



Memorandum of Understanding between
The City of Lathrop and
SEIU 1021

Effective: July 1, 2010 through June 30, 2012

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MEMORANDUM OF UNDERSTANDING

GENERAL SERVICES BARGAINING UNIT

PREAMBLE

This Memorandum of Understanding (hereinafter "Memorandum" or "MOU"), is made by and between the City of Lathrop (hereinafter "City") and the Service Employees International Union, Inc., Local 1021 (hereinafter "SEIU" or "Union"), representing regular employees who are incumbents in regular full-time or part-time (when scheduled to work 20 hours or more per week) positions as defined in this MOU that are in job classifications comprising the General Services Bargaining Unit (refer to Appendix "A"). This Memorandum of Understanding constitutes the result of meeting and conferring in good faith pursuant to the California Government Code Section 3500 et.seq. and the City of Lathrop Employer-Employee Relations Resolution (hereinafter EERR) establishing the wages, hours and other terms and conditions of employment for employees represented by the Union.

DURATION

The term of this agreement shall be from July 1, 2010 to June 30, 2012.

PERSONNEL RULES

A. Personnel Rules: All references to Personnel Rules are specifically and only to the City of Lathrop Personnel Rules and Regulations adopted by Council Resolution No. 10-2947 on January 25, 2010.

PROVISIONS

The City and SEIU agree to the following provisions:

1. EMPLOYER-EMPLOYEE RIGHTS AND RESPONSIBILITIES

1.1 Management Rights

It is understood and agreed that the City retains all of its powers and authority to manage municipal services and the work force performing those services. It is agreed that during the term hereof, the City shall not be required to meet and confer on matters that are solely a function of management, including but not limited to:

- 1.1.1 Determine and modify the organization of City government and its constituent work units.
- 1.1.2 Determine the nature, standards, levels and mode of delivery services to be offered to the public.
- 1.1.3 Determine the methods, means and the numbers and kinds of personnel by which services are to be provided.

- 1.1.4 Determine whether goods or services shall be made or provided by the City, or shall be purchased, or contracted for.
- 1.1.5 Direct employees, including scheduling and assigning work, overtime and work hours. For the purposes of this right, work hours shall not include any change in regularly scheduled work hour that extends for more than one full pay period not shall it include any revision to the 9/80 plan.
- 1.1.6 Establish employee performance standards and to require compliance therewith.
- 1.1.7 Relieve employees from duty because of lack of work, or lack of funds or for other legitimate reasons.
- 1.1.8 Implement rules, regulations and directives consistent with law and the specific provisions of this MOU.
- 1.1.9 Take all necessary actions to protect the public and carry out its mission in emergencies.

Decisions under this section shall not be subject to the grievance procedure provided in Section 14 below.

1.2 Employee's Rights-Employer-Employee Relations

SEIU and the City recognize that each employee shall have the following rights that (s)he may exercise in accordance with this Memorandum, the Employer-Employee Relations Resolution, applicable law, ordinances and rules and regulations:

- 1.2.1 The right to form, join, and participate in the activities of any labor organization of his/her own choosing for the purpose of representation of all matters within the scope of representation.
- 1.2.2 The right to be free from interference, intimidation, restraint, coercion, discrimination, or reprisal on the part of the City, other employees or employee organizations, with respect to his/her membership or non-membership in any employee organization or with respect to any lawful activity.
- 1.2.3 The right to refuse to join or participate in the activities of any employee organization.

1.3 Agency Shop/Fair Share

All employees covered by This Agreement, within 30 days of employment, shall:

- a. Execute a payroll deduction authorization form as furnished by the Union and thereby become and remain a member in good standing in the Union, or

- b. Execute a payroll deduction authorization form as furnished by the Union and thereby pay Union a fee equal to the regular initiation fee and thereafter a monthly service fee equal to the regular monthly Union dues, or
- c. Certify that he/she is a member of a bona fide religious body or sect, which as historically held conscientious objections to joining or financially supporting public employee organizations, and execute a payroll deduction authorization form as furnished by the Union and thereby pay sums equal to Union dues, initiation fees or service fees to United Way.

In the event of the employee's separation from regular City service or in the event the employee is appointed to a permanent position in a classification not covered by this Understanding, revocation may take place at the time of such status change.

The City agrees to deduct from the employee's pay, initiation fees and Union dues, or service fees in lieu of Union dues, and provide for payroll deductions to comply with this section.

This section is subject to any existing or future federal or state laws relating thereto.

All employees covered by this Agreement as of the date of its execution shall, within 30 days of the final ratification of this agreement complete one of the three actions listed above. For employees covered by this Agreement who are employed by the City at the time of execution of this agreement, these employees also have the option of using a one-time-only opportunity to choose not to belong to the Union. If, within 30 days of the execution of this agreement, said employee submits written notice of intent not to join the Union or choose one of the other options listed above, that employee shall not be required to comply with the provisions of this section. At such time as that employee leaves City employment, any future employees shall be required to take one of the three actions listed above. If at any time an employee, who has chosen not to belong to the Union, desires to use the services of the Union, they shall be required to join the Union and maintain their membership from then on.

1.4 Discrimination of Employment Prohibited

The City of Lathrop prohibits discrimination in employment as outlined in Chapter 1, Section 6 of the Personnel Rules and Regulations.

1.5 SEUI Rights

SEIU shall have the following rights:

- 1.5.1 REPRESENTATION: To meet and confer in good faith with the City Manager regarding matters within the scope of representation.

- 1.5.2 **ADVANCE NOTICE:** Except in cases of emergency, SEIU shall be given five (5) days advance written notice of any ordinance, resolution, rule or regulation, proposal or other action directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet and confer in good faith with management prior to its adoption. Written notice will customarily be provided by furnishing SEIU with advance copies of the agenda of the City Council.

In cases of emergency when City management determines that an ordinance, resolution, rule or regulation must be adopted immediately without prior notice or negotiations with the Union, City management shall provide such notice and opportunity to negotiate at the earliest practicable time following the adoption of such ordinance, rule or regulation, proposal or other action.

- 1.5.3 **REPRESENTATIVE-MEETING ATTENDANCE:** SEIU may have two (2) employees who serve as official representatives released from work without loss of compensation when meeting and conferring with management representatives where matters within the scope of representation are being considered. SEIU shall submit a request for such release and shall include therewith a listing of such employees including their titles and departments to the management representative and departments concerned in advance of the meeting. The use of City time for this purpose shall not be excessive (no more than 3 hours per week), nor shall it unreasonably interfere with the performance of City services as determined by the City.

1.5.4 **REPRESENTATIVES' ACCESS TO EMPLOYEES**

- a. Authorized representatives of SEIU (employed by SEIU) shall be allowed reasonable access to members of the unit at their work locations during the working hours of the employees. The authorized representative shall give advance notice to the department head when contacting the departmental employees during their duty period.
- b. Reasonable solicitation for membership or other internal Union business or campaigning shall be conducted only during the non-duty hours of all employees concerned, so long as normal work functions of City are not interfered with.

- 1.5.5 **SHOP STEWARDS:** Shop stewards (City employees) employed and recognized by City may assist employees in resolving complaints and grievances at the lowest possible administrative level of review. Stewards will be allowed a reasonable amount of City time, provided that the work of the employee and the service to the public are not unduly impaired, to investigate process and meet with management on a complaint or grievance. Such time shall not exceed four hours per case. Stewards may use City time

to meet with management only at the first or second level of review of the grievance procedure.

- a. **RELEASE TIME:** A request for release time for the purposes outlined above shall be made prior to taking the release time. Such a request shall not be unreasonable denied.
- b. **NUMBER OF STEWARDS:** The Union may have four (4) Stewards in this unit to represent employees at City work sites. However, the Union may only have two (2) Stewards when meeting with Management or when meeting in one worksite. The Union shall provide a current list of all designated Stewards to the City Manager or designee at the beginning of each calendar year and whenever there is a change in the list of Stewards. The list shall show the employee name, classification, department and work location and normal are to be covered. No Steward shall be recognized as such by the City without a written request from SEIU.

1.5.6 **SEIU-CITY FACILITIES USE:** City facilities shall be available to SEIU as follows:

1. **City Buildings:** SEIU may be granted the use of City buildings, but not City equipment, for meetings composed of City employees within the bargaining unit provided space can be made available without interfering with City needs. SEIU shall obtain the permission of the designated City official for the use of such facilities.
2. **Bulletin Boards:** SEIU shall be allowed reasonable use of City bulletin boards to provide information to members with prior approval of the City Manager or her/his designee under the following conditions:
 - (a) Material shall be posted on space as designated.
 - (b) Posted material shall bear the name of the Union.
 - (c) Posted material shall not be misleading, contain any deliberate misstatements and/or violate any Federal, State or County laws.
 - (d) Material shall be neatly displayed and shall be removed when no longer timely.

1.5.7 **EMPLOYEE PAYROLL DEDUCTIONS:** SEIU shall have the right to a payroll deduction for its members in this unit including regular dues,

initiation fees, fair share fees, assessments, employee benefit program costs, and any other contribution towards a Union program or fund as specified by the Union for all employees who have given written authorization.

- 1.5.8 Regular dues and employee benefit program costs may be deducted from the employee's individual paycheck. Except as otherwise provided in this Memorandum, payroll deductions shall be made only upon the revocable written authorization of the individual employee.

A continuation of SEIU payroll deductions, without resigning a payroll deduction card, shall be allowed after an employee returns from a leave of absence.

- 1.5.9 SEPARATION FROM UNIT: The provisions of this Agreement shall not apply during periods 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 out of the unit, layoff and leave of absence with duration of more than thirty (30) days. "Separation" does not include an employee assigned to work above class (see section 4.1.3 below).

- 1.5.10 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 this Agreement, no such deduction shall be made for that period.

- 1.5.11 HOLD HARMLESS: The authorization for payroll deductions described in this agreement shall specifically require the employee to agree 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 employee.

- 1.5.12 SEIU shall defend, indemnify and save the City harmless against any and all claims, demands, suits, orders, judgments or other forms of liability, including attorney's fees, which shall arise out of or by reason of, action taken or not taken by the City under this Agreement. This includes not only the City's reasonable attorney fees and costs but the reasonable cost of management preparation time as well. The City shall notify SEIU of such costs on a case-by-case basis.

- 1.5.13 PRIVATIZATION: In the event the City of Lathrop proposes to privatize any portion of the Union's represented bargaining unit, the parties agree to meet and confer on the impact of such action in accordance with the Meyers, Milias & Brown Act (MMBA) to allow the Union to offer alternatives to privatization.

Should the parties be unable to reach an amicable agreement, it is agreed that the parties shall utilize the services of State Mediation and Conciliation Services to help mediate an agreement.

The final recommendation of the mediator shall not be binding upon the parties but shall be weighted heavily by both parties and submitted to the Lathrop City Council for final disposition.

2. INSURANCE

2.1 Effective Date of Coverage

The effective date of coverage for new employee members in the health, dental, and vision insurance plans provided employees shall be in the month next following the date, of appointment to employment as a regular employee, who is eligible for the stated insurance coverage.

2.2 Health Insurance Options

The City shall provide an option for health insurance coverage for eligible employees and dependants. All health and health-related plan or benefit years shall coincide with the calendar year.

2.2.1 PREMIUM: City will increase the maximum amount that it will pay for all benefits (medical, dental, vision), from \$1,219 to \$1,300/month beginning January 1, 2011. Effective January 1, 2012, the City will increase the maximum amount that it will pay for all benefits (medical, dental and vision) to one half (1/2) of any premium increases during the term of this MOU, but not to exceed an annual increase of five and one half percent (5 ½ %).

2.3 Dental and Vision Insurance.

The City provides dental and vision insurance that is on a plan year of July 1 to June 30th. When an employee enrolls in either program, s/he is expected to remain enrolled during the term of this MOU, unless a permissible event, as described in the plan, allows the employee to withdraw or modify coverage.

2.4 Life Insurance.

Employees with more than 30 days of employment with the City shall receive a benefit value equal to one years annual salary of group term life insurance coverage.

2.5 State Disability Insurance

Employees shall purchase, at the employee's expense, State Disability Insurance (SDI). SDI provides weekly benefits in the event an employee is unable to work due to an illness or injury that is not job-related. Employees receiving benefits from SDI and who are supplementing those benefits with accrued leave time to receive a full paycheck shall receive the City's contribution to their health, dental, vision, and life insurance, if applicable.

2.6 Flexible Benefits

Employees shall have the option to participate in a flexible benefit program (as allowed and prescribed by Section 125 of the Internal Revenue Code and applicable IRC sections and regulations) that permits the payment of unreimbursed eligible dependent care costs and/or insurance premiums excess from section 2.2.1 with pre-tax dollars. This flexible benefit program may be expanded, provided that there is no cost to the City, to include other unreimbursed expenses permitted by the Internal Revenue Code and its related regulations. Any Internal Revenue Code amendments that affect these deductible medical expenses and/or City liability shall void that portion of the flexible benefit program.

City and Union shall jointly form a committee to investigate methods of providing a cafeteria plan to allow flexibility in choosing benefits. If such a plan is developed which will result in no cost to the City but which is supported by a majority of the employees, the City will consider implementing said plan.

2.7 Continuation of Insurance Benefits While on Leave of Absence

When an employee is on an authorized leave of absence without pay, the employee shall be allowed at the employee's own expense to remain under the health, dental, vision and life insurance coverage for up to twenty-six (26) bi-weekly pay periods provided that such employee shall pay the applicable premiums at least two (2) weeks prior to the premium due date. Specific arrangements for such coverage shall be made with the Finance Department.

Employees who must pay either all or a portion of their health, vision, dental and life benefits shall either arrange for the payment to be deducted from their paychecks or, if the amount of the paycheck is not sufficient, pay those benefits to the Human Resources Department twice per month at least two (2) weeks prior to the premium due date. Failure to pay for these benefits two (2) weeks prior to each premium due date shall result in cancellations of the insurance.

3. LEAVES FROM EMPLOYMENT

3.1 Vacation

Except as specified below, regular, full-time employees hours shall accrue and accumulate vacation according to the following schedule:

(a) Years of Service with The City	(b) maximum bi-weekly accrual	(c) approx. hours annual	(d) maximum accumul. hours (" <u>cap</u> ")
Less than 4	3.077	80	160
4 to 9	4.6153	120	240
10+	6.1523	160	320

Part-time employees scheduled to work at least 30 hours per week will earn vacation at the above rates, prorated proportionately.

Seasonal, temporary, and part-time employees working less than 30 hours per week do not receive vacation time but may be allowed to leave without pay for needed vacation time.

Employees shall begin to accrue vacation leave on the date of initial employment with the City of Lathrop on a bi-weekly basis at the rate based on tenure of employment.

For all work groups, employees will submit vacation requests in writing to their supervisor or designee and supervisors will respond in writing within 15 days of receipt with confirmation that the request has been approved or denied. Employees have the ability to cancel vacation time they have scheduled. If the employee wishes to cancel previously authorized time off, the employee will notify their supervisor in writing fifteen (15) calendar days prior to the start of the scheduled vacation unless unusual circumstances prevent them from giving notice. Vacation schedules will be discussed in department meetings; however, department head will make final determination.

All vacation time must be scheduled in advance with the department head and should be taken at a time that does not unnecessarily burden the department. As much as possible and as work scheduling permits an employee may take multiple weeks of vacation when properly scheduled with the department head. All leave shall be approved by submitting a completed and authorized "Leave of Absence Form" to the department head for approval. Leave equaling one week or more

should, but is not required to, be scheduled at least one month in advance; however, 2 weeks advance notice is required. Earlier scheduling of leave is encouraged in order to allow supervisors time to reassign work load. Failure to schedule leave one month in advance shall not be used as grounds for denial of the vacation, but anticipated workload and staffing issues may be grounds for denial of the vacation.

Employees are eligible to take accrued vacation time after completion of their first probationary period. An employee may take some accrued vacation time prior to having completed the initial probationary period if approved by the department head. Use of vacation time prior to completion of the probationary period shall only be allowed if the situation requiring the taking of the vacation time is an emergency, or if taking the vacation time was negotiated prior to employment.

Employees may accrue vacation time to a maximum of two times their current annual accrual rate. Any employee exceeding this maximum accrual on December 31st of each year shall discontinue accruing vacation until such time as their total accrual drops below the maximum accrual limit. An employee's accrual limit may exceed the maximum limit during the year; however, the employee shall discontinue accruing vacation on December 31st of each year if their accrual exceeds the maximum limit.

Employees who have a scheduled vacation canceled during the months of November and December due to an emergency may have their maximum vacation accrual temporarily increased. In this case, the employee must meet the following conditions:

- a. The employee's vacation accrual must be above the maximum on December 31 of that year.
- b. The department head must determine that there was no other available time during the months of November and December when the vacation time could be rescheduled.
- c. The maximum accrual extension must be approved by the City Manager.
- d. The provisions for discontinuing accrual based on exceeding the maximum limit will be waived for one year. The provisions for discontinuing accrual based on maximum limit shall be enforced the following year.

Employees are entitled to all accrued vacation leave upon their separation as a City employee.

Any compensatory time shall be taken before vacation time.

3.2 Sick Leave

- 3.2.1 ACCRUAL: The granting of sick leave with pay is a privilege and not a right. Sick leave may only be used in cases of necessity and actual illness or disability of the employee or family member needing care. The City of Lathrop shall adhere to applicable appropriate state and federal mandated leave laws.

Regular, full-time employees may begin to accumulate sick leave on the date of hire at a rate of 8 hours per month (3.6923 hours per pay period). Part-time employees scheduled to work at least 30 hours per week will earn sick leave at the above rates, prorated proportionately. Seasonal, temporary, and part-time employees working less than 30 hours per week do not receive sick leave but may be allowed to leave without pay. Employees accumulate an unlimited amount of unused sick leave. An employee may begin to utilize accumulated sick leave after having completed three (3) full pay periods of employment.

- 3.2.2 SICK LEAVE USAGE: Any employee needing to be absent from work because of a sick leave circumstance shall arrange for a telephone report to his/her supervisor at the beginning of the scheduled workday or shift (no later than the first hour of the work shift).

If a sick leave circumstance requires an employee to be away from work for a period beyond the individual's accumulated sick leave, the time away from work may be taken as vacation time or compensatory time if either is available. When all paid leave is exhausted, leave without pay may be given.

Upon return to duty after sick leave, the employee shall complete a leave form to be signed by the department head and forwarded to Payroll.

Any employee who is absent from work for a period of three consecutive work shifts without notifying his/her supervisor shall be separated from employment with the City. This separation shall be defined as a voluntary resignation and as such shall not be subject to the grievance process in section 14, below.

Sick leave may be authorized for any of the following reasons:

- a. Illness, injury or quarantine of the employee;
- b. Medical, dental or optical care of the employee;

- c. Illness, injury or quarantine of a member of the employee's immediate family living in the household that requires the employee to tend, care for, or otherwise provide for the care of such person, up to a maximum of forty-eight (48) hours in a fiscal year.
- d. Illness, injury or quarantine during an authorized vacation as evidenced by satisfactory proof attesting to the nature and length of disability. Use of sick leave for non-emergency medical, dental or optical care during an authorized vacation period is not permitted.
- e. An amount sufficient which, when added to an employee's disability indemnity under Worker's Compensation, will result in a payment to the employee not more than the employee's regular salary.
- f. An amount sufficient which, when added to an employee's disability indemnity under State Disability Insurance (if applicable), will result in a payment to the employee not more than the employee's regular salary.

3.2.3 SICK LEAVE EXCLUSION: No employee shall be entitled to sick leave because of any of the following:

- a. Any illness or injury caused by the employee's misconduct;
- b. Illness, injury quarantine or disability while on leave without pay;
- c. An employee who is scheduled to work on a regular holiday who is absent on that holiday due to illness, injury or quarantine shall not be permitted to use sick leave but shall be deemed to have used the regular holiday.

3.2.4 SICK LEAVE VERIFICATION: Any use of sick leave, including maternity, paternity and parenting leave, which results in absence from work exceeding three (3) successive work shifts may be required to be supported by a medical certificate or other evidence acceptable to the supervisor. This evidence may be required on the first working day the employee returns to work. The supervisor or department head may ask for medical evidence of illness for any use of sick leave if the request for evidence is made to the employee prior to his/her returning to work following the illness, or if the supervisor has a suspicion of sick leave abuse.

3.2.5 SICK LEAVE ABUSE: Sick leave abuse may include use of sick leave accruals for other than qualified sick leave as defined herein; excessive use of sick leave; and/or consistent patterns of sick leave on certain days. These may be grounds for determination of sick leave abuse. Determination of sick leave abuse will be cause for discipline in accordance with disciplinary procedures. More than four (4) separate incidents of sick leave use in a twelve-month period may be sick leave abuse if there is no clear reason for

the number of absences. A series of doctor's appointments that are scheduled in advance or other pre-scheduled absences shall not be considered in determining whether or not sick use abuse has occurred. This section shall be administered so as not to conflict with any provisions of FMLA.

3.2.6 SICK LEAVE CONVERSION: Employees may, at the end of each calendar year, convert some of the unused sick leave accumulated during each calendar year to vacation leave provided:

1. The employee has an accumulated balance of unused sick leave of more than 96 hours;
2. Conversion does not reduce unused sick leave below 96 hours; and
3. The employee has not used more than 40 hours sick leave during the calendar year.

A maximum of 40 hours sick leave may be converted, but shall be reduced hour-for-hour by sick leave used by the employee during the calendar year. If an employee uses 40 or more hours of sick leave during the year, no sick leave shall be converted.

Once an employee has met the criteria for his/her particular category of employment, the sick leave conversion shall automatically take place, unless the employee directs otherwise, and the notice of the conversion shall be found on his/her check stub or other record. Any sick leave converted shall be added to accrued vacation and be governed by the vacation accrual limits. Conversion of sick leave shall be done after the last pay period of each calendar year.

3.2.7 SICK LEAVE TERMINATION: An employee voluntarily leaving City employment, shall not receive or be compensated for unused sick leave.

3.3 Holiday

3.3.1 REGULAR HOLIDAYS: The following days are established as regular holidays for employees:

New Year's Day	(January 1 st)
Martin Luther King, Jr. Day	(3 rd Monday in January)
Washington's Birthday	(3 rd Monday in February)
Memorial Day	(Last Monday in May)
Independence Day	(July 4 th)
Labor Day	(1 st Monday in September)
Veteran's Day	(November 11 th)

Thanksgiving Day November)	(4 th Thursday in November)
Day after Thanksgiving	(Day after 4 th Thursday in November)
Second ½ of Christmas Eve Day	(December 24 th)
Christmas	(December 25 th)
Second ½ of New Years Eve Day	(December 31 st)

3.3.2 REGULAR HOLIDAY – WEEKEND OBSERVANCE: When a regular holiday falls on a Saturday, the preceding Friday shall be observed as the holiday. When a regular holiday falls on a Sunday, the following Monday shall be observed as the holiday. If December 24th or December 31st falls on Friday, the preceding Thursday will be observed as the holiday. Whenever a holiday observance under this section fall on another City scheduled day off, the holiday shall be moved to the next preceding work day (in the case of a Saturday holiday) or the next following work day (in the case of Sunday holiday) unless this results in the closing of City Hall for more than 4 consecutive days. In that case, the holiday shall become a floating holiday to be taken during the pay period in which it would have occurred.

3.3.3 REGULAR HOLIDAY COMPENSATION: Any employee whose regularly scheduled day off fall on a regular holiday shall be entitled to accrue nine (9) hours, or eight (8) hours, depending upon the shift worked, of regular holiday time. In addition to regular salary paid as a result of working on a scheduled holiday, any employee who is required to work on a regular holiday shall have the option of being compensated for the hours worked on such holiday, or may accrue the time as compensatory time. Compensation shall include Holiday Pay plus time and a half for the number of hours actually worked.

3.4 Bereavement Leave

Regular full-time employees who suffer a death in their immediate family, as defined by this section, may be allowed to be absent with pay for three (3) scheduled City workdays for each family member who dies. In the event that out-of-state travel is necessary, employees may be allowed five (5) scheduled City workdays for each occurrence. Employees must take this leave within a seven consecutive day period and will be paid only for days and hours they were scheduled to work.

Immediate family for the purpose of this section only includes: spouse, child, parent, sibling, grandparent, great grandparent, grandchild or step or foster derivative of the above of the employee's or the employee's spouse's, mother, father, brother or sister-in-law; or any permanent resident in the employee's personal household.

In addition, employees may use an additional two (2) days accrued sick leave, vacation leave or compensatory time off for the death of the employee's spouse, parent or child. Such additional leave shall be used within 30 days of the death.

3.5 Military Leave

The following procedures and restrictions shall apply to military leave:

- a. To be eligible for paid military leave, an employee must have at least twelve (12) months of qualifying service immediately prior to the leave. Qualifying service is continuous and consecutive City service or recognized military service. Recognized military service is defined as full-time service in the armed forces during a national or state emergency. Generally, recognized military service would be that during World War II, the Korean War, the Vietnam Conflict or any conflict for which an expeditionary medal was awarded. This time requirement does not apply to declared emergency situations. Under such emergencies, any employee ordered to active duty is eligible for paid temporary military leave.
- b. Military leave with pay can be authorized for eligible employees only when they are ordered to active duty.
- c. Weekend drills are not active duty. Departments will make reasonable attempts to change an employee's schedule to allow for off-duty attendance at monthly drills. If such accommodation is not possible, the employee may use leave as specified in (h).
- d. A copy of the employee's order to active duty must accompany any military leave with pay.
- e. An eligible employee is entitled to receive his or her base salary for the first 30 calendar days of military leave of absence. Pay for this purpose may not exceed 30 calendar days in any one fiscal year.
- f. In calculating leave, holidays that occur during an employee's military leave will be charged as holidays used rather than military leave.
- g. All other calendar days encompassed by the order will be counted as military leave whether normally scheduled days or days off.
- h. Employees will not be denied the right to use leave to attend active or inactive military duty. If the employee is not eligible for temporary military leave with pay, the employee may request a leave of absence without pay or use accrued vacation, holiday or compensatory time off.

- i. The total amount of military leave, paid and unpaid, may not exceed 180 calendar days in one year.

3.6 Leave of Absence Without Pay

Any employee may be granted leave without pay for up to one (1) month with the approval of the department head. Any leave without pay in excess of one month must be approved in advance by the City Manager. The employee must make a written request to the department head stating the reasons why (s)he needs to be granted the leave without pay. The department head shall either approve or disapprove the employee's request upon the grounds of whether or not the request will benefit both the City and the employee. During any leave without pay exceeding one full pay period, except for suspensions because of discipline, the employee shall be responsible for payment of premiums for health, dental, vision, life and disability insurance benefits. All leave shall be approved by submitting a completed Leave of Absence form to the department head for approval. Leave without pay shall only be granted when all other eligible leave has been exhausted.

The City and SEIU agree that decisions made under this section are not subject to grievance procedure in section 14 below.

No employee who has been granted a leave of absence without pay shall accrue any vacation or sick leave during the time of such leave nor shall such time count toward gaining permanent status.

3.7 Family Leave

All employees who have:

- a. been employed by the City for at least twelve (12) months, and
- b. been employed for at least 1,250 hours during the 12 months immediately preceding the commencement of leave

shall be entitled to 12 workweeks of unpaid leave in any rolling 12 month period for the following purposes:

- a. because of the birth of the employee's child or the placement of a child with the employee for adoption or foster care; or
- b. to care for a spouse, parent, child or domestic partner; or
- c. because of the employee's serious health condition that renders the employee unable to perform the employee's job functions.

Concurrent with and in coordination with the above, employees may use accrued leave balances as follows:

- a. For any care provided to a child, spouse, parent or domestic partner, employee may utilize no more than 48 hours of accrued sick leave in any one calendar year.
- b. For disability related to pregnancy, the City shall coordinate with any State disability insurance as set forth herein. An eligible employee shall be able to use sick leave, vacation, compensatory time and/or management leave for such coordination.
- c. For any other leave taken pursuant to this provision, only vacation, compensatory time and/or management leave balances may be used.

During the period of time covered by Family Leave, the City shall continue to pay the employee's insurance costs (medical, dental, vision and life) by the employee may be required to reimburse the City if the employee fails to return to work.

During the period of time covered by Family Leave, the employee shall not earn sick leave or vacation time unless the employee is using paid leave time as Family Leave time.

The City shall, at all times, comply with State and Federal regulations for Family Leave.

3.8 School Activities

The City of Lathrop shall comply with any federal or state law requiring an employer to grant time off to participate in a child's school activities. Current state law provides that parents may take up to 40 hours per year, but not more than 8 hours per month, to participate in their children's school activities. Employees working a shift greater than 8 hours per day may take one full shift per month, subject to the 40 hour maximum. An employee may use accrued vacation, compensatory or regular holiday time or s/he may request to take unpaid leave, as provided in section 3.6.

3.9 Leave for Promotional Examinations

Employees shall be allowed the necessary time off with pay to participate in promotional examinations for the City, which are held during the regular work hours.

3.10 Catastrophic Leave Program

3.10.1 CONDITIONS OF PARTICIPATION

Application for receipt of catastrophic leave donations will be processed by the human resources department of the City of Lathrop.

A City employee becomes eligible to receive catastrophic leave donations:

- (1) Employee has exhausted, or will soon exhaust all his/her accrued leave, as a result of verifiable long-term illness or injury suffered by the employee.
 - a. Employees may donate accrued vacation, or compensatory time: sick leave may not be donated.
 - b. Donations may be made in whole hour increments from a minimum of four (4) to a maximum of sixteen (16) hours per donor.
 - c. Donors must have an overall leave balance of 80 hours remaining after donated time has been deducted.
 - d. Once donated to an individual, donated leave cannot be reclaimed by the donor.
 - e. Cumulative total of donated time received by the employee cannot exceed the minimum amount of time needed by verification of the doctor.

3.10.2 PROCESSING OF DONATIONS

Upon receipt of an application for use of this section, Human Resources shall verify that the employee has a long-term illness or injury that requires leave under this program.

Upon verification, the Human Resources Department shall notify Payroll of the eligibility of the employee to receive catastrophic leave donations.

Upon receipt of donation authorizations, Payroll shall take the following actions:

- a. Verify that the donating employee has the minimum required leave balance required for the donation and convert donated time dollars at the hourly rate of the donor and subtract from the designated leave category. Pay supplements which are a percentage of base salary (except above class pay and special assignment pay) shall be added

to the base salary prior to converting the value of the donated time to the recipient.

- b. Convert donated dollars as computed above to work hours at the hourly rate of the recipient, and add the recipient's sick leave balance.
- c. Notify departments of changes in leave balances by noting payroll adjustments for the next payday.
- d. Retain a confidential file of donation authorization.

3.10.3 TREATMENT OF DONATED TIME

Donated time is treated as sick leave accrued by the recipient of the donation.

Donated time does not alter the employment rights of the county of the recipient, nor extend or alter limitations otherwise applicable to Leaves of Absence of Sick Leave, except as noted in this agreement.

Employees who are utilizing donated sick leave hours will continue to accrue vacation and sick leave in accordance with the provisions of this Memorandum of Understanding; however, they will not be eligible to receive sick leave conversion as permitted in Section 3.2.6 of this MOU.

4. COMPENSATION

4.1 Salaries

4.1.1 COST OF LIVING INCREASES:

For the duration of this agreement, there shall be no cost of living increases. Cost of Living increases are subject to the terms as listed in Appendix B.

In the event of future cost of living increases, the increase shall be based on actual increase in the CPI for Urban Wage Earners and Clerical Workers for the San Francisco/Oakland/San Jose area for the current fiscal year.

4.1.2 STANDBY PAY: Full-time employees shall receive \$3.00 per hour as standby compensation for all hours they are assigned to standby except for those hours actually worked and for which the normal pay is received.

4.1.3 CALL BACK: All off duty emergency call backs shall be compensated for a minimum of two hours per occurrence at the rate of one and one half time

the employee's current hourly rate of compensation. Employees called back shall be allowed to leave when the job requiring the call back has been completed. If the call back work assignment and the employee's regular work shift overlap the employee shall be paid the call back rate of time and one half their hourly rate prior to and/or after his/her regular shift time. The regular shift shall continue until the employee's regular shift ends. Trainings, meetings or other pre-scheduled events do not qualify an employee for call back pay under this article.

- 4.1.4 **WORK ABOVE CLASS:** The City shall encourage training of employees for advancement by providing the opportunity to work above class to each eligible employee who desires such opportunity. For purposes of the provision, 'eligible employee' refers to an employee in the same class series who is qualified to perform the class duties. For purposes of the provision, the reference to training does not require the City to offer or conduct any specific informal or formal instruction.

The City agrees to provide out of class compensation after the completion of more than 10 consecutive days of working out of class or more than 20 accumulative days of working out of class per fiscal year. Out of class compensation is to be a minimum salary increment of 5 percent or the lowest step of the higher range, whichever is greater. Where no class exists, the Employee and/or Union shall submit a request for the 5% consideration.

Employee's who are working out of class shall be able to initiate a job review/re-classification to determine if their duties have changed significantly to warrant a new job description.

- 4.1.5 **FURLOUGHS:** For the duration of this agreement, SEIU members shall remain on a furlough program reducing by 10% the total number of working hours unless the conditions of Appendix B are met.

4.2 Deferred Compensation Contribution

The City of Lathrop maintains two (2) voluntary, employee only Section 457 Deferred Compensation Plans. The City, at its sole discretion, shall have the right at any time during the period covered by this agreement to develop charges necessary for the administration of the plan or plans, and implement said charges for active and inactive participants, to be paid by active and inactive participants. In any case, the charge shall not exceed the actual cost to the City for administration of the plan or plans as computed by the Finance Director under standard accounting practices for cost allocation purposes.

Before implementing a payroll deduction charge, the City will make every effort to negotiate with the plan vendors and/or third party administrator to recoup the City cost from their management fees.

4.3 Severance Procedures

4.3.1 When an employee separates from the City for any reason, the City shall:

- a. Collect all equipment, identification cards, and keys from the employee; delete employee security codes from the computer system and collect any other items for activities identified by the department head or City Manager to facilitate the employee leaving City employment and protect security of the City.
- b. Conduct, at the discretion of the City Manager, an exit interview with the employee. The City Manager or the department head may conduct such interviews.
- c. In the final paycheck, pay the employee all accrued vacation leave, compensatory time and all hours worked not previously compensated up to the date and time of separation.
- d. Withhold from the final paycheck monies owed the City by the employee to recover monies for such items including but not limited to:
 - (1) Travel advances;
 - (2) City credit card use;
 - (3) Misappropriated City assets;
 - (4) Any City property not returned to the City;
 - (5) Overpayment of salary or benefits; and
 - (6) Educational reimbursements received in less than one year.

4.3.2 An employee may elect to have funds withheld from his/her final paycheck to fund the continuation of employee benefits as provided by law or contracts, including health insurance.

4.3.3 The City shall not provide to employees separating from employment after the date of separation:

- a. Any paid allowances, such as vehicle, uniform, etc.
- b. Additional leave and holiday benefits on paid severance.
- c. The cash value of contribution to any benefits other than retirement and Medicare.

- 4.3.4 The City shall make final payment to a separated employee as required by state law.
- 4.3.5 Before the employee may receive her/his final paycheck, all items required to be turned in to the City must be signed off by the department head and the employee.

4.4 Bilingual Pay

City agrees to pay \$200 per year (prorated biweekly with the regular paycheck) to five (5) employees as compensation for using their skills in a language other than English under the following conditions:

- a. The employee must be certified to speak, write and read in the language for which pay is provided; and
- b. Following a request by the employee, the department head, as approved by the City Manager, must determine that the language is a certified language and that there is a benefit to the City for the employee to provide translation services in the language for which compensation is requested; and
- c. The City has approved the certification process to be used by the employee in advance of the certification being obtained.
- d. If, at any time, it is requested that more than five (5) employees receive bilingual pay, the City Council must approve such a request.

4.5 Classification and Compensation Study

- 4.5.1 For a thirty (30) day period prior to conducting the survey update, the City will provide employees the opportunity to report significant changes in duties and/or responsibilities not on the current class description. The Union may request a meeting with the City Manager and Human Resources Director to review changes in duties, class descriptions, and/or survey class matches. Proposed inclusion of new duties and responsibilities must be approved by the employee's immediate supervisor and department head. The City will make all final decisions regarding the appropriateness of changes to class description and survey class matches. City decisions will not be subject to the appeal or grievance process. Approved changes will be used as part of the survey update.

The compensation portion of the study shall include the cities of Brentwood, Ceres, Galt, Lodi, Manteca, Ripon, Riverbank, Stockton, Tracy, Turlock, and San Joaquin County. Compensation surveys shall be based on the job description, not just the title of the job so that like work is compared to like

work. In determining whether compensation is adequate, the median compensation of these 11 agencies shall be used as the comparative compensation.

Upon completion of the compensation portion of the study, the median compensation shall be compared to the current compensation. If the median compensation is lower than the current compensation, the classification shall be moved to that lower salary range and any incumbents shall be "y" rated if their salary exceeds the top step of the range. Classes with salaries reported above the survey median will receive one half or 50% of the annual scheduled 'Cost of Living Increase' during the term of the MOU until their salary is equivalent to the surveyed median level.

If the median compensation for the classification is no more than 5% higher than the current compensation, the classification shall be placed on the appropriate salary range and any incumbents shall receive the corresponding pay increase effective with the first pay period beginning on or after July 1.

If the median compensation for the classification is more than 5% higher than the current compensation, the classification shall be placed on the appropriate salary range and additional steps added to the beginning of the range so that all incumbents receive at least a 5% increase but not more than a 10% increase effective with the first pay period beginning on or after July 1. Each July 1 thereafter, these employees shall receive one additional step increase (irrespective of merit increases) until they are located within the normal 5 step range. "Irrespective of merit increases" shall mean that if, on July 1 of a given year, the employee is within the normal 5 step range and is there only because of a merit increase during the previous year, (s)he will receive an additional step increase due to the compensation study.

- 4.5.2 FUTURE COMPENSATION STUDIES: At least two months, but no more than 6 months, prior to the start of negotiations for the next MOU as outlined in Section 17, the City shall cause to be completed a compensation study for all classifications. This study shall be available to SEIU and the City for use during the negotiations. Additionally, a compensation study shall be triggered if the following conditions are met:

For the duration of this agreement, there shall be no Compensation Study, unless the terms of "Appendix B" are met.

5. DAYS AND HOURS OF WORK – OVERTIME

5.1 Work Week

Unless otherwise provided for in this Memorandum or in any City Council Ordinance or Resolution, the base compensation for employees shall be deemed to be compensation per bi-weekly pay period of eighty (80) working hours. The base compensation provided should be payment in full for all services rendered to the City except as otherwise provided.

5.2 Working Hours

Normal work schedules will involve an eight (8) to ten (10) hour block of time between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday, not including lunch break.

5.3 Overtime

An employee who works in excess of the normal, assigned work day or week shall receive compensation at the rate of one and one-half times the regular base pay. All time in paid status, with the exception of vacation, sick and compensatory time taken shall be deemed time worked. Compensatory time (CT) may be given in lieu of paid overtime at the discretion of the department head. All employees earning compensatory time may only accumulate 80 hours. Employees who accumulate over the maximum hours (80) shall be paid for over-time hours in excess of the maximum.

Overtime work should be approved by the department head or his/her designee, when possible, prior to being worked. The department head shall make sure that appropriate and accurate records of all overtime hours worked and any CT earned are kept. Failure to have overtime approved in advance will not prevent the City from compensating the employee for the time worked; however, disciplinary action may be taken for working unauthorized hours.

Upon termination of employment, any unused CT shall be paid at a rate of pay equal to his/her current rate of pay at termination. Employees requesting time off from work shall choose to use either CT, or vacation. Use of CT should not create a situation where overtime for other personnel within in the department or within the City is necessary to maintain operations.

Every effort will be made to ensure that there is not unscheduled mandatory overtime. Should unusual circumstances arise that necessitate unscheduled overtime it will be assigned fairly. It is understood by both parties that employees may have compelling personal or professional obligations that may hinder their ability to work overtime without advance notice. Such obligations shall not subject employees to discipline. Note: this does not apply to employees in positions which

by job description are required to participate in stand-by and are compensated accordingly, or in the event of an unforeseen emergency.

No employee shall be required to attend events for work without pay.

When a part-time employee is required to work more than normally scheduled hours, those hours will be recorded as "Comp Time as Straight" on the time sheet. These hours may be paid or may be banked for use at a future time, as agreed to by the employee and his/her department head. The administration of this time shall follow the same expectations as is provided for in this Section 5 of the MOU. Whenever such employee works more than eight (8) hours in one day or more than forty (40) hours in one week, then overtime at time and one-half shall be compensated.

5.4 Meals and Rest Period

5.4.1 REST PERIODS: To promote maximum productivity and morale, it is the policy that when City operations permit, each employee shall be entitled to two (2) rest periods not exceeding fifteen (15) minutes each, during a regular shift. When City operations permit such rest periods are to be taken as nearly as possible in the middle of each segment of each employee's workday. Time allowed for rest periods may not be accumulated from one half of the workday to another, nor may rest periods be used to alter an employee's normal work hours and meal periods.

Unless a supervisor specifically requires an employee to miss a scheduled break, rest periods shall not be combined with a lunch period or otherwise banked. If an emergency arises which requires that an employee miss a scheduled break, the two scheduled breaks may be combined provided operational requirements allow and provided the missed break is taken on the same day it was missed.

5.4.2 MEAL DURING OVERTIME: Meals that must be consumed on the job after the normal workday and while working in an overtime situation are not to be considered as an interruption of overtime work performed. The City shall neither pay for nor provide meals, nor is an employee who takes a break for a meal to be considered as being in paid status. An employee, upon request, shall be allowed to take a thirty (30) minute meal break after two (2) hours overtime and every four (4) hours thereafter. The City retains the right to refuse requests for meal breaks in the event of emergency.

The supervisor may establish a lunch schedule for all employees, generally between the hours of 11:00 a.m. and 2:00 p.m.

5.5 Changes to Work Hours

With the approval of the City Manager, department heads shall set employee work schedules. Employees will be provided with a work schedule at the time of hire. Any changes to the assigned work schedules shall be made with input from impacted staff. The City shall provide a 30 day notice of any changes but may make temporary changes lasting less than 30 days to the work schedule. It is understood that employees may not be able to accommodate immediate changes to their work schedule. In making changes, the City shall give consideration to prior commitments of the employees. Normal work schedules for employees at City Hall will involve an eight (8) to ten (10) hour block of time between the hours of 6:00 a.m. and 6:00 p.m., Monday through Friday, not including lunch break. Should circumstances arise that necessitate work schedules other than the above the Union and the Employer will reach agreement prior to implementation. The department head shall obtain approval for other schedules from the City Manager. Scheduled days off in a workweek shall be consecutive.

5.6 Witness Duty

Any employee who shall be called as a witness in a case arising out of and in the course of the employee's City employment shall be deemed to be on duty and there shall be no loss of pay. Compensation for mileage and subsistence shall not be considered as a fee and shall be retained by the employee, unless the employee uses a city vehicle to report for the court appearance.

The requirement to appear as a witness requires a subpoena. The party issuing the subpoena shall be required to pay witness fees to the City as set forth in the Government Code. All witness fees shall be paid prior to the employee appearing as a witness. An employee called as a witness in any other matter not arising out of and in the course of the employee's City employment shall be deemed off duty.

6. SALARY ADMINISTRATION

6.1 Salary Upon Appointment

New employees shall normally be appointed at the first step of the salary range adopted for the particular class of position to which the appointment is made. An employee may start at a higher step at the discretion of the City Manager upon recommendation from the department head if the qualifications of the applicant exceed the minimum qualifications of the position or because of unusual circumstances. The City Manager may determine that recruiting difficulties exist and may provide that a particular allocated position be filled at a step above the minimum of the range commensurate with the qualifications of the prospective appointee which are above the minimum requirements set forth in the class specifications.

For the duration of this agreement, however, there shall be no salary step increases. Step increases are subject to the terms listed in "Appendix B".

6.2 Step Increases- Regular Employees

Regular full-time and part-time status is granted to employees who successfully complete the probationary period for permanent full-time and part-time positions and they are granted protection under the grievance and appeal procedure. Employees are eligible to receive a step (merit) increase at least once annually at their PRD (Performance Review Date) upon recommendation of the department head and approval of the City Manager. After an employee reaches step 5 of his/her salary range, a step increase is no longer possible without advancement to a position with a higher salary range.

Any step increase shall be based on merit as demonstrated in a performance appraisal to justify the increase and should be based on recognized and documented satisfactory performance during the performance period as defined by the performance appraisal documents.

A satisfactory performance shall be defined as "meeting expectations" and has a numerical rating total of 3.0 or higher.

For the duration of this agreement, however, there shall be no salary step increases. Step increases are subject to the terms listed in "Appendix B".

6.3 Salary Step on Promotion

An employee appointed to a position with a higher salary range shall have his/her salary adjusted to the first step of the new range or to the step in the new range which is at least five percent (5%) higher than the salary the employee was receiving prior to the promotion, whichever is greater, provided that the new salary is within the new range. The effective date of the promotion shall become the new merit advancement date for the employee and (s)he shall be eligible for consideration to receive a merit step increase upon completion of the probationary period.

For the duration of this agreement, however, there shall be no salary step increases. Step increases are subject to the terms as listed in "Appendix B".

6.4 Order of Adjustment

Whenever an employee is promoted and receives a range change or the employee's position is reclassified to a class having a higher salary range, on the employee's merit anniversary day the employee shall first receive the merit advancement increase to which (s)he may be entitled and then receive such increases to which

(s)he may be entitled in the following order: salary adjustment, reclassification, promotion.

6.5 Under-filling

Minimum qualifications as defined in the approved job description for each job classification should be used and advertised during recruitment. These qualifications are to represent the least amount of education and experience necessary to perform the job. If no applicant meets the minimum qualifications, the department head may interview the most qualified candidates for the position; readvertise the position or under-fill the position.

If a position is under-filled but the title is not changed, the employee shall be placed on a 6 month probation during which time the salary shall be 15% below the starting salary for that position. At the end of the 6 month trainee probation, the employee shall be eligible to move to the first step of the range for that position and begin the regular employee probationary period.

If the position is under-filled by changing the job to one requiring lesser qualifications at a lower salary range, the probationary period will be as normally required.

6.6 Trial Period

Employees who change positions or are promoted shall have the option of returning to their old position for the duration of the hiring process. Before a final offer of employment is made to an applicant, the promoted employee will be given a one-day notification and opportunity to retreat to their former position.

7. RETIREMENT

7.1 Retirement Formula

The City of Lathrop participates in the California Public Employees Retirement System (CalPERS) and adopted the CalPERS 2% at 55 plan. To fund the costs, the City pays both the employee share (7% of gross salary) and the employer share (about 10% of gross salary).

7.1.1 Two tier system. The retirement formula for all new employees starting after the effective date of this MOU shall have their retirement benefits calculated at a rate of 2% at 60.

7.1.2 Payment of Employee Share. Starting immediately after the suspension of the Furlough Program, all bargaining unit staff shall pay 2% of their gross wages towards the Employee Share of the CalPERS costs. The City shall pay the remaining 5% share.

7.1.3 City of Lathrop and SEIU Local 1021 will begin a fixed rate cost sharing. Under this agreement, members will pay 2% of their gross wages towards CalPERS. Such deduction shall occur pre-tax (per 414(h)(2) resolution).

7.1.4 Each party will make further inquiries into the CalPERS cost sharing plan, Gov Code Section 20516. If it is determined the cost sharing plan is cost neutral to the City and CalPERS agrees to the plan, then the 2% contribution shall be applied as laid out in Gov Code section 20516. However, if it is determined the plan does not meet eligibility nor is cost neutral, then the 2% credits will be applied to the employee's contribution.

7.1.4.1 If in future the cost sharing plan becomes eligible for cost sharing, SEIU and City shall meet and discuss implementation of such plan.

The City shall provide all eligible employees with retirement benefits. The City shall pay the agreed upon employee portion of the retirement contribution as identified above and maintain the current rate schedule for the duration of this agreement.

8. TRAINING AND EDUCATION

8.1 Driver Training

When requested, all City employees will participate in the City Defensive Driver's Training Program as a mandatory requirement of being an employee of the City.

8.2 - Educational Reimbursement Program

In accordance with the City's Tuition Reimbursement Program, employees are eligible to receive tuition reimbursement for educational purposes which tend to improve their ability to accomplish their City job for courses taken on the employee's own time. Reimbursement must be recommended by the department head and approved by the City Manager prior to enrollment. Requests are to be submitted on the approved form. Payment of education funds is discretionary with a department head within appropriate budget limits:

- a. Costs not to exceed \$1100 maximum per calendar year, per employee; including books and materials and lab fees.
- b. Employee's time and travel are at his/her own expense.
- c. Class time is on employee's own time, unless the department head approves an exception.
- d. A passing grade (C or better) is required in each course for reimbursement.

If an employee voluntarily separates within one year of receiving the educational reimbursement, (s)he must reimburse the City of Lathrop within one year from the separation date.

9. **WORKER'S COMPENSATION AND EMPLOYEE SAFETY**

9.1 **Worker's Compensation**

Under California law, an employee who is injured or becomes ill out of or in the course and scope of employment is entitled to temporary disability (TD) payments only after a waiting period of three (3) days has elapsed. Prior to the commencement of TD payments, an employee may use accumulated leave to make salary whole.

Employees who are receiving TD payments under Division 4 or Division 4.5 of the Labor Code shall accumulate vacation (including seniority credit for the purposes of vacation accrual under Section 3.1), holidays and sick leave during such period of time that they are drawing such temporary disability indemnity. The City shall continue to provide health, dental, vision and life insurance plans coverage for such employees as if they were on payroll as regular employees.

9.2 **Worker's Compensation Leave**

The City shall grant an employee "administrative leave" (time off with pay) for worker's compensation related doctor's visits.

9.3 **Disputes Involving Safety Issues**

The City shall comply with all applicable laws and regulations pertaining to workplace health and safety. No employee shall be subject to discrimination or retaliation as prohibited by applicable law for reporting any health and safety concerns.

10. **EVALUATIONS AND PERSONNEL FILES**

10.1 **Employee Performance Evaluation**

Performance appraisals shall be performed for all employees. Performance appraisals should be performed at least annually on the employee's PRD and may take place more often. (For work above class assignments, refer back to section 4.1.3). The Employer shall make a good faith effort to bring all performance issues to the attention of the affected employee in a timely manner and as soon as possible after the supervisor becomes aware of such issues.

The employee and supervisor shall discuss and sign the performance appraisal at the end of the appraisal meeting. If the employee disagrees with the appraisal, (s)he

shall have the opportunity to rebut the appraisal and have the rebuttal placed in his/her personnel file with the appraisal within ten (10) workdays. The department head must review and sign the performance appraisal and the City Manager must approve the Personnel Action Form before any salary action or corrective action may be taken. Any Corrective Action shall be separate and apart from the performance appraisal. While performance evaluations are not subject to the grievance process Corrective Actions are discipline and can be grieved.

10.2 Employee Personnel Files

Employees shall have the right to review and at their own expense obtain copies of their personnel files maintained by the City. An employee's representative may inspect the contents of an employee member of this bargaining unit's personnel files upon signed and dated authorization by the employee. Authorization shall be valid for sixty (60) calendar days from the date of signature.

The City reserves the right to withhold from employee review reports of an employee's pre-employment physical examination, records of an employee relating to investigation of possible criminal offense, investigation of an incident involving sexual harassment or work place violence, or other legally privileged records.

An employee shall have the right to submit written comments regarding any document in his/her personnel file and to have such comments included in his/her personnel file along with the document. If the employee files such comments, the department head and/or City Manager will then have ten (10) workdays to file a response.

11. EMPLOYEE PROPERTY AND EQUIPMENT

11.1 Boot Allowance

The City shall provide every employee who is required to wear protective boots with a boot allowance of \$350 per year. To receive this allowance, the employee shall:

- (1) Purchase boots meeting defined specifications; and
- (2) Present proof of purchase, including cost.

In the event the employee selects boots from a vendor provided by the City, the cost of boots shall be paid directly by the City and the employee shall receive no further allowance.

12. REHIRE OF EMPLOYEES/LAYOFFS

12.1 Rehire of Employees

Individuals, who satisfactorily complete an original probationary period and subsequently separate from City employment in good standing, may be eligible for rehire without competing through open public recruitment into any similar City position for which they qualify. The decision to rehire a previous full-time or part-time employee shall always be at the option of the department head or a designated representative, subject to the approval of the City Manager. Rehiring of a previous employee shall be subject to all other provisions of employment with the City including, but not limited to, the successful completion of a pre-employment physical drug screen.

In the instance of an employee who has been laid off due to reduction in force or termination of a position, such employee shall be considered eligible for rehire if (s)he has had satisfactory or above performance evaluations for the two most recent evaluations. If an opening occurs in a job previously held by an employee who was separated due to reduction in force or termination of a position within two years of separation, that employee shall be notified by regular mail and offered the opportunity to return to City employment and given two weeks in which to respond to said offer. If no response is received within the two week period or the former employee declines to return to the City, (s)he shall thereafter be considered as a new candidate for re-employment. Acceptance of the offer of employee shall require that the former employee return to work within 3 weeks of acceptance.

Employees who are rehired shall be considered, for the purposes of vacation accrual, length of service, etc., to have worked for the City since the original date of hire, less any time during which the employee was not working for the City.

12.2 Lay Off Procedures and Bumping Rights

Any permanent full-time City employee who is to be laid off or dismissed for other than disciplinary reasons shall be given fifteen (15) calendar days notice and allowed to take time as a severance offering. This provision does not apply to probationary or contract employees.

12.2.1 Statement of Intent.

Whenever the City eliminates a position or has a reduction in force due to reduced work, reduced revenues, or other reasons, or when in the judgment of the City Manager, it becomes necessary to abolish any position of employment, the employee holding such position may be laid off or demoted, without disciplinary action and without the right of appeal. This does not negate any State or Federal rights.

12.2.2 Notification.

Employees to be laid off shall be given, whenever possible, at least fifteen (15) calendar days' prior notice, which shall include an opportunity to submit writing or meet with the Human Resources Director regarding the reasons for the layoff and his or her seniority and bumping rights. The Human Resources Director will render a reply in writing within seven (7) calendar days after receiving the employee's response.

12.2.3 Vacancy and Demotion.

Except as otherwise provided, whenever there is a layoff under this rule, the City shall first demote to a vacancy, if any, in a lower class for which the employee to be laid off is qualified. All persons so demoted shall have their names placed on the City's reemployment list.

12.2.4 Employee Rights.

A permanent employee affected by layoff shall have the right to displace an employee who has less seniority in a lower class in the same class series or in a lower classification in which the affected employee once had permanent status. Seniority includes all periods of full-time service with the City.

12.2.5 Seniority

- a) In order to retreat to a former or lower class or series as defined in job descriptions, an employee must have more seniority than at least one (1) of the incumbents in the retreat class, and shall request displacement action in writing to the Human Resources Director within five working days of receipt of notice of layoff. Notice of layoff shall include a notice of the rights set forth in this rule.
- b) Employees retreating to a lower or similar class shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the class from which the employee was laid off.
- c) Employees retreating to a lower or similar class shall serve a probationary period in the new class unless they have previously successfully completed a probationary period in the class or the class series.

- d) In cases where there are two (2) or more employees in the class from which the layoff is to be made, the employee with the least seniority shall be laid off. The only exception to this is if there is an employee in the class who, within the 12 months immediately previous, has been placed on "imposition of review" status due to employee discipline, such an employee shall be considered less senior for purposes of layoffs. If no employees within the class fit such criteria, or after all so-rated employees have been laid off, layoffs shall be in inverse order of the employees' seniority in that or a higher class.

12.2.6 Employment Status.

- a) Only permanent full-time employees and permanent part-time employees as defined in Rule 3.7 shall be entitled to any rights under this Rule.

12.2.7 Reemployment List.

- a) The names of persons laid off in accordance with these rules shall be entered upon a reemployment list. Lists from different departments or at different times for the same class of position shall be combined into a single list. Such list shall be used when a vacancy arises in the same or lower class of position before certification is made from an eligible list.
- b) Names of persons laid off shall be carried on a reemployment list for two (2) year, except that persons appointed to permanent positions at the same level from which they were laid off shall, upon such appointment, be dropped from the list. Persons who refuse reemployment shall be dropped from the list. Persons reemployed in a lower class, or on a temporary basis, shall be continued on the list for the higher position for two (2) years. The City Manager may extend the duration of a reemployment list.

13. SUBSTANCE ABUSE REFERRALS

The City and SEIU jointly recognize the value of the City's Employee Assistance Program offered through the Central San Joaquin Valley Risk Management Authority in the evaluation and resolution of employee problems associated with substance abuse.

14. GRIEVANCE PROCEDURE

14.1 Purpose

Grievance procedures for employees are provided herein:

- a) To promote improved employer-employee relations by establishing grievance procedures on matters for which appeal or hearing is not provided by other regulations.
- b) To afford employees individually a systematic means of obtaining further consideration of problems after every other reasonable effort has failed to resolve them through informal discussions.
- c) To provide that grievances shall be settled as near as possible to the point of origin.
- d) To provide that grievance shall be heard and settled as informally as possible.

14.2 Matters Subject To Grievance Procedures

Any regular full-time or part-time employee shall have the right to present a grievance regarding wages, salaries, hours, working and other conditions of employment and disciplinary actions, except for those specifically prohibited in this MOU, including:

- Performance evaluations, including related actions (e.g. step or merit increases);
- Grievances against other employees

If an employee receives a performance evaluation that is not timely and is satisfactory, the employee shall be entitled to back pay to their original Performance Review Date.

14.3 Employee Rights

Eligible employees are entitled to:

- a) Assistance by an SEIU representative who may act as an advocate or advisor at any level of grievance, or who may be present at any formal grievance meeting with a department head, Assistant City Manager or City Manager.
- b) A reasonable amount of time during work hours to prepare a formal grievance.
- c) Freedom from reprisal for using the grievance system.
- d) The right to call other employees as witnesses at a hearing during the formal grievance process.

- e) The right to have their grievance presented and acted upon in a timely manner. The time limits specified below may be extended to a definite date by mutual agreement of the employee and reviewer concerned.

14.4 Informal Grievance Procedure

14.4.1 An employee should first attempt to resolve a grievance or complaint through discussion with his/her immediate supervisor without undue delay. If, after such discussion, (s)he does not believe that the problem has been satisfactorily resolved, (s)he shall have the right to discuss it with the supervisor's immediate superior, if any. Every effort should be made to find an acceptable solution by informal means at the most immediate level of supervision. If (s)he is not in agreement with the decision reached through such discussion, (s)he shall then have the right to file a formal grievance in writing within ten (10) calendar days after receiving the informal decision of his/her superior or superiors. An informal grievance shall not be taken above the department head.

14.4.2 The supervisor shall place a memo in the employee's personnel file outlining the facts and timeline for all informal grievances.

14.5 Formal Grievance Procedure

14.5.1 DEPARTMENT REVIEW

- a) If, after receiving a decision on an informal grievance, an employee desires to proceed with the formal grievance process, the grievance shall be presented in writing to the employee's department head, or to the Assistant City Manager who may discuss the grievance with the employee, SEIU representative, if any, and with other appropriate persons. Said grievance must be submitted within thirty (30) calendar days after the employee receives the decision on the informal grievance.
- b) The department head or Assistant City Manager shall render a decision and comments in writing and return them to the employee within fifteen (15) calendar days after receiving the grievance.
- c) If the employee does not agree with the decision reached, the employee may present the grievance in writing to the City Manager. In the event no written decision is given within the 15 days set forth in paragraph (2), above, the grievance shall be deemed denied, and the employee may pursue additional review as set forth herein. Any such grievance shall be presented within 10 days after receipt of the department head or Assistant City Manager decision.

- d) Failure of the employee to take further action within ten (10) calendar days after receipt of the decision, or within a total of twenty five (25) calendar days if no decision is rendered, will constitute withdrawal of the grievance.

14.5.2 CITY MANAGER REVIEW

- a) Upon receiving the grievance, the City Manager shall arrange for the matter to be heard by a mediator from the State Mediation and Conciliation Service as soon as possible. The mediator shall attempt to negotiate a solution to the grievance. If agreement is not reached, the mediator shall issue a non-binding, written recommendation to the City Manager regarding the accuracy of the circumstances leading to the grievance and the disposition of the grievance, including recommended discipline. The mediator shall make fact findings in support of his/her recommendations.
- b) Upon receipt of the mediator's recommendation, the City Manager shall discuss the grievance with the employee, the SEIU representative, if any, and with all other appropriate persons.
- c) The City Manager shall render a decision in writing to the employee within twenty (20) calendar days after receiving the mediator's recommendation. The City Manager may, but is not required to, provide explanation as to the decision to accept, reject or modify the recommendation of the mediator. In the event no written decision is given within the 15 days set forth in paragraph (2), above, the grievance shall be deemed denied. The decision of the City Manager is final.

14.6 Procedure for Suspensions, Demotions and Dismissals

The following procedure shall be applicable to regular full-time and part-time employees; provided the part-time employees work 20 or more hours per week, for disciplinary actions resulting in suspensions in excess of five (5) working days, demotions and dismissals.

- a. Employee shall be served with a mailed Notice of Intended Disciplinary Action (Notice).
- b. The Notice shall include:
 - i. A statement of the nature of the proposed action.
 - ii. A statement of the reasons for the proposed action, including the specific acts or omissions giving rise to the proposed action.

- iii. A copy of the charges and materials supporting charges.
 - iv. A statement that the employee may file an informal appeal within the Appointing Authority with ten (10) calendar days from the date of service or mailing of the Notice.
 - v. A statement that after the proposed action shall be stayed during the ten-day period for filing of the informal appeal.
 - vi. A statement that after the informal appeal, if one is sought, or after the ten day period if no appeal is sought, the Appointing Authority may proceed to impose disciplinary action by serving an Order of Disciplinary Action.
- c. In those extraordinary circumstances wherein the Appointing Authority determines immediate disciplinary action is necessary as a result of accusations involving misappropriations of public funds or property or action which would constitute a felony or misdemeanor involving moral turpitude, the Appointing Authority may proceed to impose disciplinary action as set for the below without following the Notice of Intended Disciplinary Action.
- d. The Order of Disciplinary Action (Order) shall include:
- i. A statement of the disciplinary action.
 - ii. The reasons for the disciplinary action, including a description of the facts (specific acts or omissions).
 - iii. If applicable, a summary of prior disciplinary actions relied upon.
- e. An employee served with an Order of Disciplinary Action shall have ten days to file a written answer to the allegations and charges and a demand for an appeal hearing.
- f. Employee's failure to file an appeal within the ten day period shall terminate the right to a hearing and the Order shall be deemed final.
- g. The hearing officer regarding the appeal of the Order of Disciplinary Action shall be selected as follows:
- i. The City, by and through the City Manager or his/her designated representative, and the employee or union on behalf of the employee and with the employee's written concurrence and acceptance of the

procedure and obligations set forth herein, shall request a list of neutrals from the State Conciliation Service.

- ii. Such a list shall be requested within five working days of receipt of an employee's appeal demanding a hearing.
 - iii. The City Manager, or his/her designee, and the employee, or the Union upon written authorization of the employee, shall meet no later than three working days after they have received the list and, utilizing the alternate strike method with the party striking first determined by the toss of a coin, shall select the hearing officer.
 - iv. Should the person selected as the hearing officer be unavailable to commence the hearing process within three weeks of the date of this selection, the parties shall request another name as listed above and shall proceed again through the list as provided above.
- h. The hearing officer shall regulate the conduct of the hearing process. The hearing officer shall set the date, time and place of the hearing, which place shall be on city premises, and shall, by certified United States mail, postage prepaid, give not less than ten days' notice of such date, time and place to the appellant, or his or her other designated representative, the Appointing Authority and the Human Resources Director. The hearing shall be recorded by a court reporter or electronic process. Oral evidence may be heard only on oath or affirmation. The hearing officer shall, within thirty (30) calendar days of the close of the hearing, file with the Human Resources Director the decision affirming, modifying, or revoking the Order, and shall mail a copy of his or her findings and decision to the appellant and to the Appointing Authority.
- i. The decision of the Hearing Officer shall be final for all purposes unless an action or proceeding is commenced in a court of competent jurisdiction to determine the validity of the decision within thirty calendar days of the date of mailing of the notice of decision to appellant and the Appointing Authority.

15. SUPERSESSION CLAUSE

Except as may hereinafter be agreed to in writing, and except for the Lathrop Employee-Employer Relations Resolution, this Memorandum of Understanding contains the sole and entire agreement between the parties. It supersedes any and all other previous Memoranda of Understanding between the parties and incorporates by reference all such previous memoranda between the designated representatives of members of this representation unit and the City and also supersedes and incorporates by reference any and all Resolutions and Minute actions adopted by the City of Lathrop City Council which were adopted to implement any Memorandum of Understanding between the designated representatives of

members of this representation unit and the City; this Memorandum shall prevail and apply. (SEIU was to get back to us if they wanted last paragraph language included)

16. PROPOSAL SUBMITTAL

The Union will submit their proposals to the City by January 1st of the year the contract expires. The City agrees to respond to the proposal within 10 days of receipt and both parties will agree on a final deadline for either side to submit bargaining proposals once bargaining begins.

17. SEVERABILITY OF PROVISIONS

Should any section, clause or provision of this Agreement be declared illegal by final judgment by a court of competent jurisdiction, such invalidation of said section, clause or provisions shall not invalidate the remaining portions hereof and such remaining portions shall continue in full force and effect.

18. MERGER

This agreement represents the entire understanding of the parties and all prior or contemporaneous oral and written agreements are merged herein. There are no representations, conditions, warranties or collateral agreements regarding the subject matter of this agreement other than as set forth herein.

19. CHOICE OF LAW/VENUE

The laws of the State of California shall govern this MOU. In the event of any lawsuit commenced by City or Union as a result of the performance of this agreement, the parties each consent that venue for any such action shall be laid in a court of competent jurisdiction in San Joaquin County.

20. ATTORNEY'S FEES

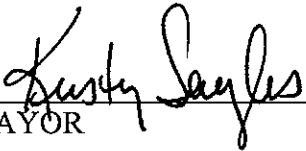
In the event of any litigation between the parties arising out of the performance of this MOU, each party shall bear their own actual attorney's fees incurred.

21. FINAL AGREEMENT

Entered into this 1st day of July, 2010, the parties agree that the above includes all items discussed and agreed to by way of the meet and confer process. This Agreement cannot be amended to, subtracted from or added to except by mutual written agreement of both parties. The persons executing this agreement each represent and warrant that they have been duly authorized to do so and the agreement is a valid and binding obligation of both parties.

CITY OF LATHROP

SEIU, LOCAL 1021

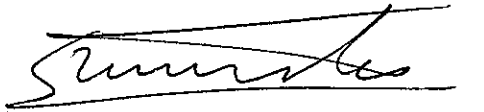


MAYOR



BUSINESS REPRESENTATIVE

APPROVED AS TO FORM



City Attorney

Appendix "A"

The City of Lathrop General Services Bargaining Unit (GSBU) is comprised of regular full-time and part-time (when scheduled to work 20 hours or more per week) employees who are incumbents in positions in the job classifications listed as follows, with the exception of those positions that are designated as confidential:

Accountant 1
Accountant 2
Accounting Technician
Accounting Specialist I
Accounting Specialist II
Administrative Clerk
Administrative Assistant I
Administrative Assistant II
Animal Services Officer
Animal Control Assistant
Assistant Engineer
Assistant Planner
Associate Planner
Budget Analyst I
Budget Analyst II
Building Inspector I
Building Inspector II
Building Inspector III
Code Compliance Officer I
Code Compliance Officer II
Code Compliance Officer III
Construction Inspector I
Construction Inspector II
Crime and Intelligence Analyst
Engineering Technician I
Facility Supervisor
IT Technology Technician
Junior Engineer
Maintenance Worker I
Maintenance Worker II
Management Analyst I
Management Analyst II
Office Assistant I
Office Assistant II
Permit Technician
Plans Examiner

Recreation Coordinator
Recreation Leader
Recreation Specialist
Recreation Supervisor (current incumbent only. Any successor will have the option of being included or excluded from the unit)
Senior Building Inspector
Senior Construction Inspector
Senior Engineer Technician
Senior Recreation Leader
Senior Streets Maintenance Worker
Senior Utilities Maintenance Worker
Solid Waste and Resource Conservation Coordinator
Utility Operator I
Utility Operator II
Wastewater Treatment Plant Operator Trainee
Wastewater Treatment Plant Operator I
Wastewater Treatment Plant Operator II

Appendix "B"

The provisions of this Agreement, are subjected the furlough program established by Council Resolution No. 09-2864, reducing by 10% the total number of working hours.

Unless otherwise provided during the term of this agreement, there shall be no (1) cost-of-living increases; (2) merit step increases and (3) suspension of furlough program, unless there is at least a 10% increase in each of the City's sales tax and property tax revenues, herein a "revenue increase", from the 2008-2009 base year.

A "revenue increase" shall mean that each of the City's sales tax and property tax revenues, herein "revenue increase" increase ten percent (10%) from the 2009 base year.

In the case of revenue increase, the City and SEIU agree to meet and confer regarding the following items:

- Suspension of the Furlough Program
- Salary - Step Increases
- Salary - Cost of Living Increases

If LMCEA is taken off of the Furlough Program during the duration of this agreement, SEIU members shall also be taken off the program.

Additionally, if LMCEA is granted (1) base salary or cost-of-living increase; (2) reinstatement of salary step increases; or (3) an increase in health insurance contributions, SEIU members shall be granted the same benefits.

Also, it shall be agreed the employees represented by SEIU Local 1021 shall receive any increases in salary, health and welfare benefits, or any other new economic benefit offered to the LMCEA during the duration of this agreement.

When salary step increases are reinstated, they shall not be retroactive.