursuant to this section shall be applied 50% by equity and 50% by pay for performance until October 2011.

## **6.9 APPEALS**

An employee that is denied a performance increase may appeal the performance evaluation that is the basis for such denial. The appeal must be filed within 10 days of the evaluation in question.

The appeal shall be reviewed by a panel consisting of 3 members. One member shall be selected by the Union. One member shall be selected by the City. One member shall be a Human Resources Professional mutually agreed upon by both parties.

## **6.10 DISPUTES AND POTENTIAL CONFLICTING PROVISIONS RELATED TO SALARY BANDS–**

Notwithstanding memoranda of understanding provisions or City policies directly related to salary ranges and the new salary bands, the City Council shall be the final interpreter of any conflicting compensation provisions, disputes or application issues, including all language implementing the new salary bands. Their decision shall be final and binding on the parties.

## **6.11 JOB PERFORMANCE CRITERIA**

The department head shall identify essential job elements and job performance criteria for each position for which to base the performance evaluation on. These job elements shall be communicated and made known to the affected employees prior to them being utilized for the purpose of evaluating employee performance.

## **6.12 NARRATIVE REMARKS**

Performance evaluations shall include narrative remarks to support the specific and overall ratings. Such narratives shall be based upon fact and not include subjective opinions. Above satisfactory performance shall be recognized as well as less than satisfactory performance.

## **6.13 OVERTIME**

Employees will be paid at the rate of one and one half (1½) times their regular rate of pay for all hours actually worked in excess of the employee's regular work-schedule. For the

purpose of determining eligibility for overtime all paid hours shall count toward the work-schedule, except paid vacation.

#### **6.14 STANDBY**

Hours actually worked while the employee is assigned to standby duty shall be paid at one and one half (1 1/2) times the normal rate of pay, regardless of actual hours worked during the workweek.

##### **6.14.1 WEEKDAYS**

Employees assigned to standby shall be paid two (2) hours at their regular overtime rate for each night they are assigned Monday through Friday.

##### **6.14.2 WEEKENDS AND HOLIDAYS**

Employees assigned to standby on a holiday or weekend day shall be paid eight (8) hours at their regular overtime rate for each day they are assigned to standby.

##### **6.14.3 MINIMUM HOURS**

Employees who are assigned to a standby shift shall be paid an additional minimum of one (1) hour at their overtime rate for each call, which requires the employee to return to work.

#### **6.15 CALL BACK OVERTIME**

When an employee is called back to work he/she shall be paid at one and one-half (1 1/2) times the employee's normal rate of pay, regardless of actual hours worked during the workweek. The minimum time for which overtime shall be paid under this section is one (1) hour.

#### **6.16 LONGEVITY PAY**

Effective July 1, 2004, subject to available funding (i.e., depending on the condition of the CITY'S 2004-05 budget) and approval of the City Council, the CITY will implement a Longevity Pay program. Upon implementation, employees who have been at the top of their salary range for 12 months and have served a total of 120 months with the CITY shall qualify to receive a 5% Longevity Pay salary differential.

#### **6.17 BILINGUAL PAY**

A bilingual position requires the use and possession of the bilingual skill as part of the job. Positions classified as bilingual shall receive bilingual premium pay in the amount of \$50 per month. To qualify for such a bilingual position, individuals must be state certified or certified by the City in the relevant language at the option of the City. Any employee filling a bilingual position may be subject to disciplinary action if such refuses to provide bilingual services.

**6.18 WORKING OUT OF CLASS PAY (Acting Pay)**

Employees assigned by the department head, and/or approved by the City Manager, to fill a higher level classification that is vacant, including overfilling for an incumbent, in a higher level classification who is out on leave, shall receive acting pay. An employee must meet the key minimum qualifications of the higher level classification. The assignment results in the employee becoming fully responsible for the duties and responsibilities of the higher level classification, and the assignment must be for at least ten (10) total working days (does not have to be consecutive days). Eligible employees assigned to acting status shall receive a stipend of no less than five percent (5%) commencing on the eleventh (11<sup>th</sup>) day of the assignment.

**6.19 SAFETY BOOT ALLOWANCE**

Employees assigned to maintenance, water, or wastewater, and have been designated by the City Manager to wear steel toed safety boots may submit purchase receipts with their request for payment in an amount not to exceed one hundred dollars (\$100.00) from the date of the last approved purchase. If the immediate supervisor orders the employee to purchase additional safety boots during the year due to excessive wear and tear from the duties of the job, the City will cover the entire cost of this additional purchase.

**TITLE 7. HOURS AND BREAKS**

**7.1 WORK HOURS**

The standard work hours are eight (8) hours per day Monday through Friday, for a total of forty (40) hours during the workweek. The standard hours of employment are a designated eight (8) hour shift between the hours of 6:00 A.M. and 6:00 P.M.

Employees working at City Hall may work alternate schedules with the approval of the City Manager. Such schedule shall ensure coverage for the phones and public counters during normal business hours when CITY offices are open to the public. Such schedules shall not result in the payment of overtime on either a cash or compensatory time basis.

**7.2 LUNCH AND BREAKS**

Employees will be granted a one (1) hour or ½ hour lunch period at about mid-point in their shift. The lunch period may be delayed because of operational need. Should the lunch period be cancelled due to operational need the employee’s lunch period shall count toward hours worked for purposes of overtime.

**TITLE 8. BENEFITS**

**8.1 HEALTH INSURANCE PLAN MINIMUM EMPLOYER CONTRIBUTION**

Currently the City participates in the California Public Employees Retirement System (PERS) for medical insurance under its Public Employees Medical and Hospital Care Act (PEMHCA), and will pay the Minimum Employer Contribution (MEC) for each employee or retiree enrolling himself/herself, and where applicable, his/her eligible dependents in one of the medical plans offered by CalPERS.

Minimum Contribution as of July 1, 2010                      \$105.00

**8.1.1** The City will issue an addendum annually with the updated Minimum Contribution amount pursuant to PEMHCA.

**8.1.2** In the event the City leaves the CalPERS PEMHCA program this provision, the Health Insurance Plan Minimum Contribution, will become null and void.

**8.2 CITY SUPPLEMENTAL BENEFIT STIPEND FOR ACTIVE EMPLOYEES**

The intent of the City is to provide a meaningful benefit program for active employees. Toward that end, it is the intent for benefit stipend to provide, when combined with the PEMHCA minimum contribution (if any), the following:

- Employee only Blue Shield EPO
- Employee only Dental benefit
- Employee only Vision benefit

**8.2.1** The City will pay the following additional amount for each active employee enrolling himself or herself in City sponsored benefit plans.

**8.2.2** The stipend = Blue Shield EPO rate – MEC + Dental + Vision.

Example: The Stipend amount on January 1, 2011    \$580.67 + dental and vision

**8.2.3** An employee that receives medical coverage from another source (spouse, military, etc.) may opt out of the City Supplemental Benefit Stipend for Active Employees and receive an amount equal to one-half (1/2) of the current stipend in the form of a City contribution to an individual 457 account or 40% of the stipend in cash. The employee must provide proof of coverage under a comparable plan annually during the open enrollment period.

**8.2.4** If an employee opts for a less expensive plan than the default medical plan, Blue Shield EPO, they may take ½ of the remaining stipend as a contribution to a 457 account or 40% of the remaining stipend in cash.

**8.2.5** On an annual basis the City shall issue an addendum identifying the updated amount of the MEC required by PEMHCA and any corresponding adjustment to the Supplemental Benefit Stipend for Active Employees.

**8.3 CITY RETIREE SUPPLEMENTAL BENEFIT STIPEND PROGRAM**

The intent of the City is to provide a meaningful retiree medical program for its employees. Toward that end, it is the intent for a 100% benefit stipend to provide employee only coverage, when combined with the PEMHCA minimum contribution (if any), in the CalPERS Blue Shield EPO or similar program.

**8.3.1** Existing City Retirees and employees that retire prior to January 1, 2011 are entitled to full lifetime payment for employee only medical from the following plans\*:

- Blue Shield EPO
- PERS Choice PPO

\* City can substitute similar plans from different carriers pursuant to section 8.6 below.

**8.3.2** Active employees hired prior to July 1, 2010 and who retire from the City with at least ten (10) years of service with the City between the age 55 and 65 (or Medicare eligibility age, whichever is later), and enroll in the PERS medical insurance program will be eligible to receive the City Retiree Supplemental Benefit Stipend until they reach the age of 65 (or Medicare eligibility age, whichever is later) in accordance with the following schedule:

Years of Service	Percentage of Premium (Stipend + MEC)
10	50%
11	55%
12	60%
13	65%
14	70%
15	75%
16	80%
17	85%
18	90%
19	95%
20 or more	100%

**8.3.3** Employees that retire from the City prior to age 55 shall be entitled to only the Health Insurance Plan Minimum Employer Contribution (MEC) pursuant to Section I above, if applicable.

**8.3.4** Upon retirement employees hired after July 1, 2010 shall be entitled to only the Health Insurance Plan Minimum Employer Contribution (MEC) pursuant to Section I above, if applicable.

**8.4 CITY RETIREE SUPPLEMENTAL BENEFIT STIPEND**

This stipend is only applicable to employees that were hired prior to July 1, 2010 and retire after January 1, 2011. This stipend is subject to the terms of section 8.3.2 above.

**8.4.1** Pursuant to the provisions of section 8.3 above, the City shall pay the following additional amount for each Retired Employee enrolling himself or herself and his or her eligible dependents in any of the available PERS medical plans:

Retiree Supplemental Benefit Stipend as of January 1, 2011                      \$580.67

The stipend = Blue Shield EPO rate – MEC.

**8.4.2** On an annual basis the City shall issue an addendum identifying the updated amount of the MEC required by PEMHCA and any corresponding adjustment to the Supplemental Benefit Stipend for Retired Employees. The Stipend amount shall be adjusted so that it will, when combined with the MEC, continue to fully pay for the Blue Shield EPO for a retiree enrolling as a “single” employee.

**8.5 MEDICARE SUPPLEMENT STIPEND**

Employees hired before July 1, 2010 and that retire after January 1, 2011 that are eligible for Medicare must enroll in the Medicare program. Once enrolled in the Medicare program retired city employees will be entitled to the Medicare Supplement Stipend.

Medicare Supplement Stipend As of July 1, 2011                                      \$200.00

The City will issue an addendum annually with the updated amount for the Medicare Supplement Stipend.

**8.6 MEDICAL INSURANCE PLAN CHANGES**

Nothing herein precludes the City from substituting a similar alternative medical insurance plan for the current plans with a different provider.

**8.7 GENERAL RULES FOR PERS MEDICAL COVERAGE**

**8.7.1** The active or retired employee and his/her spouse and/or dependents must be eligible to enroll in a PERS medical plan based on employment with the City, as determined by PERS.

**8.7.2** Continuing eligibility for PERS medical plan coverage of retirees and their spouses shall be determined by PERS.

**8.7.3** Each enrolled retiree shall pay the full balance of the medical premium for the plan they select in such manner as prescribed by PERS.

**8.7.4** New employees shall be eligible for medical plan coverage on the first day of the month following completion of the eligibility period as established by PERS.

**8.8 DENTAL PLAN**

The City will continue to offer dental insurance. Employees must pay the premium for participation out of their benefit stipend or out of their paycheck on a pre-tax basis.

**8.9 TERM LIFE INSURANCE**

The City will endeavor to offer a Term Life Insurance product during the term of this MOU. Employees must pay the premium for participation out of their benefit stipend or out of their paycheck on a pre-tax basis.

**8.10 LONG TERM DISABILITY INSURANCE**

The City will endeavor to offer a Long Term Disability insurance product during the term of this MOU. Employees must pay the premium for participation out of their benefit stipend or out of their paycheck on a pre-tax basis.

**8.11 VISION PLAN**

The City will endeavor to offer a vision insurance product during the term of this MOU. Employees must pay the premium for participation out of their benefit stipend or out of their paycheck on a pre-tax basis.

**8.12 DEFERRED COMPENSATION PROGRAM**

The CITY has established for all employees' voluntary participation in qualified Deferred Compensation programs. Employees may defer up to the maximum allowed by law.

**8.13 IRS SECTION 125 PLAN**

The CITY has established for all employees' voluntary participation in qualified IRS Section 125 plans. Effective July 1, 2010 the City agrees to increase the allowable limit per IRS for the 125 plan.

**8.14 BENEFIT PROVIDERS**

Benefit providers of all types shall be enlisted with the city only upon completion of the following procedure: 1) An employee group, or groups, shall petition the City Council to

add the benefit provider; and 2) The City Council approves addition of the company to the City of Colusa list of Approved Employee Benefit Providers.

**8.15 STATE DISABILITY INSURANCE**

Employee contributions for State Disability Insurance are required at the rate established each year by the California Employment Development Department.

**8.16 PERS RETIREMENT**

**8.16.1** For employees hired prior to July 1, 2010 the CITY shall continue to contract with CalPERS to provide the 2% @ 55 retirement formula with EPMC, sick leave conversion and single highest year compensation.

**8.16.2** For employees hired after July 1, 2010 shall participate in the CalPERS 2%@60 plan. Retirement to be calculated on highest 36 months of salary. Employees shall be responsible for 100% of employee contribution. Annual post retirement COLA shall be up to 2%.

**TITLE 9. LEAVES OF ABSENCE**

**9.1 SICK LEAVE**

Sick leave is provided to avoid the employee suffering a loss of income as a result of their inability to work due to illness or injury. Sick leave will be allowed for an absence due to a bona fide illness, injury, medical treatment or other related purposes approved by the CITY.

**9.1.1 SICK LEAVE ACCUMULATION**

After six months of service, employees will begin earning sick leave. The employee shall accrue eight (8) hours on a monthly basis. Part-time employees shall accrue sick leave on a prorated basis, based upon their actual hours in proportion to eight (8) hours. There shall be no limit to the accrual of unused sick leave. Sick leave shall not be accumulated in a calendar month by an employee who has been on sick leave for over ten (10) working days in that calendar month.

**9.1.2 MEDICAL/DENTAL APPOINTMENTS**

Sick leave may be used for medical/dental appointments, but employees are encouraged to make such appointments during non-working hours whenever possible.

**9.1.3 FAMILY CARE**

Employees may use up to six (6) days of their accrued sick leave per illness per year to provide needed care to a member of their immediate family who is seriously ill or injured.

#### **9.1.4 NOTIFICATION**

If the employee cannot report to work due to illness/injury they should notify their immediate supervisor as soon as possible, but no later than two (2) hours before the start of their work shift.

#### **9.1.5 RETURN TO DUTY**

The employee may be required to provide a written release from their medical provider to return to work when they have been absent from work due to illness/injury for three (3) or more consecutive work days. The written statement will include the nature of the illness/injury and a statement that the employee can perform their normal duties. If the CITY authorizes the employee to return to work on a light duty basis, the physician's statement will include any restrictions from performing their normal duties. The CITY may, at their expense, require the employee to be examined by its own medical provider before allowing the employee to return to work.

#### **9.1.6 INTEGRATION WITH STATE DISABILITY INSURANCE**

An employee who is absent from work by reason of disability and is receiving State Disability Insurance (SDI) benefits shall be required to integrate any accumulated sick leave. At the employee's option vacation leave and/or compensatory time off may be integrated with SDI benefits. Such leave balances when added to disability indemnity benefits shall not result in more than the employee's full salary. An employee shall continue to accumulate sick leave accruals only in accordance with 9.1.1. An employee shall continue to accrue their full vacation entitlement during such portion of absence from work during which he/she uses previously earned vacation leave, sick leave, or compensatory time off.

An employee, who uses paid leave balances pending approval and payment from SDI, shall be entitled to reinstate such balances. If the employee wishes to reinstate used leave accruals they shall deposit with the CITY an amount equal to the value of those leave accruals they wish to reinstate. The CITY shall reinstate the employee's accruals in the following order to the extent they were used vacation, compensatory time off and sick leave.

#### **9.1.7 BUYOUT UPON TERMINATION**

For the purpose of pay off upon retirement or termination after ten (10) years of service, employees are eligible to receive cash payment for 50% of the maximum accrual up to 75 days. Employees may take time off equivalent to 50% of their accumulation to a maximum of 30 days prior to the effective date of retirement with no effect on PERS.

### **9.2 LEAVE OF ABSENCE WITHOUT PAY**

The employee may be granted an unpaid leave of absence for a medical or non-medical reason with approval by department head or the City Council. To be eligible the employee must first use all accrued vacation leave. The employee shall not accrue additional leave time while on an unpaid leave of absence.

**9.2.1 DEPARTMENT LEAVE**

A department head may authorize a departmental leave without pay for a regular employee for a period of time not to exceed ten (10) eight-hour working days. An employee shall be authorized a departmental leave only after all accumulated vacation leave and compensatory time off has been utilized by such employee. If such a departmental leave is requested because of illness or injury of an employee, such employee shall also utilize all accrued sick leave before taking such leave of absence. Any request for leave that exceeds ten (10) eight-hour days shall be referred to Section 9.2.2 below.

**9.2.2 OFFICIAL LEAVE**

An official leave of absence may be authorized for any regular employee for a period of time not to exceed one (1) year. An official leave of absence may be authorized only after all accumulated vacation leave and compensatory time off have been utilized by such employee. If such official leave of absence is requested because of illness or injury of an employee, such employee shall also utilize all accrued sick leave before taking an official leave of absence.

**9.2.2.1 EMPLOYEE REQUEST**

A request for an official leave of absence shall be addressed to the City Council and shall state specifically the reasons for the request, the date when it is desired to begin the leave of absence and the probable date of return. The request shall normally be initiated by the employee but may be initiated by department heads. The department head shall indicate on the request his/her recommendation as to whether the request should be granted, modified or denied and shall promptly transmit the request to the City Clerk for placement on the City Council's agenda. The City Council shall determine whether the request shall be approved or denied.

**9.2.2.1.1 NOTIFICATION OF EMPLOYEE'S RETURN**

The Administrative Services Officer shall be promptly notified by the department head of employee's return from an official leave of absence.

**9.2.2.1.1.1 FILLING VACANCY**

When a regular position is vacant due to an official leave of absence, the position may be filled for the length of that leave, and any extension thereof, with the approval of the City Council. Any person filling such position shall be an extra help or limited term employee.

#### **9.2.2.1.1.2 LEAVE AND BENEFIT ENTITLEMENT**

Any employee who is granted a leave of absence without pay under this section shall not accrue any annual vacation time or sick leave benefits during the period of such leave. Said employee shall be entitled to maintain any health, dental, vision, or life insurance program in effect; provided that the cost of all such insurance shall be borne solely by the employee. In addition, during the period of such leave the employee will not be credited with time in step for the purposes of a merit step increase.

#### **9.2.2.1.2 EARLY RETURN TO DUTY**

If said employee wants to return to work prior to the scheduled end of their leave, the employee must request approval from their department head at least five (5) days prior to the date of returning to work. The department head may request substantiating evidence (i.e., medical examination, doctor's written release, etc.). If the department head does not grant the request, the employee may appeal the decision to the City Council.

#### **9.2.2.1.3 REASONS FOR LEAVE**

An official leave may be granted for the following reasons:

- Illness, injury or non-job related disability including pregnancy beyond that covered by sick leave;
- Education or training which will benefit the City; or
- Other personal reasons provided the needs of the City are considered.

#### **9.2.3 CONTINUATION OF BENEFITS WHILE ON UNPAID LEAVE**

The employee will not accrue additional sick leave or vacation leave while on unpaid leave. The City will, at the request of the employee, continue paying for the employee's medical, dental, vision and life insurance premiums during an approved unpaid medical leave. The employee shall enter into a written agreement with the CITY acknowledging their obligation to repay the CITY for all premiums paid during the leave of absence should they not return to work as

required by this section. Should the employee not return to work for the City for at least a period equal to the unpaid leave the City shall seek reimbursement of premiums paid on behalf of the employee.

#### **9.2.4 FAILURE TO RETURN AFTER LEAVE**

In the event that an employee who has been granted and taken the maximum official and departmental leaves, either voluntarily or involuntarily, fails or is unable to return to work following the expiration of the maximum allowed period, said employee shall be deemed to have ended his/her employment relationship with the City as of the last day of the maximum leave period. Said severance from City employment shall be deemed automatic and shall not constitute a disciplinary action and is not subject to the grievance procedure.

#### **9.3 FUNERAL LEAVE**

Employees shall be granted time off with pay for four (4) hours to attend funerals, unless a longer time period is approved by the department head.

#### **9.4 BEREAVEMENT LEAVE**

Employees eligible to use accrued leave credits may use up to five (5) days accrued sick leave upon the death of the following family member: Mother, father, brother, sister, spouse, and child, parent of spouse, Cohabitant grandparents and grandchildren. Seven (7) days accrued sick leave may be used if traveling more than 250 miles. If the employee has no accrued leave, he/she will be granted time off with pay.

Employees may request that accrued leave credits be used for additional bereavement time.

#### **9.5 JURY OR COURT DUTY**

Employees called for jury duty or subpoenaed as a witness in a CITY related matter shall be granted the necessary time off for this purpose and shall be compensated in full by the CITY. The employee, however, must relinquish jury duty compensation, excluding any mileage reimbursement, to the CITY.

The employee will notify their supervisor as soon as possible once they receive notice of jury duty. The employee will submit the "Certification of Jury Duty" to their immediate supervisor. Should the employee be released from jury duty early they will return to work, unless there is less than one (1) hour remaining on the employee's regular shift.

#### **9.6 WITNESS LEAVE**

Should an employee be subpoenaed to appear in a court of law as a witness, they shall receive their regular pay for any regularly scheduled work time spent answering the subpoena. This section does not apply if the employee is a party to the court action.

To receive their regular pay the employee while on witness leave the employee must provide their supervisor with a copy of the subpoena and proof of the time spent as a witness. The employee must also deposit all witness fees received for such service, exclusive of mileage, with the Finance Department.

#### **9.7 MILITARY LEAVE**

In accordance with Federal and State laws an employee will be granted authorized leave to comply with an order to report for military service. Conditions for such leave shall be in accordance with the laws/regulations governing such leaves.

#### **9.8 REQUEST FOR TIME OFF**

Other than unanticipated personal emergencies or illness/injury requiring sick leave and legal holidays, the employee must submit a leave request form to their department head for approval. It is the employee's responsibility to keep their supervisor informed of their status. Should the employee not be able to return to work following their approved leave, the employee must submit a new leave request form as soon as reasonable, preferably five (5) days prior to the expiration of the employee's approved leave. Absences without approval or failure to report the need to be absent as required may be cause for disciplinary action, including dismissal.

#### **9.9 CATASTROPHIC LEAVE**

Employees who exhaust their paid leaves due to a catastrophic illness/injury related to them or a family member may apply for Catastrophic Leave. In order to be eligible there must be medical substantiation to demonstrate serious illness or injury.

Employees may voluntarily transfer accrued but unused sick leave, vacation or personal holidays to other CITY employees. Employees who participate must donate a minimum of eight (8) hours.

Authorization for the transfer will be on the prescribed form and signed by the donating employee specifying the receiving employee and the number of hours authorized for transfer. Employees may not transfer more than eighty percent (80%) of their accrued leave time. Authorized transfers shall be effectuated in the order they are received and only as needed by the receiving employee in order to pay their salary. In no case shall the employee receive more than their normal wages, and neither employee will receive a cash benefit for transferred hours. Once transferred, the leave accruals become the property of the receiving employee.

### **TITLE 10. WORKERS' COMPENSATION**

#### **10.1 ON THE JOB ILLNESS/INJURY**

If an employee becomes ill or injured, no matter how minor, as a result of performing their duties they shall report the incident to their immediate supervisor and complete an incident report.

## **10.2 MEDICAL TREATMENT**

The employee may file with the CITY a statement that they wish to be treated by their personal physician when medical treatment is needed due to a job-related illness or injury. Should the employee not have such a statement on file with the CITY, the CITY may require the employee to be treatment by a physician designated by the CITY for the first thirty (30) days following the incident giving cause to the illness/injury. After the first thirty (30) days the employee may elect to receive further medical treatment from their personal physician, assuming the physician meets the legal qualifications. Such request to transfer further medical treatment to the employee's personal physician shall be in writing and submitted to the Finance Department.

## **10.3 LEAVE INTEGRATION**

An employee who is injured on the job, and is receiving benefits under Workers' Compensation, shall be allowed to use their unused leave benefits in an amount sufficient to provide wages equal to their regular salary until such leave benefits are exhausted. Integration of sick leave is required; however, it is the employee's option to use vacation leave and compensatory time off to supplement workers' compensation.

An employee, who uses paid leave balances pending approval and payment from Workers' Compensation Benefits, shall be entitled to reinstate such balances. If the employee wishes to reinstate used leave accruals they shall deposit with the CITY an amount equal to the value of those leave accruals they wish to have reinstated. The CITY shall reinstate the employee's accruals in the following order to the extent they were used vacation, compensatory time off and sick leave.

## **10.4 MODIFIED WORK ASSIGNMENT**

Should the employee not be able to perform their regular duties because of a job-related injury, but a doctor determines that they can perform less rigorous tasks, the CITY may arrange a modified work assignment. The CITY does not guarantee such an assignment, but consideration will be given when and where feasible. The parties agree that working and being productive during recuperation can help recovery.

# **TITLE 11. HOLIDAYS**

## **11.1 HOLIDAY ENTITLEMENT**

The following are holidays for which all employees will be entitled to time off with pay :

1. New Year's Day
2. Martin Luther King's Birthday

3. President's Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veterans Day
8. Thanksgiving Day
9. Day after Thanksgiving Day
10. Christmas Day
11. Floating Holiday (1) (Conditions for accruing and using)

#### **11.2 SATURDAY AND SUNDAY HOLIDAY**

When any of the above holidays falls on a Sunday, the Monday following shall be observed as the Holiday. When any of the above Holidays falls on a Saturday, the preceding Friday shall be observed as the Holiday.

#### **11.3 HOLIDAY PAY**

An employee who is scheduled to work on a holiday will be paid at one and one-half times the regular rate, in addition to any regular pay to which he/she is entitled.

#### **11.4 HOLIDAY COUNTED AS HOURS WORKED**

For each Holiday observed by the CITY Monday through Friday which an employee does not work, eight hours shall be counted as actual hours worked during that work week for the purpose of calculating overtime.

#### **11.5 ADDITIONAL HOILDAYS**

The CITY shall, also observe any day declared as a holiday by both the President and the Governor.

#### **11.6 HOLIDAY EXCHANGE**

By mutual agreement of the CITY and ASSOCIATION holidays may be altered or exchanged.

#### **11.7 ACCRUAL AND USE OF FLOATING HOLIDAY**

In January of each year all permanent full time employees shall be credited with an eight (8) hour floating holiday. The employee must be employed with the City by October 1<sup>st</sup> in order to receive the floating holiday. The floating holiday does not accrue year to year and must be used within the year it is accrued. The employee shall schedule and receive approval from their supervisor to use the floating holiday.

### **TITLE 12. VACATION LEAVE**

#### **12.1 VACATION ALLOWANCE**

**12.1.1 RATE OF ACCRUAL**

Employees shall be entitled to earn vacation at the following rate:

<b>Years of Service</b>	<b>Annual Leave Credits</b>	<b>Credits Per Month</b>
Less than 5 years	10 days	6.7 hours
5 years but less than 15 years	15 days	10 hours
15 years or more	20 days	13.36 hours

**12.1.2 CREDIT TO ACCOUNT**

Vacation credits will be earned and credited to the employees leave account on a monthly basis. Permanent part time employees shall earn vacation on a pro-rata basis (actual hours to full-time).

**12.1.3 PROBATIONARY EMPLOYEES**

Probationary employees shall be eligible to accrue and use one week of vacation (or the appropriate proportionate accrual for part time employees) after completing a minimum of six (6) months of continuous employment. Should employment be terminated during probation for any reason the employee shall be paid for any unused accruals. A second week (or proportionate equivalent) shall be accrued upon completion of twelve (12) continuous months of employment.

**12.2 SCHEDULING**

During November/December of each year employees will be asked to submit their vacation requests for the following calendar year. Employees may request up to two weeks initially until all employees have been given an opportunity to submit a request for time off. After all employees have been given a chance to request time off an employee may request additional time off. The CITY departments shall prepare a vacation-schedule calendar. Conflicts in requested time-off during this annual vacation scheduling process will be resolved on the basis of seniority, the most senior employee being given their preference. Vacation requests submitted after the annual scheduling will be reviewed and approved on a first received basis.

Once the CITY approves a vacation request, it cannot be rescinded except for legitimate business reasons. Requests for vacation time off will be reviewed and either approved or denied in a timely manner.

**12.3 MAXIMUM ACCRUAL**

Employees will be allowed to earn vacation credits to a maximum accrual equal to one and one-half (1½) times the employee's annual vacation leave credits. Employees will

not be allowed to earn more than the maximum accrual. Should an employee's vacation leave credits reach the maximum, the employee shall cease to earn any additional vacation credits until their leave balance is reduced sufficiently to allow additional credits to be added without exceeding the maximum accrual. Employees shall make an effort to manage their vacation accruals to avoid reaching the maximum accrual. However, should the employee need to take time off to avoid losing accruals, such request shall not be unreasonably denied. Any denial of such request may be appealed directly to the City Council. The City Council may approve the request for time off or authorize the buyout of the time requested

**12.4 VACATION SELL BACK**

Employees who earn fifteen (15) days of annual vacation (or shift equivalent) per year and have used at least ten (10) days during the previous twelve months will be allowed to sell back up to five (5) days of vacation credits per calendar year. Employees who earn twenty (20) days of annual vacation (or shift equivalent) per year and have used at least ten (10) days during the previous twelve months will be allowed to sell back up to ten (10) days of vacation credits per calendar year. The CITY will buy back vacation credits based upon the employee's current hourly rate of pay.

**12.5 UNUSED VACATION**

Employees who have served a minimum of six months with the CITY and whose employment is terminated for any reason shall, at the time of termination, receive pay for any unused vacation credits to which they are entitled.

**12.6 DISCONTINUED ACCRUAL**

Should an employee be granted a leave of absence, whether paid or unpaid, which will expire on the date their employment with the CITY terminates, they shall cease to earn additional vacation credits while on such leave.

**12.7 PAST VACATION CREDITS**

Effective January 1, 2001, all vacation credits earned as of this date shall be considered the employee's past vacation credits. Vacation credits earned prior to January 1, 2001, are not subject to the maximum accrual set forth in Section 12.3 and will not be considered in determining the employee's eligibility to earn additional vacation credits.

**12.8 BUY BACK OF PAST VACATION CREDITS**

Employees who have past vacation credits may sell back up to ten (10) days worth of credits per fiscal year. The CITY will buy back vacation credits based upon the employee's current hourly rate of pay.

**TITLE 13. DISCIPLINARY ACTION**

### **13.1 PURPOSE**

There are two primary objectives of a disciplinary system:

- To correct inappropriate employee behavior by providing clear notice that such behavior is unacceptable and by defining the City's expectations.
- To provide a system of progressive measures through which the inappropriate behavior is corrected or the employee is terminated from CITY employment.

### **13.2 NOTICE**

The CITY recognizes the need to inform employees of the rules of conduct and the penalties, which will apply if the rules are violated.

### **13.3 MINOR DISCIPLINE**

The CITY and ASSOCIATION agree that the following actions are corrective in nature and not punitive.

#### **13.3.1 COUNSELING**

Clarifies expectations and evaluates the employee's strengths and weakness for the purpose of assisting the employee with their professional development.

#### **13.3.2 VERBAL WARNING**

Clearly defines the area(s) of job performance or employee conduct, which need improvement. Employee is advised that failure to improve will result in more serious action. No formal written records of such warnings are kept. Supervisors may record the date and nature of discussion in their working file for future reference should the problem not be corrected.

#### **13.3.3 WRITTEN WARNING**

Written formal notice to the employee that more serious disciplinary action will be taken unless their behavior or performance improves. Expectations for improvement are defined with a specific time period for corrective action to be taken by the employee.

#### **13.3.4 WRITTEN REPRIMAND**

Official written notification that the employee's performance or conduct is seriously below standard and that failure to improve immediately could result in suspension or discharge.

### **13.4 LIMITED APPEAL**

These actions are grievable only on the basis of gross inaccuracy. The employee may file a written response to any written warning or reprimand within ten (10) working days from receipt. The employee's response shall be attached to the original document.

### **13.5 REPRIMAND REMOVAL**

Written warnings and reprimands may be removed from the employee's personnel files after two (2) years if the problem has been corrected and there has been no reoccurrence of the conduct or nonperformance giving cause for warning or reprimand. It shall be the employee's responsibility to initiate action to have such documents removed from their personnel files by filing a request with their department head. Should the department head deny the employee's request the employee may appeal their decision to the CITY Council.

### **13.6 MAJOR DISCIPLINE**

The following actions are considered to be punitive and are subject to the appeals process set forth herein.

#### **13.6.1 SUSPENSION WITHOUT PAY**

The temporary removal of an employee from his/her duties without pay for just cause in accordance with Section 13.8. This step is normally taken in cases involving gross misconduct or chronic behavioral problems for which there seems to be no other appropriate response.

#### **13.6.2 DISCHARGE**

The permanent separation of an employee from CITY service for just cause in accordance with Section 13.8.

### **13.7 ADMINISTRATIVE LEAVE PENDING INVESTIGATION**

The CITY may place an employee on administrative leave with pay pending an investigation related to allegations made against the employee. Placement of an employee on administrative leave pending investigation is not considered as punitive.

### **13.8 CAUSE FOR DISCIPLINE**

The following constitutes causes of action for imposition of disciplinary action:

1. Fraud in securing or maintaining employment
2. Inefficiency
3. Neglect of duty
4. Insubordination
5. Dishonesty
6. Use, abuse, or possession of controlled substances, intoxicants or illegal drugs while on duty, or off-duty use which impedes performance; or abuse of prescribed medication.
7. Addiction to narcotics or habit forming drugs
8. Absence without leave
9. Discourteous treatment of member of the public or another employee
10. Improper political activity as defined by Federal/State law
11. Misuse of CITY property
12. Violation of the penal code

13. Conviction of a felony or conviction of misdemeanor involving moral turpitude
14. Misuse of sick leave, including excessive or patterned absenteeism or tardiness
15. Sexual harassment or other abuse of employees
16. Any other failure of good behavior either during or outside of duty hours which is of such nature that it causes discredit to the CITY or his/her employment (A nexus or relationship between the behavior and the job must be demonstrated.)

### **13.9 EMPLOYEE EXPECTATIONS**

With respect to discipline, permanent employees within the classified service are entitled to the following:

1. Employees have a right to know what is expected of them and what the consequence will be for not fulfilling those expectations.
2. Employees have a right to consistent and predictive employer responses to violations of rules.
3. An employee has a right to fair discipline based on facts.
4. An employee has a right to question the facts and present a defense.
5. An employee has the right to progressive discipline.
6. An employee has the right to appeal the disciplinary action.
7. An employee has a right to be considered as an individual with respect to possible mitigation.

### **13.10 EMPLOYER EXPECTATIONS**

With respect to discipline, the CITY is entitled to the following expectancies:

1. The CITY has the right to establish and affix penalties not inconsistent with similar cases as they relate to discipline.
2. The CITY has the right to expect employees to follow CITY rules, policies, practices, and procedures reasonably related to the orderly, efficient, and safe operation of the CITY.
3. The CITY has the right to investigate and document incidents of wrongdoing, which could result in a violation of the disciplinary policy of the CITY.
4. The CITY has the right to request and receive a written document from employees explaining an employee's action (s) relating to a possible violation that may result in disciplinary action.
5. The CITY has the right to establish reasonable standards of job performance.
6. The CITY has the right to bring perceived deficiencies to the attention of an employee and to assist the employee in correcting deficiencies.
7. Management has the right to initiate disciplinary action subject to test of just cause and which may be subject to appeal.
8. Management has the right to expect employee cooperation in modifying behavior following conference, counseling session, or progressive disciplinary steps.

### **13.11 NOTICE OF PROPOSED ACTION**

At least five calendar days prior to the effective date of a "significant disciplinary action" against an employee, the department head shall give written "Notice of Proposed Disciplinary Action" to the employee personally, or by certified mail. A suspension of five (5) days or more, demotion or termination shall be considered significant. Such written notice shall include:

1. A description of the action taken and its effective date or dates.
2. A clear and concise statement of the reasons for such action, including the acts or omissions on which the disciplinary action is based.
3. A statement advising the person of the right to respond, either verbally or in writing, to the authority proposing the action prior to its effective date.
4. A statement that a copy of the materials upon which the action is based is attached or available for inspection upon request.

An employee who is suspended for five (5) days or less is entitled to an administrative hearing, however, such hearing may not occur prior to the employee serving such suspension.

### **13.12 ADMINISTRATIVE HEARING**

Upon receiving a notice of proposed disciplinary action the employee may respond verbally and/or in writing to the charges. Such response shall be presented to the department head within five (5) days from the date upon which the employee received the notice of proposed action.

After considering any such response the department head may rescind, modify or proceed with the proposed disciplinary action. The department heads decision shall be delivered to the employee in writing as a "Notice of Disciplinary Action" either in person or by certified mail. Such notice shall include a statement advising the person of the right to appeal to the City Council and the time within which the appeal must be made.

### **13.13 DISCIPLINARY APPEALS**

#### **13.13.1 TIME LINE**

The appellant must, in accordance with Section 13.13.3, request mediation or the appointment of a hearing officer within ten (10) work days from the date the appellant has received the "Notice of Disciplinary action", as required by section 13.12. Such request shall be made to the City Council and filed with the City Clerk. Failure of the appellant to request the appointment of a hearing officer within the time limits set forth above constitutes a waiver and bars any further appeal.

**13.13.2 REPRESENTATION**

The appellant has the right to represent himself or herself in any proceeding conducted in accordance with TITLE 13 or to designate a representative to represent their interest in such proceedings.

**13.13.3 MINOR SUSPENSIONS**

For punitive action involving the equivalent of five (5) work day's suspension or less, the parties shall attempt to resolve the matter through the services of the State of California Mediation/Conciliation Service.

**13.13.3.1 MEDIATION**

A meeting with the mediator shall be set as soon as practical. The parties may present information and statement of facts for the mediator's consideration. In the event that the mediator cannot resolve the appeal, he/she shall frame the unresolved issues for the parties to take to the City Council. Upon receipt of the mediator's written statement of the unresolved issues the appellant may request a hearing in accordance with Section 13.13.3.2. Any costs associated with the mediator shall be shared equally between the employee/appellant and the CITY.

**13.13.3.2 HEARING BEFORE CITY COUNCIL**

Should the appeal not be resolved in accordance with Section 13.13.3.1, the unresolved issues may be submitted to the City Council for final consideration and decision. The entire Council shall serve as a tribunal to conduct the hearing. Such hearing shall take place within a reasonable period of time but no sooner than (10) business days after the filing of a request for a hearing. The hearing shall be conducted in accordance with Section 13.14. The City Council shall issue in writing their findings, conclusions and decision to the parties within thirty (30) calendar days from the close of the hearing.

**13.13.4 MAJOR DISCIPLINE**

The parties may agree to use the appeal procedure in accordance with Section 13.13.3., or the appellant may request the City Council, to appoint a hearing officer to hear evidence and make recommendations to the City Council regarding the resolution of their appeals.

Should the appellant and the CITY fail to reach agreement on the selection of a hearing officer within ten (10) business days of receipt of the request for the appointment of a hearing officer, the CITY Council's

authorized representative shall obtain a list from the State Mediation Conciliation Service, of five (5) persons who are qualified to serve as a hearing officer. Upon receipt of the list, the parties shall meet within five (5) business days to select a hearing officer from the list by mutual agreement or by alternately striking names from the list. A coin shall be flipped to determine who strikes the first name. The last name remaining will serve as the hearing officer. The costs associated with the hearing officer shall be shared equally between the employee/appellant and the CITY.

If a hearing date cannot be scheduled with the selected hearing officer within ninety (90) calendar days from the date on which the hearing officer is selected the parties may mutually agree to select another name from the list in reverse order from which they were struck.

#### **13.14 HEARING PROCEDURE**

The hearing officer shall preside over the hearing and shall rule on questions, evidence, and procedure. Either party may call witnesses, introduce evidence, testify, and question witnesses. The CITY has the burden of proof and shall first present evidence and testimony.

##### **The customary order of proceedings is:**

- Accept stipulations by the parties.
- Opening statement by the CITY followed by similar statement by the appellant.
- Presentation of evidence, witnesses, and arguments by the CITY.
- Cross-examination by the appellant or other party.
- Presentation of evidence, witnesses, and arguments by the appellant.
- Cross-examination by the CITY.
- Summation by both parties, usually following the same order as in the opening statements.
- Hearings may be recorded. In the case of employment termination a tape recording shall be made of the hearing if a court reporter is not utilized.
- If the parties want to file written post-hearing briefs or other data, the hearing officer shall set time limits, and the hearing shall remain open until these documents are received.
- After both sides have had equal opportunity to present all their evidence, the hearing officer shall declare the hearing closed.

#### **13.15 DECISION**

##### **13.15.1 HEARING OFFICER**

The decision of the hearing officer shall be submitted to the CITY and shall be in writing summarizing the facts, setting forth findings, and making a final decision. A copy shall be served upon the appellant by certified U.S. Mail.

#### **13.15.2 FINAL DECISION**

The decision of the hearing officer shall be final unless either the department head or the appellant appeal the final decision to the City Council within ten (10) business days of receipt of the hearing officer's decision. If appealed, the City Council shall take formal action to accept, modify or reject the hearing officer's decision within thirty (30) days of receipt of the appeal. Should the City Council decide to modify or reject the hearing officer's decision they shall issue their own findings and conclusions in the matter. The City Council shall base their findings and conclusions on the formal record established through the hearing procedure, but may reexamine evidence or witnesses introduced during the initial proceeding.

#### **13.16 LIMITATION**

No disciplinary action shall be taken for any cause which arose prior to the employee becoming permanent, nor for any cause which arose more than two years preceding the date of the filing of the "Notice of Proposed Disciplinary Action" unless such cause was concealed or not disclosed by such employee when it could reasonably be assumed that the employee should have disclosed the facts to the CITY. Disciplinary action taken shall be commensurate with the offense.

#### **13.17 HEARING RECORDING COSTS**

If either party requests a court reporter that party shall pay the entire cost for the court report, unless the parties mutually agree otherwise. Any costs associated with related transcripts shall be paid by the party requesting the transcript, unless the hearing officer requests the transcript in which case the expense will be equally paid by the parties.

### **TITLE 14. GRIEVANCE PROCEDURE**

#### **14.1 PURPOSE**

It is the purpose of this procedure to provide a simplified and definite method for employees to resolve grievances they may have in their employment relationships with the CITY. The overall policy of this procedure is to provide for the resolution of grievances at the lowest level within the employment hierarchy of the CITY as soon as is possible without unnecessarily disrupting CITY functions or services. This procedure shall be liberally construed to effectuate its purpose and shall be viewed by all as a means to enhance the function of the CITY in providing services to the general public. The use of this procedure in resolving grievances shall not be held against any employee in any manner since the adoption of this procedure gives each employee the right to use it.

## **14.2 GRIEVANCE DEFINITION**

A grievance is a disagreement between CITY management and an employee, group of employees, or an employee association concerning the interpretation, application, or violation of a specific article (s) of Memoranda of Understanding or established written rules or regulations governing personnel practices. A grievance does not include appeals of corrective action, except as provided in Section 13.4, matters which would require legislative action, or areas designated by Government Code as employer prerogatives.

## **14.3 TIME LIMITATIONS AND NOTIFICATION**

Time limits are established to settle a grievance quickly. Time limits may be modified only by agreement of the parties. If at any step of this Grievance Procedure, the grievant is dissatisfied with the decision rendered or a decision has not been filed in a timely manner, it shall be the grievant's responsibility to initiate the action which submits the grievance to the next level of review within the time limits specified. Failure to submit the grievance within the time limits imposed shall terminate the grievance process and the matter shall be considered resolved. A formal grievance may be extended or advanced to any step if the parties jointly so agree.

For purposes of this procedure, notification to a party may be given either personally or by mail. When notice is mailed to an employee, it shall be sent to the employee's current address of record by regular U.S. Mail, proof-of-service.

## **14.4 USE OF CITY TIME**

Reasonable CITY time, subject to the discretion of the department head, may be used in the presentation of a written or oral grievance. CITY time may be used for the procedure set forth below.

## **14.5 GRIEVANCE PROCEDURE STEPS**

No complaint shall be considered a grievance unless it is presented within ten (10) working days after the employee is aware or should have been aware of the conditions precipitating the grievance.

### **14.5.1 FIRST STEP**

Any employee or group of employees having a grievance shall first discuss the grievance on a personal face-to-face basis with the individual designated as the first-level supervisor. This step shall not require a written grievance. Within seven (7) work days the individual so designated shall render a decision. If the grievant is not satisfied with the decision, the grievant may not later than seven (7) work days submit the grievance to the next step.

### **14.5.2 SECOND STEP**

If a mutually acceptable solution has not been reached in Step 1, the grievant shall submit the grievance in writing to the department head. The written grievance shall provide a detailed statement of the grievance, including dates, names and places, applicable MOU article (s) or personnel practices, and the specific remedy requested. Within seven (7) work days the individual so designated shall meet with the grievant and within seven (7) work days thereafter render a decision. If the grievant is not satisfied with the decision, the grievant may not later than seven (7) days submit the grievance to the next step.

### **14.5.3 THIRD STEP**

If a mutually acceptable solution has not been reached at the department head level, the grievant(s) or the ASSOCIATION may request arbitration. Such request for arbitration must be filed with the City Clerk within ten (10) calendar days of receipt of the department head's decision. The City Clerk shall request a list of seven (7) arbitrators from the American Arbitration Association. Within five (5) days following receipt of the list of arbitrators, the parties shall meet to select the arbitrator. The parties shall alternately strike one name from the list of arbitrators (the right to strike the first name to be determined by lot) until one name remains. That person shall be the arbitrator. The City Clerk shall schedule a hearing date as soon as practical. Should the selected arbitrator not be available to hear the matter within sixty (60) days from the date they were selected, the parties may agree to submit the matter to another arbitrator on the list. Once a hearing date has been scheduled, the City Clerk shall duly notify the interested parties of the time, date and place of the hearing.

Hearings shall not be public, except when the parties stipulate otherwise. The arbitration hearing shall be conducted in accordance with Section 11513 of the Government Code. The provisions of Section 11507.6 of the Government Code shall apply to any hearing conducted pursuant to this Section, and shall provide the exclusive right to, and method of, discovery except that time limitations shall be those established by the arbitrator as the case may be. Subpoenas and subpoenas duces tecum shall be authorized as provided by Government Code Section 11450.05-11450.50.

The arbitrator shall render his/her decision as soon after the conclusion of the hearing as possible, but in no event later than thirty (30) working days after conducting the hearing. The parties may mutually stipulate to a longer time period should the arbitrator believe it is necessary to render his/her decision. His/her decision shall frame the issue(s) and determine whether the grievance should be sustained or rejected. The arbitrator's decision shall provide the reasons therefore, set forth their findings of fact, and provide any relevant conclusions of law. The arbitrator shall submit his/her decision to the City Clerk and the City Clerk shall immediately transmit a copy of the arbitrator's decision

to the interested parties. The arbitrator's decision shall be advisory only, unless neither party (grievants/ASSOCIATION or department head) file an appeal regarding the matter to Step Four with the City Clerk within thirty (30) days of receipt of the arbitrator's decision. If neither party files an appeal under Step Four, the arbitrator's decision shall become final and binding on the parties. The arbitrator shall have no power to add to, subtract from, disregard, alter, or modify any of the terms of the Memorandum of Understanding between CITY and ASSOCIATION.

#### **14.5.3.1 HEARING COST**

Each party shall bear equally (50/50) the cost of arbitration related to the arbitrator's fees and expenses and court reporter should the parties mutually agree that a formal recording of the proceedings is necessary. Should a court reporter not be utilized, the arbitration proceedings will be recorded by mechanical recorder and each party shall have a right to a copy of the recording. Each party shall bear its own witness and attorney fees.

#### **14.5.4 FOURTH STEP**

If the grievant(s)/ASSOCIATION or department head disagree with the decision rendered by the arbitrator, they may appeal the matter to the City Council within the time lines outlined in Step Three. Should the matter be appealed to the City Council, the City Council shall review the arbitrator's decision, including the findings of fact and conclusions of law along with any testimony or evidence submitted at hearing or recorded by transcription and/or mechanical recording. After considering the arbitrator's decision and recording of the hearing, the City Council may adopt, amend, modify, or reject the arbitrator's decision.

Should the City Council amend, modify, or reject the arbitrator's decision, the Council shall provide to the parties a written decision setting forth their reasoning, their findings of fact, and conclusions of law should they disagree with the arbitrator's findings on these matters.

Should either party appeal the grievance to the City Council they may, at that time, request the right to submit additional written argument prior to the Council's decision. If such request is granted, the opposing party should be provided adequate time to present a responsive written argument. The City Council shall render their decision within thirty (30) calendar days from the date the grievance was appealed to Step Four or from receipt by the City Clerk of any additional written arguments.

### **TITLE 15. LAYOFF POLICY AND PROCEDURE**

### **15.1 AUTHORITY**

The City Council may abolish any position for one or more of the following reasons:

1. There is insufficient work or necessity to justify the position.
2. There are insufficient funds to support the position.
3. Other legitimate economic reasons that require elimination of the position.

In accordance with this section of the memorandum of understanding the incumbent employee of an abolished position shall be laid off or demoted. Layoff or demotion in accordance with this section is not disciplinary action and the employee has no right of appeal.

### **15.2 NOTICE**

For purposes of layoff permanent and probationary employees shall be given at least (30) Calendar days notice prior to the effective date of the employee's separation from the CITY.

1. The effective date of the layoff.
2. An accounting of the employee's service with the CITY, which was the basis to determine the employee's seniority.
3. Disclosure of any position(s) to which the employee is eligible to demote.
4. A statement regarding the deadline date by which the employee must exercise their demotion and bumping right.
5. Notification of who the employee must notify if they wish to exercise their rights.
6. Description and information of the employee's rights and entitlements should the employee be laid off.

### **15.3 SENIORITY**

For the purpose of layoff and reemployment, seniority shall be determined by calculating of permanent employment from the date of initial appointments to CITY service. The length of full-time equivalence shall be determined for permanent part-time employment with the CITY. Seniority shall be reduced by the amount of time an employee is in an unpaid status with the CITY, which exceeds thirty continues (30) calendar days.

### **15.4 DEMOTION IN LIEU OF LAYOFF**

Whenever there is a reduction in the workforce, the CITY shall to the extent possible, minimize the impact to permanent employees by offering demotion to a vacancy in a lower class for which the employee is qualified. Seniority will determine the order by which employees demote to available vacancies if more than one employee is affected. Employee(s) who are involuntarily demoted to a lower class shall have their name placed on the reemployment list for the class from which they demoted.

### **15.5 DISPLACEMENT RIGHTS**

If applicable, an employee issued a layoff notice shall have bumping rights to displace an employee who has less seniority in their class, a lower class in the same class series or in a lower classification in which the affected employee once held permanent status.

**15.6 DISPLACEMENT CRITERIA AND CONDITIONS**

In order to bump into a former or lower class, an employee must have more seniority than at least one of the incumbents in the former or lower class and request displacement action in writing to the City five (5) working days of receipt of notice of layoff.

**15.7 SALARY STEP PLACEMENT**

An employee that elects demotion to a former or lower class shall receive the salary step closest to their salary before demotion, without resulting in an increase in salary.

**15.8 PROBATION PERIOD**

An employee demotes to a lower class or returns to a former class shall serve a probationary period in that class unless they have already successfully completed a probationary period in the class or a class in the class series.

**15.9 ORDER OF LAYOFF**

All temporary and provisional employees shall be laid off before permanent employee if a reduction in the work force is necessary.

**15.10 REEMPLOYMENT LIST**

Employees laid off or demoted due to a work force reduction shall have their names maintained on a reemployment list for their previous class for a period of one year. The CITY shall maintain one reemployment list for each affected class. When there is a vacancy in an affected class from which a reemployment list exists, the CITY shall offer employment to the person with the greatest seniority. Every department head must hire from established reemployment list(s) before considering appointment from an open or promotional eligibility list.

Employees laid off or demoted due to a work force reduction shall have their names maintained on a reemployment preference list for a period of two years. Every department head must interview and fully consider any employees on a valid reemployment preference list prior to appointing a candidate from an open or promotional eligibility list.

A person's name shall be removed from a reemployment list for the following reason:

1. They have accepted appointment to a permanent position equivalent to the position they held before their layoff.
2. They decline an offer of employment to a position in the class they held before layoff.

3. The person fails to maintain a current mailing address with the CITY.

Persons reemployed in a lower class, or on a temporary basis, shall remain on the list for the higher class for one year from the date of layoff.

#### **15.11 REEMPLOYMENT RIGHTS**

Persons reemployed within one year shall have the following rights:

1. Salary step placement shall be to the step obtained before layoff if employed to the same class. If reemployed to an equivalent class, salary placement shall be to the step which is closest to the salary before layoff, but NOT greater than.
2. The person's seniority before the layoff shall be bridged, but shall not include that time during which the employee was separated from CITY employment due to layoff.
3. Sick leave accruals at the time of layoff shall be reinstated unless the person received compensation for such accruals.

No new probationary period shall be required if the person is reemployed in a position which they held permanent status.

### **TITLE 16. PROBATIONARY PERIOD**

#### **16.1 PURPOSE**

The probationary period is (1) an integral part of the examination process and provides an opportunity to observe closely the employee's work; (2) to secure the most effective adjustment of a new or promoted employee to his/her position; and (3) to reject any probationary employee whose performance or personal qualifications do not meet the required standards of the class.

#### **16.2 DURATION**

Original appointments shall be tentative and subject to a probationary period of not less than one year of actual service. Promotional appointments shall be tentative and subject to a probationary period of not less than six months of actual service.

#### **16.3 PERFORMANCE REPORTS - PROBATION EMPLOYEES**

Performance evaluations on probationary employees shall be completed at the end of the third and ninth months of service and not less than 30 days prior to the scheduled end of the probationary period.

#### **16.4 UNSATISFACTORY PERFORMANCE DURING PROBATIONARY PERIOD**

An employee who is unable or unwilling to perform the duties of the position satisfactorily or whose work habits and dependability do not merit his/her continuance

in the City service may be rejected and terminated at any time during the probationary period. The effective date of termination shall be no later than the last day of the probationary period. An employee terminated during the probationary period does not have a right of appeal under this Memorandum of Understanding.

**16.5 UNSATISFACTORY PERFORMANCE FOLLOWING PROMOTION**

An employee rejected during the probationary period following promotion shall be returned to class and position they held prior to promotion.

**16.6 UNSATISFACTORY PERFORMANCE FOLLOWING TRANSFER**

An employee rejected during the probationary period following transfer may, with the approval of the City Council, be reinstated to the position he/she previously held if it remains vacant.

**16.7 EXTENSION OF PROBATIONARY PERIOD**

- **FAILURE TO MEET STANDARDS**

A department head may extend an employee's probationary period for a specified period of time, not to exceed an additional three (3) months. The employee shall be notified of the reason(s) for extension and a further report and decision shall be required prior to the end of this additional period.

- **ABSENCE FROM WORK**

Leave of Absence without pay for more than one half of a payroll period shall extend the Probationary Period for the equivalent number of pay periods based on the leave of absence time.

**16.8 PROBATIONARY PERIOD/ACQUISITION OF PERMANENT STATUS**

A probationary employee acquires permanent status upon completion of the probationary period.

**TITLE 17. MISCELLANEOUS**

**17.1 VACANT POSITION POSTING**

When a regular full-time or part-time position becomes vacant, the CITY shall post the vacancy no later than when it advertises for the vacancy prior to filling the position post a recruitment notice for at least five workdays at designated locations, and at all worksites including City Hall, Waterworks and Corporation Yard Should the requirements for the position or minimum qualifications change notice of such vacancy shall be reposted for an additional five workdays at the same locations.

**TITLE 18. PREVAILING RIGHTS**

- 18.1** This Memorandum of Understanding contains all the covenants, stipulations, and provisions agreed upon by the Parties. Except as amended by this Memorandum of Understanding, it is understood that all items relating to employee wages, hours, and other terms and conditions of employment not covered in this Memorandum of Understanding shall remain the same as those in existence on June 30, 2010

#### **TITLE 19. FULL UNDERSTANDING, MODIFICATIONS, WAIVER**

- 19.1** It is intended that this Agreement sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understandings or agreements by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety. This Memorandum of Understanding shall not be deemed a contract for employment, or any guarantees or promises of continued employment.

Except as specifically provided herein, it is agreed and understood that the ASSOCIATION voluntarily and unqualifiedly waives its right, and agrees that the CITY shall not be required to negotiate with respect to any subject matter covered herein during the term of this Agreement.

#### **TITLE 20. SAVINGS CLAUSE**

- 20.1** If any section, subsection, paragraph, sentence, clause, or phrase of this Memorandum of Understanding shall, for any reason, be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portion of this Memorandum, it being expressly provided that each section, subsection, paragraph, sentence, clause, or phrase hereof would have been adopted irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases shall be declared invalid or unconstitutional. The CITY and ASSOCIATION agree to meet and confer concerning any provision of this memorandum of Understanding declared invalid or unconstitutional by a court of competent jurisdiction.

Any agreement, alternation, understanding, variation, waiver, or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto, and if required, approved and implemented by the City Council.

The waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

#### **TITLE 21. TERM OF AGREEMENT**

**21.1 TERM**

This Agreement shall be for the term beginning July 1, 2010 and shall continue in full force and effect through June 30, 2011 and thereafter from year to year, unless superseded by a successor agreement.

This Memorandum of Understanding shall not be amended or supplemented except by agreement of the parties hereto, reduced to writing and duly signed by each.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding this 20th day of July, 2010.

CITY OF COLUSA EMPLOYEES'  
ASSOCIATION

CITY OF COLUSA

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CCEA President

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Donna Critchfield, Mayor

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Marie Clark, Business Agent  
Public Employees' Union Local #1

APPROVED AS TO FORM:

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Jacob Knapp, City Attorney