

MEMORANDUM of UNDERSTANDING

Between and for

THE CITY OF CLOVIS

and

**THE CLOVIS PUBLIC WORKS
EMPLOYEE'S AFFILIATION
July 1, 2010 Through June 30, 2011**

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INTRODUCTION

The representatives of the City of Clovis, hereinafter the City, and the representatives of the Clovis Public Works Employee's Affiliation, hereinafter the Affiliation, having met and conferred in good faith, have mutually agreed to recommend to the City Council of the City of Clovis and to the general membership of the bargaining unit that the following Memorandum of Understanding (MOU) be adopted and that the wages, hours, and other terms and conditions of employment in this exclusive agreement be implemented.

The City and the Affiliation recognize the mutual duty and obligation of their respective representatives and members to comply with the provisions of this MOU.

1. City Rights

Notwithstanding any of the items agreed to herein, nothing in this MOU is intended to limit the management rights of the City, including the following specific rights.

- A. Direct the work of its employees.
- B. Hire, promote, demote, transfer, assign and classify employees within the City, to determine the mission of its divisions and departments, and its budget, organization, and number of employees.
- C. Discipline employees according to applicable regulations.
- D. Take actions as may be necessary to carry out the mission of the City in emergencies.
- E. Determine the methods, means and personnel by which operations are to be carried on.
- F. Determine its budget, organization, merits, necessity and level of any activity or service provided to the public.

This section will not operate to deny any individual employee rights guaranteed by applicable law, including the Meyers-Milias-Brown Act (Cal. Gov. Code, §§ 3500 et seq.).

2. Employee Rights

- A. Employees of the City of Clovis shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employer-employee relations. Employees of the City of Clovis shall also have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the City of Clovis.
- B. Only the employee organization recognized as having been authorized by a majority of the employees shall have the right and obligation to meet and confer and reach an agreement with the City regarding the determination of wages, hours, and other terms and conditions represented by the organization. Nothing in

this article shall be construed as violative of any requirement or provision of the Meyers-Milias-Brown Act.

- C. The employees shall choose their own Affiliation officers and stewards, with a written list of each and the office held and area represented furnished to the City immediately after their designation. The Affiliation shall notify the City promptly, in writing, of any changes of such Affiliation officers or stewards.

3. Unit Recognition and Security

- A. **Acknowledgment.** The City agrees to acknowledge, pursuant to California Government Code section 3500 et seq., the Clovis Public Works Employee's Affiliation, as the recognized employee organization representing the non-management permanent and probationary employees itemized in Article 4, until said Affiliation fails to obtain a majority of the vote of the employees itemized in Article 4 during a decertification election.
- B. The Affiliation recognizes its obligation to cooperate with the City to assure service of the highest quality and efficiency to the citizens of Clovis together with its obligations to the employees it represents. The City and the Affiliation affirm the principal that harmonious labor management relations are to be promoted and furthered.
- C. It is understood by the Affiliation and the City that the terms of this MOU take precedence over the sections of the City of Clovis Resolution 866, XI, XII, XIII and XVIII, and that by obtaining recognition as an official bargaining unit from the Clovis City Council, the employees of the bargaining unit are excluded from coverage by the provisions of these rules.
- D. **Payroll Deductions/Dues.** For those unit employees itemized in Article 4, the City will deduct from their wages their regular monthly dues. Such dues shall be deducted and transmitted to the Affiliation upon written authorization of the unit employee in a manner complying with legal requirements. Forms for written authorization will be provided by the City.
- E. The Affiliation shall provide a 30-day written notice to the City and to all unit employees in advance of any agency fee or dues increase. All agency fees and/or dues, and any increase thereto, shall be stated in specific dollar amounts.
- F. In the month of June in the final year of this Agreement, unit employees shall be allowed to revoke their payroll deduction authorization for Agency dues. Revocation shall be in writing on a form provided by the City, with a copy sent to the Affiliation President by the City notifying him of said revocation. Under no circumstances will this information be used by the Affiliation against the revoking employee.

The Affiliation promises to hold harmless and indemnify the City for any liability the City should incur for any mistakes, negligence, or intentional wrong sustained as a result of this service.

4. **Unit Description**

A The unit shall consist of all non-management, non-clerical permanent and probationary employees of the City of Clovis' Public Utilities Department and Building Maintenance section of the General Services Department which are specifically enumerated below and shall include any and all new positions added during the term of this Agreement that the City and Affiliation agree should be included in the unit description.

- | | |
|--|------------------------------------|
| 1. Assistant Building Maintenance Technician | 15. Maintenance Worker |
| 2. Assistant Water Systems Technician | 16. Meter Reader |
| 3. Building Maintenance Leadworker | 17. Park Maintenance Leadworker |
| 4. Building Maintenance Technician | 18. Parts Clerk |
| 5. Building Maintenance Worker | 19. Senior Maintenance Worker |
| 6. Disposal Leadworker | 20. Senior Park Maintenance Worker |
| 7. Equipment Mechanic | 21. Senior Sanitation Operator |
| 8. Equipment Mechanic Assistant | 22. Street Sweeper Operator |
| 9. Equipment Operator | 23. Utility Worker |
| 10. Equipment Serviceworker | 24. Water Systems Technician |
| 11. Fleet Maintenance Service Writer | 25. Parks Equipment Mechanic |
| 12. Fleet Maintenance Leadworker | 26. Water Treatment Plant Operator |
| 13. Landfill Leadworker | |
| 14. Maintenance Leadworker | |

B. Classification Review

1. An employee may request classification review of his or her position by submitting such a request, in writing, to the Public Utilities/General Services Director.
2. The Public Utilities/General Services Director shall cause the conduct of an audit of the position and submit a report of findings and recommendations to the Personnel/Risk Manager with a copy sent to the employee, all to be completed within sixty (60) days of the date the written request for classification review was first received by the Department Head.
3. The Personnel/Risk Manager shall review the report of the Public Utilities/General Services Director. The affected employee may submit written comments in support or rebuttal of the Public Utilities/General Services Director's recommendation. Such written comments shall be submitted to the Personnel/Risk Manager within ten (10) business days of the date of the Public Utilities/General Services Director's report.
4. If the Personnel/Risk Manager affirms the request for reclassification, a recommendation will be made to the City Manager that either a) specific, revised job duties and compensation be adopted, or b) that a classification review be conducted by an outside consultant. The decision of the Personnel/Risk Manager shall be completed within 120 days of the date the written request for classification review was first received by the Public Utilities or General Services Director as applicable.

The final report resulting from either a) or b) above shall be presented to the City Council during the course of budget hearings if necessary.

5. If the Personnel/Risk Manager denies the request for reclassification, such report shall be submitted to the City Manager for review and determination. The City Manager's decision shall be final.

5. Non-Discrimination

The City and the Affiliation agree not to discriminate against any employee in accordance with applicable laws. Also, it is recognized that whenever the masculine gender is referred to in this MOU, it shall include the female gender and vice versa.

6. Stewards

- A. The City recognizes that the Affiliation may appoint one (1) Chief Steward and no more than one (1) designated Division/Section Steward for each major Division/Section of the Public Utilities and General Services Departments to handle grievances pertaining to this MOU.
- B. The Division/Section Steward's duties shall be to investigate and discuss a grievance with an employee of the Division/Section in an effort to resolve the grievance at the lowest possible level. If, after a discussion, there is a valid reason for the grievance to be filed, the Division/Section Steward may assist the employee in presenting the grievance at the appropriate step of the procedure.
- C. The Chief Steward's duties shall be to assist the Division/Section Steward if the Division/Section Steward is the employee who has filed the grievance. He may also assist in other grievances if the grievance has not been satisfactorily handled and/or solved at the Division/Section level.
- D. Stewards shall conduct their duties, whenever possible, in such a manner that will not interfere with any employee's job performance. The City recognizes that on occasion it may be necessary for these duties to be performed during working hours for such things as grievance or conflict resolution provided the Public Utilities or General Services Director, as applicable, or designee authorized such duties to be conducted during work hours.
- E. Stewards or officers of the Affiliation or their designee, may be allowed to participate in joint City/employee meetings during work hours concerning matters of interest to the City and its employees such as meet and confer, safety issues, group health insurance, uniforms and other matters as may be appropriate from time to time, all with the approval of the Public Utilities/General Services Director or designee.

7. Wage Scale, Retirement Contributions and Step Increases

- A. Wage Scale - The City shall implement and maintain the following increases to the wage scale for all positions represented in this bargaining unit. The increases are shown in Exhibit A-D, attached.
 - 1. Effective July 1, 2005, all positions shall receive a 3.5% increase.
 - 2. Effective July 1, 2006, all positions shall receive a 3.5% increase.
 - 3. The City and CPWEA agree that on or about March 2007 the parties will reopen the meet and confer process regarding wages for the third year of this MOU, i.e., July 1, 2007 through June 30, 2008.

Effective October 1, 2005, the following equity adjustments will be implemented:

- | | |
|---------------------------------------|------|
| 1. Assistant Water Systems Technician | 2.0% |
| 2. Water Systems Technician | 2.0% |
| 3. Water Treatment Plant Operator | 2.0% |

Effective April 1, 2006, the following equity adjustments will be implemented:

- | | |
|---------------------------------|------|
| 1. Equipment Mechanic Assistant | 1.5% |
| 2. Meter Reader/Utility Worker | 3.5% |
| 3. Maintenance Worker | 1.0% |

B. Retirement Contributions

1. The City shall, during the term of this Agreement, pay the rate prescribed for employer contributions into the PERS fund in accordance with the rules and regulations governing such employer contributions.
2. The City adopted a resolution which became effective January 1, 1991 which permits employee retirement contributions to be made on a pre-tax basis.
3. The City will maintain the PERS single highest year retirement benefit throughout the term of this agreement.
4. The City will initiate the process to implement the PERS miscellaneous retirement benefit known as "2.7% at 55" with a planned benefit implementation date of April 1, 2006. However, implementation of the benefit for this unit is specifically subject to and contingent upon the implementation of the benefit with all other affected employee bargaining units. The City shall pay the cost of the Pre-retirement Optional Settlement 2 Death Benefit.

C. The City and Affiliation acknowledge that all provisions of this Agreement, including Article 7. Section B. Retirement Contributions. Together with those other matters within the scope of representation, are subject to re-negotiation upon the expiration of this agreement to the extent provided by law.

D. Step Increases - The City shall maintain its current five (5) step salary plan during the term of this agreement.

E. State Disability Insurance - Employees covered by this bargaining unit have elected coverage by State Disability Insurance (SDI). Employees covered by this agreement agree to pay SDI premiums through payroll deductions for the duration of this Agreement in accordance with the State Unemployment Insurance Code rules and regulations. It is further understood by Affiliation that the City allows

SDI as a non-vested benefit to be available to unit employees, provided that the City does not incur a contribution obligation.

F. Deferred Compensation - Unit members who have completed their initial probationary period may elect to participate in a deferred compensation program that includes a City matching contribution. However, unit employees may participate in the deferred compensation program without the City matching contribution at any time during employment. Unit members remain eligible for the contributory deferred compensation program. The deferred compensation program is subject to IRS Section 457 program rules. Enrollment in the program shall become effective in the pay period following the submittal of an enrollment request. The provisions of the deferred compensation program are as follows:

<u>City's Matching CONTRIBUTION</u>	<u>Maximum City PAYMENT</u>
2:1	3%

If the maximum dollars available for the contributory deferred compensation program available to this unit are not utilized in any fiscal year, any remaining dollars shall be applied to health insurance rates for this unit only. The total unit wage subject to the deferred compensation matching program will be compared to the actual dollars spent by the City on the program to determine any unspent dollars available during the preceding fiscal year.

G. Certification Pay

In order to qualify for certification pay an employee must maintain the certification while in a given classification and work section as noted below. Certification pay will be provided to qualifying employees in the amount of \$50.00 per month for each certification with a cumulative maximum of \$100 per month.

Job Classification	Work Section	Certification
Utility Worker	Water	Water Distribution Operator 2
Maintenance Worker	Water	Water Distribution Operator 2
Sr. Maintenance Worker	Water	Water Distribution Operator 2
Maintenance Leadworker	Water	Water Distribution Operator 3
Assistant Water System Tech	Water Prod.	Water Treatment Operator 3
Water Trmt. Plant Operator	Water Prod.	Water Treatment Operator 4
Maintenance Worker	Parks	Pesticide Applicator
Parks Sr. Maint. Worker	Parks	Pesticide Applicator

Job Classification	Work Section	Certification
Utility Worker	Parks	Arborist
Maintenance Worker	Parks	Arborist
Parks Sr. Maint. Worker	Parks	Arborist
Parks Maint. Leadworker	Parks	Arborist
Utility Worker	Street Maint/Water Serv.	Unrestricted Class A CDL
Maintenance Worker	All	Unrestricted Class A CDL
Sr. Maintenance Worker	All	Unrestricted Class A CDL
Sr. Parks Maint. Worker	Parks	Unrestricted Class A CDL
Equipment Serv. Worker	Fleet	CNG Certification

8. Health, Life, Vision, and Dental Insurance Compensation

For employees who opt out of Health, Vision and Dental Insurance coverage, the City will pay that employee an amount equal to what the City would have paid for that employee's Health Insurance coverage.

- A. The City and the Affiliation agree that the City's Health Benefits Committee (HBC) shall be the exclusive representative body for the purposes of all mandatory meet and confer issues that are related to the City's health benefit plan (medical, dental, pharmacy, vision, and life insurance coverages) inclusively.
- B. The HBC shall be convened by the City at least once each quarter to renew the City's health benefit plan. The HBC shall include a member and an alternate from each of the represented City bargaining units. The represented members shall determine their own voting and conflict resolving procedures so that they can present (whenever possible) a single proposal for all their represented employees. Sufficient management staff will represent the City on the HBC as determined by the City. The City or HBC may also request to convene at other times to meet and confer as provided for in this Agreement.
- C. If any bargaining unit represented by the HBC is not in agreement with the position of the HBC as demonstrated by a negative vote of their respective affiliation membership, such bargaining unit and their designated representatives will meet and confer with the City to impasse prior to the implementation of any meet and confer proposals made in accordance with this agreement. The City's health benefit plan structure shall be determined through the meet and confer process-between the HBC and the City. The City's health benefit plan structure is defined as the type and level of benefits.
- D. The benefits provided under this section shall be at the minimum type and level of benefits that is no less than the minimum benefit offered by any of the program

providers as listed on the 1995 Health Program Benefits Sheet distributed on February 1, 1995, provided that the benefit is competitively available in the local market. The City will select the health benefit plan vendors and set the health benefit plan rates. The City will meet and confer with the HBC regarding the impacts of vendor selection, rates, rate structure, and other plan change impacts.

- E. The employee contribution rate will remain at 10% of the total cost of the lowest cost plan as determined by the City for the various employee' employee/family, and other tier groups as proposed. Increases or decreases in the year to year premium will be shared in the same 10% employee, 90% employer ratio for the term of this MOU unless otherwise changed through the meet and confer process with the HBC.
- F. The City and the Affiliation agree to actively explore possibilities to develop and implement an affordable health insurance plan to be made available to retirees and their qualified dependents.
- G. The City shall make available to the individuals of this bargaining unit an option of increased term life insurance with any premium increase at the employee's expense.
- H. CPWEA employees who choose to discontinue all city-provided health coverages (including medical, prescription, vision, and dental) shall receive on a monthly basis an amount equal to 100% of the City's monthly medical premium based on the "employee only" rate. Employees who choose to discontinue health coverages through the City shall continue to receive City provided life insurance coverage and employee assistance program (E.A.P.) benefits. To be eligible for this payment, employees must: (1) notify the City's Personnel Division of their decision to discontinue health coverage during the annual health insurance open enrollment period; (2) verify in writing that they have medical coverage from another source; and (3) verify to the city that discontinuance of health coverage does not constitute a violation of any court order or other legal obligation that the employee may be subject to. In the event that an employee who has opted out of the City's health coverage subsequently loses his/her alternate medical coverage due to a life changing event as defined by the Consolidated Omnibus Budget Reconciliation Act (COBRA), that employee may re-enrolled the City's health coverage program. It shall be the responsibility of the employee to notify the City's Personnel Division of such a life-changing event within 30 days of the event.

9. Work Week

- A. The regular workweek for the above described bargaining unit shall begin at 12 midnight between Saturday and Sunday and end at 12 midnight between the following Saturday and Sunday. However, the work week may be modified in certain work sections to accommodate an alternate work

schedule. The City will discuss the impact of any alternate work schedule with the affected employees in advance of its implementation with the understanding that the City is responsible for determining the work week. Consistent with the Fair Labor Standards Act (FLSA) the work week is a fixed and regularly recurring period of 168 hours (seven consecutive 24 hour periods). The work week can be changed provided the changes are indefinite in duration and are not designed to evade the overtime requirements of FLSA. The unit's work week shall normally consist of forty (40) hours.

- B. Further, no employee of this unit shall be regularly scheduled to work a shift in which the regular starting times deviate more than four (4) hours during the same workweek, except when previously mutually agreed to in writing between the affected present or future employee and the City, or in emergency situations.
- C. Each employee shall regularly be scheduled for two (2) consecutive days off.

10. Work Schedule

The work schedule shall consist of an eight (8) hour day, with starting and ending times to be determined by the Department Head. The work schedule of individual sections may differ. The work schedules will be set at the discretion of the Department Head to provide for adequate coverage of work area, to facilitate work function or to provide for employee safety.

At the Surface Water Treatment Plant (the plant), the work schedule may consist of eight (8), nine (9), ten (10), or twelve (12) hour work days with starting and ending times determined by the Department Head. The work schedule will be prepared so that employees will not be required to work more than five days in a row except due to an emergency.

The plant work schedule will be posted for a minimum of three (3) weeks in advance. However, unforeseen circumstances beyond the control of the City may result in the need to change the schedule after it has been posted. When such a change is required, the City will discuss the impact of the schedule change with the affected staff before implementing a change to meet operational needs. Except in the case of emergency employees at the plant are to submit leave requests at least four (4) weeks in advance to allow for timely scheduling. However, non-emergency leave requests that are submitted less than four (4) weeks in advance may be granted if operational needs allow.

It is the intent of the Department to establish regular work schedules as described in the following paragraphs.

- A. Winter Work Schedule: September 16 to April 30 for all sections, except the Solid Waste. Fleet Maintenance and Surface Water Treatment Plant sections, will be 7:00 a.m. to 3:30 p.m. with a one-half hour lunch period from 12:00 noon to 12:30 p.m.
- B. Summer Work Schedule: May 1 to September 15 for all sections, except the Solid Waste. Fleet Maintenance Sections and Surface Water Treatment Plant_ will be 6:00 a.m.

to 2:30 p.m. with a one-half (1/2) hour lunch from 12:00 noon to 12:30 p.m. Alternative work schedules for any section will be considered upon the request of the majority of the employees in the section. Work schedules will normally be restricted by the City to the hours between 6:00 a.m. to 6:00 p.m. The lunch period will normally be restricted to the period between 11:00 a.m. to 1:00 p.m.

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During the term of this agreement the City may determine a need to modify work schedules of a given work section or sections covered by this agreement, based on the need to provide adequate coverage of work area(s), to facilitate work function effectiveness or to provide for employee safety. If the City decides it is necessary to modify work schedules, the City will provide the Association with notice and the opportunity to meet and confer regarding the impact of the change at least thirty days (30) days prior to implementation.

11. Rest Period

Each employee covered in the MOU will be afforded two (2) fifteen-minute rest periods without loss of pay. The first rest period will normally be allowed once before the meal break. The second rest period will normally be allowed after the meal break for non-disposal employees, and before the meal break for all disposal employees except where mutually agreed by their employee and the supervisor. The timing of these rest periods shall be reasonably scheduled by the City in accordance with the requirements of the Department. The Affiliation recognizes that the location of these rest periods shall be established by the City in accordance with the requirements of the Department, and that it shall be the obligation of employees to adhere to the instructions of their Supervisors in this regard.

12. Fair Labor Standards Act

Notwithstanding anything else to the contrary, this agreement shall be interpreted and applied in all respects necessary to conform to the legally applicable provisions of the Federal Fair Labor Standards Act, and regulations promulgated thereunder, with respect to work week, hours of work, regular rate of pay, minimum wage and overtime.

13. Overtime

- A. The City of Clovis agrees that it will compensate the employees of the above described unit for overtime through monetary compensation or accrued CTO at one and one-half (1 ½) times the regular rate of pay. An employee shall be compensated at said overtime rate whenever an employee is required to work in excess of the above described forty (40) hour work week, after eight (8) hours per day on a five (5) day basis or for work on a holiday.
- B. Employees (except those who receive a Holiday Time Bank) who are assigned to perform duties on an eight (8) hour holiday and who work at least four (4) hours, shall be paid for eight (8) hours at the overtime rate in pay, or accrue CTO at the

employee's option, provided the assigned work of the employee is satisfactorily completed. It is understood that the City may require the affected employees to work the entire eight (8) hour holiday.

- C. The City shall have the right to require employees to work whenever necessary. The City shall attempt to assign scheduled overtime work to employees in work units that would normally be assigned the task if the task had occurred during the regular eight (8) hour work day. The City reserves the exclusive right to make the final determination of the appropriate work unit(s) to assign the overtime duties.
- D. Work units for the purposes of Article 13 shall be defined as the following functional work groups: Parks, Water Valves, Water Service, Water Meters, Water Production, Street Striping, Street Maintenance, Fleet, Waste Water, Disposal and Building Maintenance.
- E. Scheduled Overtime is defined as all overtime that is anticipated to occur more than three (3) work days in advance of the overtime event based on when Department Management staff receives notification of the need to perform the work.
- F. Scheduled Overtime as defined above will be made available to qualified personnel within the work unit(s), as defined above in paragraph D, based on City seniority. City seniority for the purpose of this Article is defined as continuous probationary and regular employment with the City. Each Section Supervisor will be responsible for maintaining a current overtime seniority list for their respective work units. Employees will be called from this list to work scheduled overtime assignments in City seniority order. After the most senior employee of the work unit employee accepts the overtime assignment, declines the overtime assignment or does not respond to the call within one (1) hour the City will contact the next most senior person until the overtime assignment is staffed. The City reserves the exclusive right to determine whether or not an employee possesses the qualifications necessary to perform the scheduled overtime task.
- G. As determined by the City, in the event it is not possible to staff the scheduled overtime assignment consistent with F. above, qualified personnel will be required to work in inverse City seniority order in the work unit.
- H. Parade overtime assignments shall be made from a Parade Overtime list that is separate and apart from a overtime list that is established or used by the work units noted above. Employees will be called from the Parade Overtime list to work on a rotational basis with an employee moving to the bottom of the list once called to work and either actually works or declines the work or does not respond to the call within one (1) hour.
- I. During the first two (2) weeks of January each year, during the term of this agreement, the Public Utilities Department will call for employees, represented by this agreement, to volunteer to be placed on the Parade Overtime list. The Parade Overtime list will be

established no later than the end of the month with volunteers placed on the Parade Overtime list in City seniority order as defined in Section F above.

- J. Employees hired or transferred into a position, represented by this agreement, during the calendar year after the Parade Overtime list has been established may be added to the bottom of the rotational list at the time they volunteer, provided they submit a written request to the Public Utilities Director within 60 days of the effective date of hire or transfer.
- K. The Department will continue to make emergency call back assignments consistent with Department policy.

14. Standby Pay

The City agrees to pay eight (8) hours straight time to employees required to standby throughout a previously scheduled two (2) consecutive days off break in work. Standby is defined as time when an employee must be within reach by phone and within such distance that he can report within thirty (30) minutes. A break-in-work shall be measured and defined as being from the moment of termination of the individual's last regularly scheduled work period to the moment of commencement of the individual's next regularly scheduled work period. Standby time less than or more than the period defined in the preceding sentence shall be compensated on a prorata basis.

15. Minimum Callback Pay

An employee called back to work outside of his/her regularly scheduled shift shall be paid a minimum of three (3) hours at the overtime rate if the employee was not on standby at the time called back for a maximum per day of two callbacks at the minimum three (3) hour rate. Additional callbacks on the same day will be paid at actual time at the overtime rate. If a designated, primary, call-back responder chooses to take a City vehicle home under the Home Garage Program, and does not receive any call backs during the entire seven (7) consecutive day call back period, the City shall pay \$25.00 to the designated primary call back responder for each full week of the call back period.

16. Compensatory Time Off

The City may pay compensatory time off (CTO) in lieu of cash for overtime, standby, or callback time worked. Employees shall have the choice of the manner of compensation so long as the employee's accumulated CTO bank does not exceed 40 hours. An employee may earn up to 80 hours CTO in a calendar year, as long as the employee continuously draws down the CTO bank to 40 hours or less. If at any time the employees' CTO bank exceeds 40 hours, the employee will be compensated in cash to the extent that funds are available. In the absence of such funds, the City retains the right to compensate the employee with CTO up to 120 hours per calendar year. However, on December 31 of each calendar year, the City will pay the employee in cash for these hours in the CTO bank exceeding 40.

CTO may be used for time-off when the employee provides at least 10 working days notice to the Department Head or designee. The Department Head or designee has the discretion to waive the 10-day notice. The employee agrees to consult with the Department Head or designee to make sure that staffing needs will be met. In cases of conflict in scheduling use of CTO, classification seniority shall be used as a tiebreaker.

17. Supervisory Assignment

Any bargaining unit employee who as a regular part of his duties, is assigned by the Department Head or his designee to directly supervise the work of another employee, and whose salary range is not at least five percent (5%) higher than the subordinate employee's base salary range, exclusive of premiums, shall receive an adjustment in salary which will result in a five percent (5%) differential over the subordinate employee's range.

18. Temporary Assignments

- A. The list of employees qualified to perform welding assignments shall be updated in September of each year. Employees who qualify for the list for welding assignments shall receive assignment pay of \$.50 per hour over their base rate for such assignments. Employees who are not yet on the list shall have the opportunity to qualify each September. Once qualified for the list employees shall remain on the list so long as their performance of such duties is satisfactory. If performance is less than satisfactory employees shall be required to qualify for the list again.
- B. Employees assigned by supervisors to work in a higher classification will receive a 5% differential or the A step of the temporary assignment class, whichever is greater for each full work day.

19. Shift Differential

The differential shall be Six Dollars (\$6.00) per shift if at least half the shift falls between 6:00 p.m. and 6:00 a.m. Other shifts commencing prior to 6:00 a.m. or being completed after 6:00 p.m. shall be compensated at Four Dollars (\$4.00) per shift.

20. Seniority

- A. Shift Vacancy
In the event of a vacancy in a work unit subject to shift differential, and when the Department determines that the vacancy will be filled by transfer of an employee within the unit from one shift to another, the appointment will be made on the basis of classification seniority within the unit, except in situations where the City determines that skill level needs dictate otherwise

B. Work Schedules

Work schedule assignment will be based on classification seniority within that unit except when the City determines that skill level demands dictate otherwise.

21. Holidays

A. The holidays listed below will be recognized as eight (8) hour holidays during the term of this Agreement:

1. New Year's Day (January 1)
2. Martin Luther King Jr. Day (3rd Monday in January)
3. All Presidents Day (3rd Monday in February)
4. Memorial Day (last Monday in May)
5. Independence Day (July 4)
6. Labor Day (first Monday in September)
7. Veteran's Day (November 11)
8. Thanksgiving Day (as declared in November)
9. Friday after Thanksgiving Day
10. Christmas Day (December 25)
11. Employee's Birthday or a substitute day to be selected by mutual agreement of the employee and the employer.
12. The latter four hours of the last workday before Christmas Day or New Year's Day. In order to maintain operations, department heads shall have discretion over scheduling which day employees select, i.e., Christmas Day or New Year's Day.

B. If during the term of this agreement the City Council determines to add any additional Citywide paid holidays, the same shall be offered to this Affiliation on the same terms and conditions.

C. Whenever any such above described recognized holiday falls on a Saturday, the preceding Friday shall be considered a holiday. Whenever any such above-described recognized holiday falls on a Sunday, the following Monday shall be considered a holiday.

D. Whenever an employee is required to work on a recognized holiday, he shall be paid for the holiday and an additional payment at time and one-half of the straight time rates (i.e. 2-1/2 times the usual straight time rate), except for employees who receive a Holiday Time Bank.

E. Employees may request and may receive Good Friday off provided they have either adequate CTO or accrued vacation time or are granted leave without pay.

F. An employee shall be paid for each of the above holidays only when he or she is on a paid status the workday immediately prior to and the workday immediately after the holiday.

22. Holiday Time Bank

- A. Employees assigned to the Surface Water Treatment Plant whose regularly assigned shift exceeds eight (8) hours per day shall be provided with a Holiday Time Bank in lieu of Section 21. above.
- B. Employees shall receive 92 hours of paid compensation in lieu of holidays annually for twelve months of service. Holiday Time shall be credited in advance to all personnel on each subsequent July 1 during the term of this contract, and shall not be credited on a monthly basis.
- C. All unused holiday time balances up to 92 hours as of June 30 of each year shall be cashed-out at the straight time rate to the employee.
- D. If an employee terminates employment with the City prior to June 30, any pro-rata holiday time cashed-out or used in excess of 7.666 hours per month will be deducted from his / her final paycheck. If an employee terminates employment prior to June 30, all unused holiday time earned that does not exceed 7.666 hours per month on a pro-rata basis will be cashed-out to the employee.
- E. If during the term of this agreement the City Council determines to add any additional City-wide paid holidays, the same shall be offered to this Association on the same terms and conditions.

23. Vacation

- A. Employees in this unit shall earn vacation credit on the following basis:

<u>Years of Service</u>	<u>Accrual</u>
Date of hire through end of year 7	5 hours posted on each pay period to a maximum of 280 hours.
8 years through end of year 14	6 hours posted on each pay period to a maximum of 328 hours.
15 years through end of year 19	6.667 hours posted on each pay period to a maximum of 360 hours.
20 years or more	8.0 hours posted on each pay period to a maximum of 360 hours.

- B. The time at which the employee shall be granted a vacation is at the discretion of the Public Utilities/General Services Director. Employee seniority (defined as length of employment with the City as a probationary and/or regular employee) shall govern selection of vacation time unless the needs of the City require a deviation from this procedure.

- C. Vacation leave may be used for time-off upon reasonable advance request and approval from the employee's supervisor. Such requests shall be honored unless there are operational or scheduling conflicts.
- D. All years of service, for the purpose of this article, shall mean all years of service to the City as a probationary or permanent employee provided that any break in service which resulted in a later reinstatement or rehiring to City employment did not exceed two years duration.

24. Sick Leave

- A. Employees will receive one (1) full day's sick leave or accident allowance for each full month of employment (based on date of hire) up to a total of twelve (12) day's allowance per calendar year.
- B. Such allowance is cumulative from year to year.
- C. Sickness or accident benefit payments' including Worker's Compensation and State Disability Insurance payments, for any work week shall not exceed an employee's normal straight time weekly earnings.
- D. Sick Leave benefits are payable only for employee's regularly scheduled workdays on which he/she is unable to work as a result of his/her illness or accident. Employees may use earned sick leave upon accrual for required medical, chiropractic, dental, vision and therapy appointments with the approval of the Department Head.
- E. The employee may be required to furnish a doctor's certificate or other proof of illness when absent three (3) consecutive days or if the Department Head believes a pattern of sick leave abuse is developing.
- F. After an employee accumulates at least twenty-five (25) days of sick leave allowance he/she shall be paid once each year, through November, based on the following formula:

<u>Sick Leave Days Used During Preceding Twelve (12) Month Period</u>	<u>Number of Cash Out Days Allowed</u>	<u>Percent of Payment</u>
5	7	25%
4	8	30%
3	9	35%
2	10	40%
1	11	45%
0	12	50%

The remainder of the annual sick leave allowance shall continue to accumulate.

- G. In lieu of cash payment, an employee may elect to convert the allowable annual cash out time, as determined by the above schedule, to CTO which must be used within the 12-month period December 1 through November 30 immediately after the conversion or, if not used during this period, shall be forfeited.
- H. Employees who retire from the City on the regular PERS service retirement benefit may elect to receive a lump sum cash-out of 25% of their accrued sick leave balance as calculated at the time of retirement. This benefit is not applicable to employees who leave City service under any other conditions, including employees who retire under PERS disability retirements. Appropriate federal/state tax withholding will be made at the time of cash-out.

25. Bereavement Leave

An employee shall be entitled to five (5) excused workdays with pay in any calendar year to attend the funeral of any member of the employee's immediate family. For the purpose of this Article, the term "immediate family" shall include the husband, wife, father, mother, brother, sister, child, mother-in-law, father-in-law, and grandparents of such employees. Also, at the sole discretion of the City, this definition may be amended, on an individual basis to include any other relative.

26. Compassionate Leave

An employee shall be entitled to five (5) excused workdays with pay in any calendar year for the purpose of providing personal care, attendance and compassion to a member of the employee's immediate family who is suffering from a serious illness. In any case, the necessity for the employee's presence may, in the discretion of the City Manager and/or his/her designee, be required to be verified by a doctor's certificate.

For the purpose of this Article, the term "immediate family" shall include the husband, wife, father, mother, brother, sister, child, mother-in-law, father-in-law, and grandparents of such employees. Also, at the sole discretion of the City, this definition may be amended, on an individual basis to include any other relative.

27. Military Leave

- A. Military leave shall be granted in accordance with the provisions of federal and state law. All employees entitled to military leave shall give the City Manager and/or his authorized agent an opportunity, within the limits of military regulations, to determine when such leave shall be taken.
- B. Employees shall be on unpaid leave for any period of active duty over thirty (30) calendar days in one fiscal year pursuant to state law.

28. Leave of Absence without Pay

- A. The City Manager may grant a permanent or probationary employee a leave of absence without pay or seniority for not to exceed three (3) months. No such leave shall be granted except upon written request of the employee, setting forth the reason for the request, and the approval will be in writing. Upon expiration of the regularly approved leave, or within a reasonable period of time after notice to return to duty, the employee may be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at its expiration or within a reasonable time after notice to return to duty shall be cause for discharge in the discretion of the City Manager.
- B. The Public Utilities/General Services Director may grant a permanent or probationary employee a leave of absence without pay for a period not to exceed one (1) calendar week. Such leave shall be reported to the City's Personnel/Risk Manager.
- C. The City and Affiliation agree that a permanent or probationary employee who has previously been granted by the City Manager, a leave of absence without pay or seniority for a period of time not to exceed three (3) months, may re-apply to the City Manager for another consecutive leave of absence as provided and described above.
- D. Upon appropriate notice, the City shall attempt to accommodate a request for leave without pay by the Affiliation President, or by another affiliation Representative, for the purpose of attending meetings conferences, workshops, or similar functions, relating to their Affiliation duties.

29. Uniforms and Protective Clothing

- A. Within thirty (30) days after date of appointment, new employees shall be provided with five (5) new uniforms.
- B. Whenever an employee provides reasonable evidence of the need for a replacement uniform due to wear, the City shall provide said employee with up to five (5) replacement uniforms annually.
- C. Uniforms will be issued no later than 90 days after the approval date of this agreement for the first year and no later than October 31 every year thereafter provided that uniforms meeting specifications are available. If uniforms are unavailable for issue on this date, the City will either provide alternate clothing or will temporarily suspend the requirement to wear the City uniform.
- D. Pants shall be of comparable quality to Wrangler Jeans.

- E. Employees shall be required to wear a full uniform during all working hours and present a neat and clean appearance.
- F. Protective Clothing or Devices. If any employee is required to wear protective clothing or devices as a condition of employment or to satisfy CAL OSHA requirements, they shall be provided by the City. Both parties will agree on a reasonable life expectancy for such articles, and agree that if they are lost or damaged through "negligence" on the part of the employee, during their life expectancy, they shall be replaced by the employee.
- G. Rain Gear shall be provided by the City to employees as needed. Rain gear that is worn out or damaged on the job will be replaced by the City. The employee to whom rain gear has been issued shall be responsible for replacement of any rain gear that is lost or damaged through negligence on the part of the employee.
- H. Prior to selecting uniforms, the City will survey all employees and provide the response information to the Affiliation to review and comment. The response will be due within two weeks of the time the information is provided to CPWEA.
- I. In January and July of each year, the City will provide a boot allowance of \$75.00 to all employees except those in the following sections: Fleet and Solid Waste. New employees will receive a prorated allowance based upon their start date.
- J. Employees receiving the boot allowance will be required to wear the appropriate boot as determined by the section supervisor or manager during the workday.

30. On-The-Job-Training

- A. Periodic training regarding the roles, responsibilities and procedures of unit employees in connection with Juvenile and Adult Offender programs shall be provided.
- B. Using a voluntary rotational system, based on seniority in permanent appointment with the City, qualified permanent employees in the Department will be offered access to City training programs regarding promotions, and may be offered training in positions that are temporarily vacant due to long-term or short-term absence of a regular employee in the same or a higher classification where operational necessity and staffing levels make it practical to do so.

31. Flexible Staffing

- 1) Flexible staffing is to be utilized in a job series in which both entry level and experienced level classes are assigned the same kinds of duties with the difference being the scope of duties performed, the level of skills required, and the amount of supervision received.

- 2) The following classifications shall be flexible staffed as follows:
 - a) Maintenance Worker to Senior Maintenance Worker or Senior Park Maintenance Worker except in Solid Waste;
 - b) Equipment Serviceworker to Equipment Mechanic Assistant; and
 - c) The Maintenance Worker classification in Solid Waste is not flexibly staffed. Maintenance Workers in Solid Waste may transfer to another section and flex subject to the availability of a vacant position and the transfer and flex provisions of this Agreement.
- 3) All employees within flexible staffed series shall promote from entry level to the experienced level class when the following has occurred:
 - a) The employee has successfully completed the one year probationary period in the entry level class and the employee has completed two (2) additional years in the City's Public Utilities/General Services Departments Up to two years of comparable experience, as determined by the City, in the area of assigned duties may be substituted for up to two years with the City Public Utilities/General Services Departments. Rotation to work in other divisions/sections will not be required as a part of this program. This statement does not, however, intend to diminish the City's right to transfer, assign, or otherwise direct the work of its employees.
 - b) The employee is able to satisfactorily perform a majority of designated duties at the experienced level class with limited supervision.
 - c) The employee has successfully passed a non-competitive examination to promote to the experienced level in the series.
 - d) The employees has reached at least D step of the entry level class in the flexibly staffed series.
 - e) The City shall not use this Article as a means to address budget shortfalls.
- 4) No eligible incumbent of a flexibly staffed position will be denied an opportunity to test for flexing to the experienced level upon successful completion of the designated three (3) years experience. Experience acquired in the Solid Waste Section of the City will be credited toward the requirements for flexible staffing.

- 5) Eligible employees holding permanent entry-level positions will have the opportunity to test for flexing to the experienced level within thirty days of the request.
- 6) If the employee fails the test, the employee may not retake the test until 120 days from the date of his last test.

32 Education

A. Tuition Reimbursement:

The City shall reimburse employees for the cost of tuition, books, and other materials required for job-related courses at a rate equivalent to that charged for comparable coursework at Fresno City College, or California State University, Fresno, but not more than actual costs. To be eligible for reimbursement, the course must be related to current job duties or a closely related field or must be part of a current active educational program leading to a promotional opportunity the City. All courses and reimbursement expenses must have the advance approval of both the Department Head and the City Manager.

Actual reimbursement shall be upon successful completion of the approved course with a grade of C or better. The maximum reimbursement shall be at a rate equal to the cost of equivalent courses at CSU, Fresno, or Fresno City College. The annual maximum shall be the equivalent to the cost of two (2) semesters at CSU, Fresno, at the full-time student rate as of the date of enrollment.

B. Education Incentive:

During the first year of this MOU Agreement, the Affiliation will provide to the City a listing of educational certifications to be considered for an education incentive payment. Each request will be reviewed on a case by case basis and consider the value of the certification based on the employees current classification.

33. Employee Safety

Upon written request by City or Affiliation, up to four (4) meetings per contract year will be scheduled by City for the purpose of City and Affiliation representatives (not to exceed five (5) each) exchanging views regarding safety rules, regulations, practices, procedures and training, as well as review of employee accidents as to whether they were preventable or not. The City will schedule, as appropriate, safety seminars for employees in this unit. The City welcomes and encourages the Affiliation's suggestions for seminar topics.

34. Jury Duty

Employees are encouraged to serve on jury duty. If kept from working by jury duty, they will still be paid by the City on the basis of a forty (40) hour week, at their normal rate of pay, for a maximum of six (6) weeks (i.e., thirty (30) work days) per calendar year, regardless of shift, on

condition that any compensation (in excess of mileage expenses) received from court be turned over to the City.

35. Appeals and Grievance Procedure

A. Appeals

The City and the Affiliation agree that all parties shall utilize the existing appeals mechanism provided for within the City of Clovis' Ordinance No. 256 and Resolution No. 866, Rule XVII, for all matters as defined therein, unless and until this Ordinance and/or Resolution is appropriately modified at the initiation of the City.

B. Policy Statement Regarding Grievances

The bargaining unit employees herein are encouraged to solve difficulties and problems within their department. In the event that a difficulty or grievance cannot be settled within the department, the employee is encouraged to bring the matter to the attention of the City Manager.

C. Purpose of Grievance Procedure

The purpose of this grievance procedure is to secure, at the lowest possible administrative or supervisory level, proper and equitable solutions to grievances, and to guarantee orderly succession of procedures within which solutions may be pursued. It shall be incumbent upon all City employees to follow these procedures to settle their grievances

D. Definition of Terms

As used in this Section, the following words shall have the designated meanings:

1. Grievance: A grievance is a good faith complaint of one or a group of employees or a dispute involving the interpretation, application, or enforcement of the express terms of this Memorandum of Understanding and all other terms and working conditions of employment.
2. Conferee: A conferee is an individual who, at the request of the employee, or group of employees, is invited to participate in a grievance conference.
3. Aggrieved Party: Aggrieved Party is the employee or group of employees of City making the claim.
4. Days: The term "days" shall, except when otherwise indicated, mean calendar days when the City offices are open.

E. Implementation Procedures

1. Any appeal of a disciplinary matter (except for probationary employees and suspensions of five (5) days or less) may be brought before the Personnel Commission according to the manner and procedure specified in City Ordinance No. 256 and Resolution No. 866, Rule XVII.
2. Any grievance of a matter concerning the interpretation and application of rules and provisions of this Memorandum of Understanding shall proceed according to the below described manner and procedure:
 - (a) Oral Discussion with Immediate Supervisor: An aggrieved party shall orally present his grievance to his immediate supervisor. The aggrieved party and the immediate supervisor should make every effort to resolve the difficulty in this manner.
 - (b) Level One- Personal Conference Upon Written Claim With Immediate Supervisor: An aggrieved party may, after discussing it orally, submit his claim in writing to his supervisor. The aggrieved party and the immediate supervisor should make every effort to resolve the difficulty in this manner. The conciliatory efforts of conferees may be utilized at this state as a substitute for or in conjunction with the aggrieved party. The aggrieved party's written claim should state his position clearly, and the background and reasons and the following items must be included:
 - 1) A statement of the steps initiated by the aggrieved party to resolve the problem by informal means.
 - 2) A description of the general and specific grounds for the grievance.
 - 3) A listing of the specific actions and events alleged to be in violation (including witnesses).
 - 4) A statement of the reasons why the specific actions identified above are in violation of these Articles.
 - 5) A listing of the specific actions which the aggrieved employee believes would best remedy his grievances. Upon receiving the written claim, the immediate supervisor shall schedule a personal conference with the aggrieved party to resolve the grievance. The written claim must be submitted to the immediate supervisor within fifteen (15) days of the date the employee knew or should have known of the event being grieved. If the aggrieved party is not

satisfied with the results of this personal conference with his immediate supervisor, which must be announced within six (6) days, he must then file a written complaint with his department head within eight (8) days of the meeting with his immediate supervisor.

- (c) Level Two - Personal Conference With Department Head: An aggrieved party may appeal the Level One decision to his department head by filing a written complaint. Said complaint shall contain the same information as described above for the level One claim. It shall not be necessary to rewrite the above information. Upon receipt of the written complaint, the department head shall schedule a personal conference with the aggrieved. At this conference, the attending aggrieved party and department head should make every effort to resolve the matter. If the aggrieved party is not satisfied with the results of this personal conference with his department head which results must be announced within six (6) days of the conference, he must file a written appeal within eight (8) days of the meeting with his department head, as provided in level Three.
- (d) Level Three - City Manager/Board of Review: The aggrieved party may appeal the decision within eight (8) days after the personal conference provided at Level Two by filing a request for hearing and final decision before the City Manager or by the Board of Review. Requests for hearing and final decision before the City Manager or the Board of Review shall be made with the Personnel/Risk Manager as hereinafter described.
- 1) The request shall be in writing and shall include the same information as described in the previous claim in level One.
 - 2) Upon receipt of the request, the Personnel/Risk Manager shall direct the Board of Review or City Manager to conduct an investigation and review.
 - 3) The Board of Review or City Manager shall have available all documents relating to the complaint and any City records that would be helpful in resolving the problem.
 - 4) No later than 14 days prior to the date of the scheduled hearing, the aggrieved party and the City will meet and attempt to agree upon a statement of issues) and the exhibits to be submitted to the Board of Review or City Manager for hearing and final decision. In the event that agreement on a statement of issues and exhibits is not

reached, the parties will exchange their respective statement(s) of issues and exhibits at the end of said meeting.

The agreed on separate statement(s) of issue(s) and exhibits shall be promptly delivered to the Personnel/Risk Manager.

- 1) Any party to a grievance may at any point in the process outlined have a conferee.
- 2) Any employee may serve as a conferee without fear of prejudice or reprisal of any kind being taken against such employee.
- 3) Grievance adjustment should be more concerned with "what is right" and less concerned with "who is right". Effective adjustment of grievances requires that all parties involved conduct themselves with decorum and restraint, and that commonly accepted principles of ethical conduct be observed at all times.
- 4) All proceedings, at any level shall be kept private and confidential, and any disposition of the case will not be made public without the prior joint and mutual agreement of the aggrieved party and the City Manager or Board of Review. An aggrieved party who makes any proceeding or disposition public without said prior joint and mutual agreement shall be held to have thereby waived his grievance. This shall not apply when the aggrieved party requests an opportunity to address the council decisions that have City-wide implications shall be communicated to all certified personnel in an objective and impersonal manner.
- 5) The City shall keep a written record of all proceedings beginning with Level One. The parties involved shall initial and date the records at each Level, indicating their knowledge of the contents, before the grievance shall proceed to the next level. Such signing shall not necessarily indicate agreement to the factual content.
- 6) Any costs of operating the grievance procedure shall be borne jointly by the city and the grievant.
- 7) By mutual written agreement, the time limit at any Level may be extended.
- 8) The conferee shall conduct his or her applicable duties, whenever possible, during "non-working hours. The conferee shall only be allowed to conduct said duties during working hours if (1) there is no interference with any other employee's job performance; and (2)

the conferee received no overtime compensation by the City for time so spent.

Oral Discussion with Immediate Supervisor: An aggrieved party shall orally present his grievance to his immediate supervisor. The aggrieved party and the immediate supervisor should make every effort to resolve the difficulty in this manner.

(a) Level One - Personal Conference upon Written Claim with Immediate Supervisor: An aggrieved party may, after discussing it orally, submit his claim in writing to his supervisor. The aggrieved party and the immediate supervisor should make every effort to resolve the difficulty in this manner.

The conciliatory efforts of conferees may be utilized at this state as a substitute for or in conjunction with the aggrieved party. The aggrieved party's written claim should state his position clearly, and the background and reasons and the following items must be included:

- 1) A statement of the steps initiated by the aggrieved party to resolve the problem by informal means.
- 2) A description of the general and specific grounds for the grievance.
- 3) A listing of the specific actions and events alleged to be in violation (including witnesses).
- 4) A statement of the reasons why the specific actions identified above are in violation of these Articles.
- 5) A listing of the specific actions which the aggrieved employee believes would best remedy his grievances. Upon receiving the written claim, the immediate supervisor shall schedule a personal conference with the aggrieved party to resolve the grievance. The written claim must be submitted to the immediate supervisor within fifteen (15) days of the date the employee knew or should have known of the event being grieved. If the aggrieved party is not satisfied with the results of this personal conference with his immediate supervisor, which must be announced within six (6) days, he must then file a written complaint with his department head within eight (8) days of the meeting with his immediate supervisor.

(b) Level Two-Personal Conference with Department Head: An aggrieved party may appeal the Level One decision to his department head by filing a written complaint. Said complaint shall contain the same information as

described above for the Level One claim. It shall not be necessary to rewrite the above information. Upon receipt of the written complaint, the department head shall schedule a personal conference with the aggrieved. At this conference, the attending aggrieved party and department head should make every effort to resolve the matter. If the aggrieved party is not satisfied with the results of this personal conference with his department head, which results must be announced within six (6) days of the conference, he must file a written appeal within eight (8) days of the meeting with his department head, as provided in Level Three.

- (c) Level Three—Advisory Board of Review: The aggrieved party may appeal the decision within eight (8) days after the personal conference provided at Level Two by filling a request for hearing and final decision before the City Manager or for hearing and advisory decision by the Board of Review shall be made with the Personnel/Risk Manager as hereinafter described.
- 1) The request shall be in writing and shall include the same information as described in the previous claim in Level One.
 - 2) Upon receipt of the request, the Personnel/Risk Manager shall direct the Board of Renew to conduct an investigation and review.
 - 3) The Board of Review shall have available to it all documents relating to the complaint and any City records that would be helpful in resolving the problem.
 - 4) After studying the documentary evidence, the Board of Review shall conduct such hearings, as it deems necessary. At least two days' notice of any scheduled hearing should be given.
 - 5) Within a reasonable time after the conclusion of the hearing, the Board of Review shall submit the Board's written advisory decision to both the City Manager and the aggrieved party.
 - 6) The Board of Review shall be made up of three members, selected by the Grievant, from among those individuals currently serving on the City's Personnel Commission.

If the request is made for hearing and final decision before the City Manager, the process will continue on to Level Four.

- (d) Level Four—City Manager's Decision: After receipt of the advisory findings of fact and advisory decision from the Level Three Board of review, or receipt of the request for hearing and final decision, the City Manager shall investigate as appropriate and confer with the parties

involved. The aggrieved party, at his discretion, may bring in his conferee. The City Manager shall thereafter communicate his final and conclusive decision in writing together with supporting reasons, to the grievant, within eight (8) days of concluding his investigation of the matter.

(e) General Provisions - To facilitate this procedure, the following provisions shall apply:

- 1) Any party to a grievance may at any point in the process outlined have a conferee.
- 2) Any employee may serve as a conferee without fear of prejudice or reprisal of any kind being taken against such employee.
- 3) Grievance adjustment should be more concerned with "what is right" and less concerned with "who is right". Effective adjustment of grievances requires that all parties involved conduct themselves with decorum and restraint, and that commonly accepted principles of ethical conduct be observed at all times.
- 4) All proceedings, at any level, shall be kept private and confidential, and any disposition of the case will not be made public without the prior joint and mutual agreement of the aggrieved party and the City Manager. An aggrieved party who makes any proceeding or disposition public without said prior joint and mutual agreement shall be held to have thereby waived his grievance. This shall not apply when the aggrieved party requests an opportunity to address the Council. Decisions that have citywide implications shall be communicated to all certified personnel in an objective and impersonal manner.
- 5) The City shall keep a written record of all proceedings beginning with Level One. The parties involved shall initial and date the records at each Level, indicating their knowledge of the contents, before the grievance shall proceed to the next Level. Such signing shall not necessarily indicate agreement to the factual content.
- 6) Any costs of operating the grievance procedure shall be borne jointly by the City and the grievant.
- 7) By mutual written agreement, the time limit at any Level may be extended.
- 8) The conferee shall conduct his or her applicable duties, whenever possible, during "non-working" hours. The conferee shall only be

allowed to conduct said duties during working hours if (1) there is no interference with any other employee's job performance; and (2) the conferee received no overtime compensation by the City for time so spent.

36. Labor-Management Committee

- A. Purpose: The purpose of the Labor – Management Committee is to provide a forum for representatives of the City and CPWEA to discuss issues of concern to either party dealing with application of provisions of this MOU, workplace safety and efficient work practices.
- B. Structure: The Labor – Management Committee shall be comprised of a reasonable number of representatives of the City and CPWEA . The Committee shall meet at least quarterly . The Committee shall establish meeting times and locations . The Public Utilities Director shall develop an agenda of issues to be discussed prior to each meeting. The CPWEA President may add appropriate issues to the agenda by submitting the issues to the Public Utilities Director with reasonable advanced notice.

37. Physical Examinations

- A. In the event the Department Head has reason to believe that an employee is not physically capable of performing the full duties of his/her position, and/or his condition represents a danger to himself, other employees or the public, the Department Head may immediately place the employee on leave with pay and refer the employee to a physician, pending the physicians determination of injury or illness and capability to return to work. Once the determination has been made the employee will be placed on sick leave or other available leave or returned to full duty. If the employee has no available leave time, he/she will be placed on leave of absence in accordance with the Leave of Absence Section of this MOU.
- B. If the employee so requests, the Department Head shall prior to implementing his/her decision, present the reasons for taking such action to the employee and, if the employee desires, a representative of the employee's choice.

38. Maintenance of Operation

- A. The Affiliation will make every effort toward inducing all employees in this Unit fully and faithfully to perform their duties and agrees that for the term of this MOU neither the Affiliation nor any person acting in its behalf, will cause, authorize, engage in, sanction, nor will any of the members of the bargaining unit take part in a strike against the City, a work stoppage, slow-down, picketing or the concerted failure to report to duty, or unauthorized absence or abstinence from the full and faithful performance of their duties of employment, including the compliance with the request of other labor organizations or bargaining units to

engage in such activities, provided that, should a job action be taken against an organization other than the City of Clovis, an employee shall not be required to cross that picket line if he or she feels his or her personal safety or the safety of City equipment is in danger.

- B. Provided that the City Council determines to its satisfaction, that subsection A of this section has been violated by the Affiliation, the City may take such remedial action as it deems appropriate.
- C. Nothing herein shall otherwise preclude the Affiliation or an individual from lawfully engaging in Constitutionally guaranteed freedom of expression.

39. Past Practices

Nothing contained in this MOU shall be interpreted as to imply or permit any employee rights or privileges other than those expressly stated herein.

The City and the Affiliation agree that only those past practices, standards, obligations and/or other commitments of the City to its employees which are expressly stated herein shall be in full force and effect during the term of this MOU.

All other past practices, standards, obligations or commitments, whether written or unwritten are within the scope of Article 1 of this MOU.

Notwithstanding the foregoing, during the term of this agreement when Affiliation contends that City should comply with a past practice, the Affiliation shall attempt to resolve the issue with City informally; and if not then resolved, by using the grievance procedure.

40. Sole Agreement

The policies collected in this MOU constitute the entirety of the policies which are subject to the meet and confer obligation as agreed to by the parties. To the extent that any other agreement should be in conflict with these policies' these policies shall prevail.

If, during its term, the parties hereto should mutually agree to modify, amend, or alter the provisions of this MOU in any respect any such change shall be effective only if and when reduced to writing and executed by the authorized representatives of the City and the Affiliation. Any such changes validly made shall become a part of this MOU and subject to its terms.

The waiver of any breach or condition of this MOU by either party shall not constitute a precedent in the future enforcement of all terms and conditions herein.

In the event, that any of the policies contained in this MOU should be declared by a court of competent jurisdiction to be unenforceable or illegal' that policy or set of policies shall be declared void. However, this action shall in no way invalidate the remaining policies contained in this MOU.

41. Layoff Policy

Purpose-It is recognized by the Affiliation that, when, due to fiscal, operational or organizational reasons, it is necessary to reduce City employment, such action and its implementation, except as qualified herein, shall be at the sole discretion of the City. When it is deemed necessary to reduce City employment by layoff of employees' the layoff procedure shall protect the right of the City to retain the most qualified employees, while also recognizing the relative seniority of affected employees. The following layoff policy is adopted to accomplish this purpose.

A. Section 1:

The City shall have the sole right to determine which class (es) shall be subject to layoff.

B. Section 2:

The order of layoff of employees within a class or classes subject to layoff, shall be:

1. Provisional or temporary employees.
2. Part-time employees.
3. Probationary employees.
4. Permanent employees.

Within each of the first three- (3) categories, the order of layoff shall be at the discretion of the appointing authority. Order of layoff of permanent employees shall be according to seniority with the employees) having lowest seniority to be laid off first. Among employees with equal seniority, the order of layoff shall be determined by the appointing authority.

C. Section 3 - Seniority Determination

1. Each employee's seniority shall be accrued and shall be determined by continuous time of service in the classification the employee is working at the time a layoff is being imposed.
2. Employees subject to layoff may first displace employee of lower seniority in the same or any comparable classification, as determined by the City Manager. As a second alternative to layoff, employees subject to layoff may take voluntary demotion to any lower classification within the same division of this unit in which the employee had prior permanent status, provided a vacancy exists, or the demotee has higher seniority than an employee working in that classification, -or- as a third alternative, an employee subject to layoff may take a voluntary demotion to a vacant position in a lower classification provided the employees can, through a non-competitive examination, establish proof to the satisfaction of the appointing authority that he is capable of performing the job.
3. In the event, the demotee in all the above alternatives has equal seniority with the least senior employee working in the lower classification; the

employee to be laid off shall be determined by total seniority within the unit. If such unit seniority is also equal, the employee to be laid off shall be determined by the appointing authority.

D. Section 4 - Notice

Employees subject to layoff shall be given not less than fifteen- (15) days written notice (or pay equivalent), by mail or in person with concurrent notice to the Affiliation. Seniority lists shall be made available to employees and Affiliation upon request; and City shall meet and discuss the layoff and alternatives upon Affiliation's request, but such meeting shall not stop the layoff unless City otherwise agrees.

E. Section 5 - Re-Employment

Employees laid off or demoted in lieu of layoff shall have a priority right of return to their prior class or to any lower class in the same or comparable classification series. This right shall remain effective for two (2) years from the date of demotion or separation from the service.

F. Section 6 - Seniority Rights After Resignation and Rehire

Seniority for reinstated employees who have voluntarily resigned and then rehired in accordance with Resolution 866, shall have their layoff seniority computed from the date of reinstatement with no seniority credit given for prior years' service.

42. Transfer/Promotion to Permanently Vacant Positions

Transfers:

Transfer is defined as internal movement of a particular class of employee from one work section to the same or similar classification (with the same salary range) in another work section. Transfer opportunities will be posted, as vacancies occur for no less than three (3) workdays. Such vacancies may be filled from the qualified employees who respond to the posting in a timely fashion. If there is no response or if the respondents do not meet the needs of the Department, the City reserves the right to transfer or otherwise fill the vacancy consistent with the City rights defined in Section 1 of this MOU.

Promotions:

A. Vacancies shall be filled by promotion from within after a promotional examination has been given and a promotional list of no less than 3 qualified applicants is established.

B. Employees who participate in the promotional process and who are not selected for promotion may consult with their supervisor regarding the reasons why they were not selected, and discuss how they may prepare for future promotional opportunities.

43. Operational Necessity

In case of an emergency, the seniority provisions of this agreement shall not preclude the City from using qualifications as a criteria to override the seniority provisions hereof.

44. Term of Memorandum of Understanding

This MOU shall remain in effect for the period of July 1, 2010 through and including June 30, 2011, unless a specific provision provides for a different commencement and/or termination date. The provisions of this MOU shall not, however, take effect until ratified by both the City Council of the City of Clovis and the general membership of the bargaining unit.

The provisions of this MOU shall not be altered, amended, or added to except by the mutual written agreement of the City and the Affiliation. Either party may request the other to consider changes in provisions of the MOU; such request shall be in writing. Neither party is, however, obligated to agree to re-initiate the meet and confer process.

45. Severability

In the event any article, section, or portion of this Memorandum of Understanding should be held invalid and unenforceable in any court of final jurisdiction, such decision shall apply only to the specific article, section, or portion thereof specified in the court's decision, and upon issuance of such a decision, the City and the Affiliation agree to immediately meet and confer upon a substitute for the invalidated article, section, or portion thereof.

The Affiliation membership has ratified the contents of this MOU by their affirmative vote on June 29, 2010.

The City Council has adopted the contents of this MOU on July 7, 2010.


For the CITY:



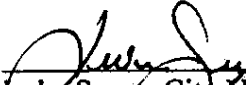
Kathy Millison, City Manager



Robert K. Ford, City Negotiator



Jeff Carden, City Negotiator



Luke Serpa, City Negotiator



Rob Rush, City Negotiator




Lori Shively, City Negotiator



Stephen Mendyk, Legal Representative

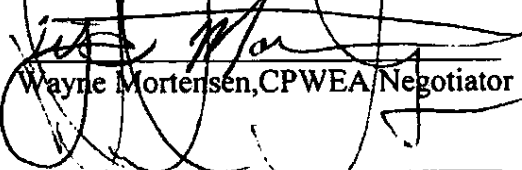
For the AFFILIATION



Dave Edwards, CPWEA President



Jerry Pickle, CPWEA Negotiator



Wayne Mortensen, CPWEA Negotiator



Doug Gorman, CPWEA Representative

**Sideletter Agreement to the 2010-2011 Memorandum of Understanding
Between the City of Clovis and the CPWEA**

This will confirm specific understandings reached between the City of Clovis through its representatives and the CPWEA Bargaining Unit concerning the following issue.


- 1) **Furloughs:** Bargaining unit employees will have their pay reduced a total 58.25 hours during FY 2010-2011. Employees will need to schedule the 58.25 hours of furlough time off during the fiscal year with their supervisor(s). Furlough time is not subject to carry-over and has no cash value.

For the CITY:

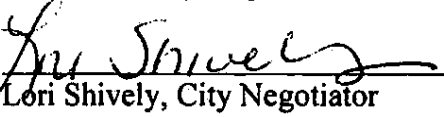

Kathy Millison, City Manager

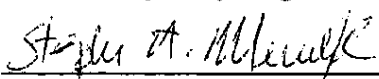

Robert K. Ford, City Negotiator


Jeff Cardell, City Negotiator


Luke Serpa, City Negotiator


Rob Rush, City Negotiator



Lori Shively, City Negotiator


Stephen Mendyk, Legal Representative

For the AFFILIATION


Dave Edwards, CPWEA President


Jerry Fickler, CPWEA Negotiator


Wayne Mortensen, CPWEA Negotiator


Doug Gorman, CPWEA Representative