



Memorandum of Understanding between  
The City of Lathrop and  
Lathrop Mid-Managers and Confidential Employees Association

Effective: July 1, 2022 through June 30, 2026

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## **PREAMBLE**

This Memorandum of Understanding (hereinafter “Memorandum”, “MOU” or “Agreement”), is made by and between the City of Lathrop (hereinafter “City”) and the Lathrop Mid-Managers and Confidential Employees Association, (hereinafter “LMCEA” or “Association”), representing regular employees who are incumbents in regular full-time or part-time (when scheduled to work 20 hours or more per week) positions that are in job classifications comprising the Mid-Management and Confidential Bargaining Unit (refer to Appendix “A”). This Memorandum of Understanding, inclusive of Appendix “B”, 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 Association.

## **TERM**

The term of this agreement shall be from July 1, 2022 through June 30, 2026.

## **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. 17-4312.
- B. Incorporation of Personnel Rules
  - a. The parties agree that sections of the Personnel Rules that relate to wages, hours or other terms of conditions of employment pursuant to Government Code 3500 et.seq., have been incorporated into this Agreement, whether specifically referenced or not.
  - b. During the term of this agreement, the City will not change provisions of specifically cited Personnel Rules or any other rule or ordinance relating to wages, hours or other terms of conditions of employment without first meeting and conferring in good faith with the Association pursuant to Government Code 3500 et.seq. Members agree to then be bound by Personnel Rules adopted pursuant to this process even if the Rules are inconsistent with provisions of this MOU.

## **OTHER POST EMPLOYMENT BENEFITS – “OPEB”**

In an effort to maintain fiscal solvency, the City will maintain post employment benefit obligations in the following manner:

1. Maintain Irrevocable Trust Fund established in FY 14-15– Medical Benefits
  - a. CalPERS to administer
2. Continue funding OPEB contributions and annual required contribution for term of agreement:
3. Other Post Employment Benefits
  - a. Medical post-retirement age eligible at 55
    - i. All employees retiring after Dec. 31, 2014
    - ii. All new hires
  - b. Post-retirement medical for all employees retiring after Dec. 31, 2014 and New Hires
    - i. Retiree +1
    - ii. City-paid retiree medical 55-65 = same health benefits premium contribution as active employees; continue existing City and employee contributions; City will pay one half (50%) of the difference in premium increase up to 6.5%; tied to the average plan cost. City-paid medical at Medicare eligibility (65) = The City will pay the CalPERS Minimum Employer Contribution (i.e., \$149/mo. – 2022)
    - iii. Retiree is responsible for paying the cost of medical premiums as established by CalPERS.

- iv. The City will process a reimbursement through the designated third-Party Administrator (TPA). The TPA will process the reimbursement to the retiree on or about the 1<sup>st</sup> of each month.
  - c. Post-retirement medical for existing annuitants and employees retiring on or before December 31, 2014 – No change for term of agreement
4. Maintain Post-Retirement Benefit Schedule
- a. Employees hired prior to July 1, 2014; 100% vested
  - b. Employees hired July 1, 2014 or later; 25% @ 5 yrs., 50% @ 10 yrs., 100% @ 15 yrs.
  - c. The benefit stipend is a dollar amount equal to 100% of active average plan cost, by category; i.e. retiree +1

**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 nor 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.
  - 1.1.10 Provisions of this section shall not be subject to the grievance procedure.
- 1.2 Employee’s Rights-Employer-Employee Relations: LMCEA 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 Discrimination of Employment Prohibited: The City of Lathrop prohibits discrimination in employment as outlined in Rule 2 of the Personnel Rules and Regulations.

1.4 LMCEA Rights: LMCEA shall have the following rights:

1.4.1 Representation: To meet and confer in good faith with the City Manager regarding matters within the scope of representation.

1.4.2 Advanced Notice: Except in cases of emergency, LMCEA 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 letter or furnishing LMCEA with advance copies of the agenda of the City Council.

1.4.3 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 Association, 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.

1.4.4 Meeting Attendance: LMCEA may have three (3) 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.

1.4.5 Representatives' Access to Employees

a. Authorized representatives of LMCEA (employed by LMCEA) 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 supervisor or department head when contacting the departmental employees during their duty period. Meetings shall be held in a private office or conference room.

b. Reasonable solicitation for membership or other internal Association business 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.

1.4.6 Association Officers: Association Officers and Directors (City employees) employed and recognized by City may assist employees in resolving complaints and grievances at the lowest possible administrative level of review. Officers and Directors 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.

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. Designated Officers and Directors: The Association shall provide a current list of all designated Officers and Directors to the City Manager or designee at the beginning of each calendar year and whenever there is a change in the list of Officers and Directors. The list shall show the employee name, classification, department and work location and normal are to be covered. No Officers and Directors shall be recognized as such by the City without a written request from LMCEA.

1.4.7 City Facilities Use: City facilities shall be available to LMCEA as follows:

- 1. City Buildings: LMCEA 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. LMCEA shall obtain the permission of the designated City official for the use of such facilities.
- 2. Bulletin Boards: LMCEA shall be allowed reasonable use of designated City bulletin boards to provide information to members under the following conditions:
  - (a) Material shall be posted on space as designated.
  - (b) Posted material shall not be misleading, contain any deliberate misstatements and/or violate any Federal, State or County laws.
  - (c) Material shall be neatly displayed and shall be removed when no longer timely.

1.4.8 Employee Payroll Deductions: LMCEA shall have the right to a payroll deduction for its members in this unit including regular dues and employee benefit program costs. 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 LMCEA payroll deductions, without resigning a payroll deduction card, shall be allowed after an employee returns from a leave of absence.

1.4.9 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.

1.4.10 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.

1.4.11 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.

## 2 INSURANCE

2.1 Health Insurance Options: The City shall provide an option for health insurance coverage for eligible employees and dependents. All health and health-related plan or benefit years shall coincide with the calendar year.



- 2.2 **PREMIUM:** The City will increase the maximum amount that it will pay for all benefits (medical, dental, and vision) currently \$1,865/month effective January 1, 2022. Effective January 1, 2017, the City will increase the maximum amount that it will pay for all benefits (medical, dental, vision) to one half (1/2) of any premium increases during the term of this MOU, but not to exceed an annual increase of six and one half (6½%) percent.
- 2.3 **Cafeteria Benefits Plan:** The City shall provide represented employees a cafeteria benefits plan that will be funded with the City's employer's health benefit contribution.
- A. The City shall maintain a Cafeteria Benefits Plan for each represented employees in regular employment status. Monies in and employee's Cafeteria Benefit Plan shall first be used for the following purposes:
    - 2.3.A.1 Medical insurance.
    - 2.3.A.2 Dental insurance.
    - 2.3.A.3 Vision insurance.
  - B. Upon first providing proof of medical, dental and vision insurance coverage to the City's Human Resource Department, whether it be from the employee's Cafeteria Benefits Plan or a spouse/partner/parent's employer provided health benefit program, a representative employee may elect to use up to 35% of the City's health plan contribution to the Cafeteria Benefits Plan for one or more of the following purposes:
    - 2.3.B.1 Payments on the employee's behalf to the City of Lathrop's deferred compensation providers;
    - 2.3.B.2 Payment to the City's 125 plan administrator for reimbursement of the Internal Revenue Code 125 eligible dependent care; or
    - 2.3.B.3 As a taxable cash payment of the unused balance.
  - C. Each represented employee shall provide the Human Resource Department in writing, on a form provided and at times designated by the City each year, all information necessary to administer the Cafeteria Benefits Plan during the 12 month period beginning the first day of each plan benefit year. Thereafter, no changes to designations made will be allowed until the following open enrollment period.
  - D. Each represented employee shall be responsible for providing immediate written notification to the Human Resources Department of any change to the number of his/her dependents which affects the amount of the City payment on the behalf of the employee. Changes in the cafeteria benefit payments required because of a change in an employee's number of dependent shall take effect at the start of the first pay period in the month next following the month in which notice from the employee was received by the Human Resources Department. No retroactive payments shall be allowed.
- 2.4 **Effective Date of Coverage:** The effective date of coverage for new employee health, dental, and vision insurance plans shall be in the month next following the date of appointment to employment as a regular employee.
- 2.5 **Dental and Vision Insurance:** The City provides dental and vision insurance that is on a calendar plan year. When an employee enrolls in either program, he/she 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.
- 2.6 **Life Insurance:** Employees with more than 30 days of employment with the City shall receive an amount of group term life insurance equal to the amount of their annual salary.

- 2.7 State Disability Insurance: The City shall purchase, and pay the full premium for, 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 Cafeteria Benefits Plan.
- 2.8 Flexible Benefits: Employees may 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 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.
- 2.9 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 SALARIES and COMPENSATION**

- 3.1 Salary Plan: Salaries, including merit step increases, shall be administered pursuant to Personnel Rule 6.2 with the base City-wide Salary plan based on competitive market values.
- 3.2 Salaries and Merit Step Increases
- A. There shall be a four percent (4%) cost-of-living increase for Fiscal Year 2022, 2023, 2024 and 2025; beginning the first full pay period in July, 2022, July 2023, July 2024 and July 2025.
- 3.3 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.
- 3.4 Work Above Class: While the City does not encourage the practice of working out-of-class, it is recognized that there are times when such a situation may occur, such as unforeseen extended leaves or vacations. Working out-of-class assignments are at the discretion of the Department Head. When it does occur, the City agrees with providing just compensation to eligible employees working out-of-class. 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. For purposes of this provision, "eligible employee" refers to an employee in the same class series who is qualified to perform the class duties and who have found to be "meeting job expectations" or better on their most recent evaluation.

Therefore, opportunities for working above class shall, to the extent possible, be spread among all those who qualify for said position. If the supervisor determines that someone will be assigned to work “out-of-class” they shall appoint one of those who qualify. If there is more than one employee who is qualified to work out-of-class, then each such assignment shall be to a different employee so that all qualified employees obtain approximately equal opportunities to work above class. All working above class assignments will be requested by the Department Head and submitted to the City Manager for approval.

### 3.5 Deferred Compensation Contribution

- A. The City of Lathrop maintains four (4) 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.
- B. 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.

3.6 Severance Procedures: Severance procedures shall be in accordance with the Personnel Rules section 6.6.

### 3.7 Bilingual Pay

City agrees to pay \$60 per month for up 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 be 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.

## 4 HOURS OF WORK AND OVERTIME

4.1 Work Hours: Working hours, including City business hours, meals and rest periods, notification of employee absence and flexible work schedules shall be in accordance with Personnel Rule 4.1.

4.2 Overtime and Overtime Compensation: The City of Lathrop shall compensate City employees for all hours worked, including overtime hours worked in compliance with the Fair Labor Standards Act (FLSA). The FLSA categorizes employees as exempt and nonexempt. Exempt employees are not eligible for overtime or compensatory time. Exempt employees includes all employees who meet one or more of the duties test exemptions from overtime under the FLSA (e.g. executive, administrative, professional) and who are paid on a

salary basis. Salary basis means compensation in a predetermined amount that is generally not reduced regardless of the quality or quantity of work actually performed.

The City Manager shall classify all positions for purposes of FLSA. Department Heads shall see that records are kept and overtime and compensatory time are approved in accordance with departmental procedures. The Finance Manager shall calculate pay periods. For purposes of the 9/80 alternate work schedule, the Friday worked ends/begins mid-day Friday; the designation of mid-day Friday is the start of the pay period.

A. Overtime Compensation

1. An employee who works beyond the specified numbers of hours in the pay period 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 for the purposes of this section.
2. Compensatory time may be given in lieu of paid overtime at the discretion of the Department Head. Employees earning compensatory time may only accumulate eighty (80) hours. Employees who accumulate more than the maximum eighty (80) hours shall be paid for overtime hours in excess of the maximum.

B. Approval of Overtime

1. Overtime worked must be approved by the Department Head prior to being worked. The Department Head should make sure that appropriate and accurate records of all overtime hours worked and any compensatory time earned are kept.
2. Failure to have overtime approved in advance, except for call-back time, will not prevent the City from compensating the Employee for the time worked; however, disciplinary action may be taken for working unauthorized hours.

C. Payment of Accrued Overtime

1. Any accrued compensatory time shall be used before accrued vacation leave whenever an employee takes time off.
2. Use of compensatory time should not create a situation where overtime for other personnel within the department or City is necessary to maintain operations.
3. Upon termination of employment, any compensatory time up to the maximum accrual earned and unused by the employee shall be paid at a rate of pay equal to the employee's current rate of pay at termination.

D. Record Keeping

Each Department Head shall see that accurate records are kept of all hours worked by each employee within the department. Such records shall differentiate between scheduled hours and overtime hours worked and all leave hours taken per work period for each employee. Copies of all time worked records shall be submitted to the Finance Department at the end of each pay period or each work period. These records shall be maintained for at least three (3) years.

Hours worked shall be documented and compensated in fifteen (15) minute intervals. For example, an employee working more than five (5) minutes in a fifteen (15) minute interval shall be compensated for fifteen (15) minutes.

## 5. LEAVES FROM EMPLOYMENT

### 5.1 Paid Holidays

The City recognizes that various special occasions occur during the course of a year which warrant special celebrations and/or observances. These occasions are generally designated by Federal and/or State Statute, or by tradition. In order to acknowledge these occasions, the City has determined that it will recognize certain holidays throughout the year and allow City employees to observe these occasions by granting employees time off work, with pay or giving an additional day's or shift's pay.

A. Any day designated as a paid holiday by the City Council shall be considered a legal holiday for City employees.

B. The City shall observe the following holidays:

<b>HOLIDAY</b>	<b>DATE OBSERVED</b>
New Year's Day	January 1
Martin Luther King Jr. Day	3rd Monday in January
Washington's Birthday	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	4th Friday in November
December 24	December 24
December 25th	December 25
December 31	New Year's Eve

If a holiday falls on a Sunday, the following Monday will be observed as the holiday, except that if December 24th or December 31st falls on Sunday, the preceding Friday will be observed as the holiday. If a holiday falls on Saturday, the preceding Friday will be observed as the holiday. If December 24th or December 31st falls on Friday, the preceding Thursday will be observed as the holiday.

C. Employees Occasionally Working Holidays

Regular full-time and regular part-time employees required to occasionally work on a holiday (e.g., Parks and Recreation and Public Works employees) may be permitted to take a different day as the holiday, accrue the time as compensatory time or be compensated for the holiday as approved by the Department Head. Compensation shall include eight (8) hours of Holiday Pay, for full-time employees, plus time and a half for the number of hours actually worked.

**5.2 Floating Holiday**

Employees shall be entitled to one (1) floating holiday (8, 9, 10, or 12 hours based on employee schedule) each Fiscal Year. Floating Holiday time shall be accrued during the pay period that includes July 1st. New employees hired after July 1<sup>st</sup> shall not accrue a floating holiday until the following July 1<sup>st</sup>.

Floating holidays accrued shall be available for use the first day following the pay period in which they are accrued, and shall be scheduled at a time mutually agreed upon between the employee and Supervisor/Department Head.

Floating holiday hours must be used in the fiscal year they are received. Any Floating holiday hours remaining at June 30<sup>th</sup> shall be rolled over into the employee’s vacation bank.

**5.3 Vacation Time**

The City of Lathrop seeks to provide City employees with time away from their daily job duties in order to relax, to refresh their energies and dedication to the job, and to maintain their health and personal well-being. For this purpose, the City has devised a vacation program for City employees.

Full-time employees shall begin to accrue vacation leave on the date of hire on a bi-weekly basis at a rate based upon tenure of employment:

Years of Service	Monthly Accrual	Annual Accrual	Max Accrual
0-4 Years	6.667 hrs	80 hrs	240 hrs
5-9 Years	10 hrs	120 hrs	360 hrs
10 + Years	13.33 hrs	160 hrs	480 hrs

**5.3.1 Vacation Buy-Back**

- A. Exempt employees are eligible to buy back up to forty (40) hours of accrued vacation hours per year. This will be based on the amount of vacation accrued on December 1st of each year. Vacation buy-back will not be automatic. Employees wanting to buy-back vacation must submit a written request to the City Manager by December 15th of each year. At the time the request is submitted, the exempt employee must have accrued a minimum of forty (40) hours of vacation time. If a request is not received by December 15th, the buy-back will not be allowed.
- B. Exempt employees whose accrued vacation time exceeds the accrual maximum set forth in the Personnel Rules and Regulations, an additional vacation buy back is

authorized for any hours above the accrual cap. Redemption over the maximum accrual amount shall take place quarterly.

- C. Non-exempt employees over vacation accrual maximum at January 1 will be able to buy back up to forty (40) hours of vacation time above the accrual cap per year and will be paid out with pay period one (#1).

### **5.3.2 Vacation Scheduling**

All vacation time must be scheduled in advance with the Department Head and should be taken at a time which does not unnecessarily burden the department. As much as possible and as work scheduling permits employees may take multiple weeks of vacation when properly scheduled with their Department Head. All leave shall be approved by submitting a completed leave form to the Department Head for approval. Leave equaling one (1) week or more should be scheduled at least two (2) months in advance. Earlier scheduling of leave is encouraged in order to allow supervisors to reassign work load.

### **5.3.3 Use of Vacation Benefits**

Employees are eligible to take accrued vacation time after completion of an approved probationary period. An employee may take some accrued vacation time prior to having completed the probationary period if approved by the Department Head. The vacation time will only be allowed if the situation requiring the taking of the vacation time is an emergency, or if the taking of the vacation time was negotiated prior to employment.

### **5.3.4 Vacation Accrual**

Employees may accrue vacation time to a maximum of three (3) 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 the total accrual drops below the maximum accrual limit. An employee's accrual limit may exceed the maximum limit during the year; however, the employee will discontinue accruing vacation on December 31st of each year if his/her 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:

- (1) The employee's vacation accrual must be above the maximum on December 31st of that year.
- (2) The Department Head must determine that there was no other available time during the months of November and December when the vacation could be rescheduled.
- (3) The maximum accrual extension must be approved by the City Manager.
- (4) The provisions for discontinuing accrual based on exceeding the maximum limit will be waived for one (1) year. The provisions for discontinuing accrual based on maximum limit shall be enforced the following year.

### **5.3.5 Accrued Vacation Upon Separation**

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

## 5.4 Sick Leave

The City understands that there are times when a City employee, because of illness or injury, or illness or injury related circumstances, cannot and should not be at work. Sick leave is not a privilege to be used at an employee's discretion, but may only be used in cases of necessity and actual illness or disability of the employee or a family member needing care as set forth below. The City shall adhere to appropriate state and federal mandated family care leave laws. (See Rule 8.4.)

### 5.4.1 Accumulation and Use of Sick Leave

Full-time and exempt employees may begin to accumulate sick leave on the date of hire at a rate of eight (8) hours per month.

An employee eligible for sick leave may 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.

### 5.4.2 Definition of "Family Member" pursuant to Labor Code Section 245.5

"Family Member" includes the following:

- a. A child, which for purposes of this section means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
- b. A biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
- c. A spouse
- d. A registered domestic partner
- e. A grandparent
- f. A grandchild
- g. A sibling.

### 5.4.3 Notification of Need to Use Sick Leave

- A. Employees should provide reasonable notice to their supervisor of medical appointments. Any employee needing to be absent from work because of a sick leave circumstance will arrange for a telephone report to his or her supervisor by the beginning of the scheduled work day or shift (no later than the start of the work shift) to ensure coverage can be arranged.
- B. Any use of sick leave, including maternity, paternity, and parenting leave, which results in absence from work exceeding three (3) successive work days, 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 or her returning to work following the illness, or if the supervisor has a suspicion of sick leave abuse.

- C. If a sick leave circumstance requires an employee to be away from work for a period beyond the individual's accumulated sick leave, then 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.
- D. Upon return to duty after use of sick leave, the employee shall complete a leave form to be signed by the Department Head and forwarded to the Payroll office.
- E. Any employee who is absent from work for a period of three (3) consecutive work days without notifying his or 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 appeal grievance process.

#### 5.4.4 Sick Leave Conversion

- A. Employees eligible to accumulate sick leave 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. A full-time employee has an accumulated balance of unused sick leave of more than ninety-six (96) hours; conversion does not reduce unused sick leave hours below ninety-six (96) hours; and the employee has not used more than forty (40) hours of sick leave during the prior calendar year. A maximum of forty (40) hours of sick leave may be converted, but will be reduced hour for hour by sick leave used by the employee during the calendar year. If an employee uses forty (40) or more hours of sick leave during the year, no sick leave may be converted.
  - 2. Once an employee has met the criteria for his or her employment, the sick leave conversion will automatically take place, unless the employee directs otherwise. The additional vacation hours will appear on the employee's check stub or other record. Any sick leave converted shall be added to accrued vacation and be governed by the vacation accrual limits and usage rules. Conversion of sick leave shall be done after the last pay period of each calendar year.

#### 5.4.5 Abuse of Sick Leave

Use of sick leave without legitimate medical need is sick leave abuse which will be cause for discipline in accordance with disciplinary procedures.

#### 5.4.6 Dealing with Sick Leave upon Termination of Employment

An employee leaving City employment for any reason will not receive or be compensated for unused sick leave.

#### 5.4.7 Sick Leave Use and Other Income Benefits

- A. Workers Compensation

1. Sick Leave should not be used for work shifts or days missed during periods of work related injury or illness except to compensate for time not covered by workers compensation insurance. When the injury is reported, the employee shall also declare to the Human Resources Department his/her intent to:
  - a. Take the workers compensation benefits received in which event the City shall reduce the bi-weekly pay check by the amount of workers compensation benefits accrued (generally two-thirds of regular wages). The employee may use sick leave for the time not reimbursed by workers compensation; or
  - b. Immediately release all workers compensation benefits received to the City. By doing so the employee may use sick leave to cover the entire period of work missed due to a work related injury or illness. At the time the workers compensation benefits are returned to the City, the appropriate amount of sick leave taken will be reinstated to the employee's accrual. If the employee fails to return the workers compensation benefits to the City, the City may reduce the employee's pay check by deduction to compensate the City for the value of the workers compensation benefits. In addition the employee may forfeit the sick leave used.
  - c. Leave related to workers compensation injuries such as worker's compensation hearings and post injury health care provider's visits, may be compensated to the employee through administrative leave if approved by the Director of Administrative Services, or designee.

#### B. Disability Insurance

Sick leave may be used in conjunction with disability benefits in order to receive 100% of an employee's salary during disability. It is the responsibility of the employee to make sure sick leave use is recorded and documented with the Finance Department when used in conjunction with disability leave.

#### 2. Other

Sick leave use must be coordinated with other benefits as outlined in this Rule.

### 5.5 Catastrophic Leave Program

#### 5.5.1. Conditions of Participation:

A. Application for receipt of catastrophic leave donations will be processed by the Human Resources Department.

B. An employee becomes eligible to receive catastrophic leave donations when the 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.

#### 5.5.2. Donation of Time

- 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.

#### 5.5.3. Processing of Donations

- A. 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.
- B. Upon verification, the Human Resources Department shall notify Payroll of the eligibility of the employee to receive catastrophic leave donations.
- C. Upon receipt of donation authorizations, Payroll shall take the following actions:
  - D. 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.
    - 1. Convert donated dollars as computed above to work hours at the hourly rate of the recipient and add the recipient's sick leave balance.
    - 2. Notify departments of changes in leave balances by noting payroll adjustments for the next payday.
    - 3. Retain a confidential file of donation authorization.

#### 5.5.4. Treatment of Donated Time

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

C. 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.

## 5.6 Jury Duty

Any employee summoned for jury duty shall receive compensation at their regular rate for those days missed. Any amount received for jury duty pay must be returned to the City. An employee may elect to take compensatory time to perform jury duty and keep the court fees received. If any employee is subpoenaed to court on a personal matter, any time away from work during regularly scheduled working hours shall be compensatory time, vacation time, or leave without pay. Court pay for mileage shall be retained by the employee.

## 5.7 Management Leave

- A. Exempt employees, shall be given twenty five (25) hours per quarter in January, April, July and October for a total of one hundred (100) hours of management leave in each calendar year. This leave shall be prorated at the time of hire for new employees.
- B. Management leave not used by December 31st of each year will be converted to vacation time.
- C. Scheduling of management leave shall be done in the same manner as vacation scheduling, as outlined in Rule 7.2.

## 5.8 Leave for Promotional Examinations/Interviews

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

## 5.9. Authorized Absence

Employees shall be in attendance as required by their position. Any unauthorized absence may be cause for discipline. Authorized absence means permission to be absent from duty for a specified purpose, with the right to return before or upon the expiration of the leave period. Requests for leave are to be completed on a City approved form and submitted to the employee's Department Head.

# 6 RETIREMENT

6.1. Retirement Formula: The City of Lathrop participates in the California Public Employees Retirement System (CalPERS) as follows:

6.1.1 For full-time or otherwise qualified employees hired before December 31, 2009, the City contracts with CalPERS to provide 2%@55 formula based on the average of the highest 3 years final compensation.

- Employees contribute 4% of the Employee share and the City picks up 3% of the Employee share.
- Effective the pay period including 1/1/15, Employees will contribute 5% of the Employee share and the City will pick up 2% of Employee share.

- Effective the pay period including 1/1/16 Employees will contribute 7% of the Employee share and there will be no City pick up of Employee share.
- 6.1.2 For full-time or otherwise qualified employees hired on or between January 1, 2010 and December 31, 2012, or new employees hired on or after January 1, 2013 who qualify as a Classic Employee pursuant to CalPERS regulations, the City contracts with CalPERS to provide 2%@60 formula based on the average of the highest 3 years final compensation.
- Employees contribute 4% of the Employee share and the City picks up 3% of the Employee share.
  - Effective the pay period including 1/1/15 Employees will contribute 5% of the Employee share and the City will pick up 2% of Employee share.
  - Effective the pay period including 1/1/16 Employees will contribute 7% of the Employee share and there will be no City pick up of Employee share.
- 6.1.3 For full-time or otherwise qualified employees who are hired on or after January 1, 2013 or previous CalPERS members hired on or after January 1, 2013 who are not qualified as Classic Employees pursuant to CalPERS regulations, CalPERS has by statute implemented a 2%@62 formula based on the average of the highest 3 years final compensation.
- i. Employees shall pay 50% of the normal cost rate as determined by CalPERS.
- 6.1.4 Employee contributions toward the Employee share shall occur pre-tax pursuant to 414(h)(2) of the Internal Revenue Code.
- 6.2 Retiree Health Savings: The City will enter into an Administrative Service Agreement with ICMA-RC to make the RHS Plan available to designated employees. Pursuant to the Administrative Service Agreement, the City will act as the sponsor of the Plan. As the Plan sponsor, the City will be responsible for making employee authorized payroll deductions and transmitting them as contributions remitted directly to Vantagepoint Transfer Agents In accordance with the Administrative Service Agreement.

Participation in the RHS Plan shall be restricted to Association members in good standing and Associate Members as defined by the Association Bylaws on file with the City. The RHS Plan Adoption Agreement Section V.B requires that all members of the Association participate in The Plan.

The Association shall notify the City of the amount of payroll deduction to be made on behalf of Plan participants. Each participant shall provide the City with written authorization for a voluntary deduction of the designated amount. Contributions to the RHS Plan shall be made solely with funds designated for that purpose through payroll deduction for each participant. No contribution will be made by the City.

The initial "Mandatory Employee Compensation Contribution" shall be five percent (5.0%) of each participant's bi-weekly base salary. The Association retains the right to change the mandatory contribution upon notice to ICMA-RC and the City.

All costs associated with the Plan, including annual asset fees and annual account administration fees, shall be borne by the individual participants. With the exception of the incidental costs of administering payroll deductions and electronically transmitting the Plan contributions, the City shall not be responsible for any costs associated with the RHS Plan.

## 7 TRAINING AND EDUCATION

7.1 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.

7.2 Educational Reimbursement Program: It is the City's policy to promote operational efficiency. Department Heads may make specific funds available for job-related education and training within their departments. The expenditure of training funds is discretionary with a Department Head within budget appropriations.

### A. Education

(1) Employees are eligible to receive tuition reimbursement for educational purposes which tend to improve their ability to accomplish their City job. Approval for reimbursement must be given by the City Manager prior to enrollment. Requests should be submitted in writing to the City Manager. An Educational Assistance Form may be used.

(2) The payment of education funds is discretionary with a Department Head within appropriate budget limits:

a) Costs are not to exceed \$3,000.00 maximum per calendar year.

b) Employee's time, books, materials, and travel are at employee's own expense.

c) Class time must be on employee's own time unless approved by the Department Head.

d) Passing grade (C or better) or a certificate of completion is required for reimbursement.

(3) An employee must reimburse City if employment is voluntarily terminated within one (1) year.

### B. Training

(1) Employee training which is mandated or sponsored by the City should be funded by the employee's department.

(2) Training may, at the discretion of the Department Head, be taken during regularly scheduled work time.

(3) All training and travel costs shall be approved by the Department Head, except out of state travel which must be approved by the City Manager.

## **8. EVALUATIONS AND PERSONNEL FILES**

### **8.1 Employee Performance Evaluation**

- 8.1.1 Performance appraisals shall be administered pursuant to Personnel Rule 5.
- 8.1.2 If an employee receives a performance evaluation that is not timely and is satisfactory and the employee is eligible for a step increase, the employee shall be entitled to back pay to the start of the pay period following their original Performance Review Date.

### **8.2 Employee Personnel Files**

- 8.2.1 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.
- 8.2.2 Documents not available for inspection include records relating to the investigation of a possible criminal offense, letters of reference, ratings, reports or records that were: A) obtained prior to the employee's employment, B) prepared by identifiable examination committee members, and C) obtained in connection with a promotional examination, or other legally privileged records.
- 8.2.3 An employee shall have the right to submit written comments regarding any document placed in his/her personnel file within ten (10) workdays of notice of such placement 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; this will end the response period for the specific document. Written comments shall be submitted to the Administrative Services Director.

## **9. PROTECTIVE FOOTWEAR**

### **9.1 Purchase Reimbursement**

- 9.1.1 The City shall reimburse every employee who is required to wear protective footwear up to \$350 per year for the purchase or repair of required footwear. To receive reimbursement, the employee shall purchase footwear meeting defined safety specifications and present proof of purchase or repair, including cost.
- 9.1.2 In the event the employee selects footwear from a vendor provided by the City, the cost of footwear shall be paid directly by the City and the employee shall receive no reimbursement.

## **10 LAYOFFS/REHIRE OF EMPLOYEES**

- 10.1 Layoff Procedure and Bumping Rights: Layoffs and bumping rights shall be administered pursuant to Personnel Rule 3.8.

## **11. SUBSTANCE ABUSE REFERRALS**

- 11.1 Employee Assistance Program: The City and LMCEA 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.

**12. GRIEVANCE PROCEDURE**

- 12.1 Purpose: The grievance procedure is provided to:
  - 12.1.1 Promote improved employer-employee relations.
  - 12.1.2 Afford employees individually a systematic means of obtaining further consideration of problems after every other reasonable effort has failed to resolve them through discussions.
  - 12.1.3 Provide that grievances shall be settled as near as possible to the point of origin.
  - 12.1.4 Provide that grievances shall be resolved as informally as possible.
- 12.2 Matters Subject To Grievance Procedures
  - 12.2.1 An employee shall have the right to submit a written grievance regarding a claimed violation of this MOU or of the City's Personnel Rules and Regulations. The grievance process shall not be applicable to employee discipline, to employee evaluations, or any disputes resolved through another City process.
- 12.3 Employee Rights
  - 12.3.1 The employee may request the assistance of another person in preparing and presenting a grievance at any level of review.
  - 12.3.2 A reasonable amount of time during work hours to prepare the grievance.
  - 12.3.3 Freedom from reprisal for using the grievance procedures.



- 12.4 Informal Grievance Procedure: The right to call other employees as witnesses.
- 12.4.1 An employee should first attempt to resolve a grievance or complaint through discussion with his/her immediate supervisor without undue delay but within ten (10) calendar days of the issue or the employee's first awareness of the issue. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, he/she shall have the right to discuss it with the supervisor's immediate superior, if any without undue delay, but within ten (10) calendar days after initial supervisory discussion. Every effort should be made to find an acceptable solution by informal means at the most immediate level of supervision. If the employee is not in agreement with the decision reached through such discussion, he/she shall have the right to file a formal grievance in writing within ten (10) calendar days after receiving the informal decision of his/her supervisor. An informal grievance shall not be taken above the Department Head.
- 12.4.2 All informal grievances should be documented by the supervisor and any other supervisors involved.
- 12.4.3 If an employee's immediate supervisor is the Department Head, and if, after discussion at that level the problem has not been satisfactorily resolved, the employee may file a formal grievance.
- 12.5 Formal Grievance Procedure:
- 12.5.1 Department Review: The grievance shall be presented in writing to the employee's Department Head who may discuss the grievance with the employee, employee 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. The grievance shall include the following information:
- 12.5.1.1 The specific section of the Rules and Regulations at issue;
- 12.5.1.2 Facts supporting the grievance including dates, times, documents, and witnesses; and
- 12.5.1.3 The remedy sought.
- 12.5.2 The Department Head shall provide a written decision to the employee within fifteen (15) calendar days after receiving the grievance.
- 12.5.3 If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, the employee may present the grievance in writing to the City Manager. Any such grievance shall be presented within ten (10) calendar days after receipt of the Department Head decision.
- 12.5.4 Failure of the employee to take further action within ten (10) calendar days after receipt of the Department Head's decision, or within a total of twenty five (25) calendar days if no decision is rendered, will constitute withdrawal of the grievance.
- 12.6 City Manager Review
- 12.6.1 Upon receiving the grievance, the City Manager shall provide a written response to the employee within fifteen (15) calendar days. The City Manager may respond based on 1) a review of the grievance file, 2) a meeting with the employee, employee representative, if any, and with other appropriate persons; or both. .
- 12.6.2 If the employee does not agree with the decision reached, or if no answer has been received within fifteen (15) calendar days, the employee may request the matter be heard by a mediator. This request shall occur within fifteen (15) calendar days of the City Manager's written response.

- 12.6.3 Upon request of the employee, the City shall arrange for the matter to be heard by a mediator from the State Mediation and Conciliation Service as soon as possible. Any costs associated with this mediation step shall be split between the City and the Union. 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.
- 12.6.4 Upon receipt of the mediator's recommendation, the City Manager shall discuss the grievance with the employee, the Union Representative, if any, and with all other appropriate persons.
- 12.6.5 The City Manager shall render a final decision in writing to the employee within twenty (20) calendar days after receiving the mediator's recommendation. The City Manager may accept, reject or modify the recommendation of the mediator. The decision of the City Manager is final.

### **13. EMPLOYEE DISCIPLINE**

#### **13.1 Employee Conduct Guidelines**

- 13.1.1. City employees are expected to observe certain standards of job performance and conduct. When job performance or conduct do not meet City's standards, City will endeavor, when in its sole discretion it deems appropriate, to provide employees with a reasonable opportunity to correct the deficiency. If, however, the employee fails to make the correction, or if the misconduct is severe or serious in nature, he or she will be subject to discipline, including termination.
- 13.1.2. The rules set forth in this Rule supplement are intended to provide employees with fair notice of what is expected of them. It is not possible, however, to provide an exhaustive list of all types of impermissible conduct and performance. Therefore, employees should be aware that conduct not specifically listed below, but which adversely affect or is otherwise detrimental to the interests of the City or other employees may also results in disciplinary action, including termination.

#### **13.2. Job Performance**

- 13.2.1. Employees may be subjected to discipline, including termination, for poor job performance, including but not limited to the following:
  - 13.2.2. Unsatisfactory work quality or quantity;
  - 13.2.3. Excessive absenteeism, tardiness, or abuse of break and lunch privileges;
  - 13.2.4. Failure to follow instructions or City procedures; or
  - 13.2.5. Failure to follow established safety regulations.

#### **13.3. Misconduct**

- 13.3.1. Employees may be subject to discipline, including termination, for violating the following:
  - 13.3.2. Violation of any City ordinance, resolution, or the provisions of these Rules and Regulations, Administrative Manual provisions, or departmental rules and regulations.

- 13.3.3. Falsifying or making a material omission on an employment application or any other City record.
- 13.3.4. Inexcusable neglect of duty.
- 13.3.5. Insubordination, including improper conduct toward a supervisor or refusal to perform tasks assigned by a supervisor in an appropriate manner.
- 13.3.6. Dishonesty.
- 13.3.7. Purchasing, possessing, using, selling, or being under the influence of alcohol or illegal drugs while on duty.
- 13.3.8. Working under the influence of an over the counter drug or prescribed medication that impairs the employee's ability to safely and efficiently perform the duties of his or her position.
- 13.3.9. Unlawful harassment as defined in Rule 2 of these Rules and Regulations.
- 13.3.10. Unlawful use, distribution, sale, or possession of illegal drugs while on duty or while operating a City vehicle.
- 13.3.11. Discourteous or harassing treatment of the public or other employees.
- 13.3.12. Improper political activity as defined by State Law.
- 13.3.13. Violation of safety procedures.
- 13.3.14. Failure to immediately report work-related accidents to supervisor.
- 13.3.15. Misuse, abuse, and damage of City facilities, property, vehicles and equipment.
- 13.3.16. Theft of City facilities, property, vehicles and equipment
- 13.3.17. Refusal to take or subscribe to any oath of affirmation which is required by law in connection with employment.
- 13.3.18. Conviction of a felony, or conviction of a misdemeanor, involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be conviction within the meaning of this section.
- 13.3.19. Any other act which a Department Head or the City Manager deems a violation of City conduct standards.

13.4. Attendance

- 13.4.1. In addition to the general rules stated above, employees may be subject to discipline, including termination, for failing to observe attendance rules such as the following:
- 13.4.2. Reporting to work on time, observing the time limits for rest and lunch periods, and a failure to obtain approval to leave work early.
- 13.4.3. Notifying the supervisor in advance of anticipated tardiness or absence.
- 13.4.4. Unauthorized leave.

13.5. Types of Discipline

- A. The type and degree of discipline imposed shall be determined based on the nature and severity of the employee conduct. While the City's goal is to provide progressive discipline, the nature and severity of the employee conduct may not warrant progressive discipline.
- B. The type of discipline to be used includes, but is not limited to:
  - Counseling
  - Verbal Warning
  - Counseling or Warning Letter
  - Imposition of Review Period
  - Performance Salary Reduction
  - Suspension
    - Demotion
    - Termination

13.6. Procedures for Disciplinary Action.

- A. The following procedure shall be used for disciplinary actions regarding performance salary reduction, suspension, demotion, and termination of an employee.
  1. Employee shall be served with a Notice of Intended Disciplinary Action (Notice).
  2. The Notice of proposed discipline shall include:
  3. A statement of the nature of the proposed action.
  4. A statement of the reasons for the proposed action, including the specific acts or omissions giving rise to the proposed action.
  5. A copy of any documents or other written materials upon which the disciplinary action was fully or in part based.
  6. A statement advising the employee of his/her right to appeal such action and the right to union representation.
  7. The date, time and location of the Skelly Response meeting, and the name of the Skelly Officer.
- B. In those extraordinary circumstances wherein the City Manager determines immediate disciplinary action is necessary as a result of accusations involving misappropriation of public funds or property, or action which would constitute a felony or misdemeanor involving moral turpitude, or where the employee's presence on the job is deemed to be a threat to the safety of other employees or members of the public, the City Manager may place the employee on paid administrative leave while proceeding with the procedures for disciplinary action.

- C. Skelly Meeting – the employee shall have the right to respond informally to the charges verbally, in writing, or both, before the discipline is imposed. The employee shall have ten (10) calendar days from receipt of the notice within which to respond to the charges. The employee may request a reasonable extension of time to respond for justifiable reasons. The City Representative hearing the response, the Skelly Officer, shall render a final written decision within ten (10) calendar days of receiving the employee’s response. The Skelly Officer may sustain, modify or overturn the recommended disciplinary action. The Skelly response will be delivered to the employee in person, via registered mail or overnight delivery. If the Skelly Officer sustains or modifies the disciplinary action, the action may be imposed after the post-Skelly decision is delivered to the employee.
- D. Appeal – the employee shall have the right to appeal the disciplinary action within ten (10) days of receiving the post-Skelly disciplinary decision as follows:
- Step 1 – meet with Department Head or if Department Head served as Skelly Officer, then employee may send appeal to the City Manager. The appeal shall be in writing and describe why the employee believes the disciplinary action taken was not appropriate. The response to the appeal will be provided to the employee within ten (10) calendar days.
- Step 2 – If not satisfied with the result of Step 1 above, the employee may provide the written appeal to the City Manager for review. The City Manager’s written response will be provided to the employee within ten (10) calendar days.
- Step 3 – If the employee is not satisfied with the results of Step 2, the employee may request binding arbitration/an appeal hearing. The written request shall be submitted to the City Manager within ten (10) calendar days of receiving the City Manager’s response to the appeal.
- E. An appeal of the Order of Disciplinary Action shall be heard by an independent hearing officer. The City Manager or designee shall request a list of neutrals from the State Mediation and Conciliation Service. Such list shall be requested within five working days of receipt of an employee’s appeal demanding a hearing. The City Manager or designee, and the employee, or the employee’s authorized representative shall meet not later than three working days after receipt of the list and select the hearing officer utilizing the alternate strike method. The party striking first shall be determined by the toss of a coin. Should the person selected as the hearing officer be unavailable to commence the hearing process within ninety (90) days of this selection, the parties shall request another name from the State Mediation and Conciliation Service and shall proceed again through the list as provided above unless the parties agree to a later date for the hearing using the selected arbitrator/hearing officer.

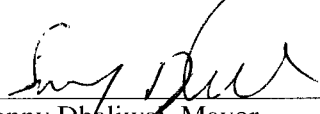
- F. The Arbitrator/Hearing Officer shall regulate the conduct of the hearing process. The Arbitrator/Hearing Officer shall set the date, time and place of the hearing, which place shall be on City premises, and shall, by certified United States mail, postage prepaid, give not less than ten (10) days' notice of such date, time and place to the appellant, or his or her other designated representative, the City Manager and the Director of Administrative Services, or designee. The hearing shall be recorded by a court reporter or electronic process. Oral evidence may be heard only on oath or affirmation. The Arbitrator/Hearing Officer shall, within thirty (30) calendar days of the close of the hearing, file with the Director of Administrative Services, or designee, the decision affirming, modifying, or revoking the Order, and his or her findings and decision to the appellant and to the City Manager.
- G. The decision of the Arbitrator/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 (30) calendar days of the date of mailing of the notice of decision to the appellant and the City Manager.
- H. Employee's failure to respond or file an appeal within any specified time period in this section shall terminate the right to a hearing and the Order shall be deemed final.

**14. SUPERSESION 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, side letter, 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 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; other terms and conditions of employment not specified herein shall remain as they are for the term of the Memorandum of Understanding except that where the language of such Memoranda, Resolutions or such other terms and conditions of employment not specified herein conflicts with, or is different from, the language contained in this Memorandum, this Memorandum shall prevail and apply. The parties acknowledge and agree that neither of them has made any representations with respect to the subject matter of this agreement or any representations inducing the execution and delivery hereof except such representations as are specifically set forth herein. No waiver or modification of this agreement for any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the parties hereto; no officer, employee or agent of the City has any authority to waive or modify this agreement or any covenant, condition or limitation herein contained without the express prior approval of the Lathrop City Council or its designee.

**SIGNED:**

**CITY OF LATHROP**

  
\_\_\_\_\_  
Sonny Dhaliwal, Mayor

**APPROVED AS TO FORM:**

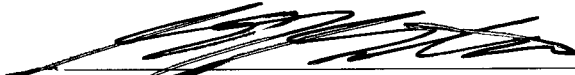
  
\_\_\_\_\_  
Salvador Navarrete, City Attorney

**LMCEA**

  
\_\_\_\_\_  
Brett Sherman, LMCEA Representative

  
\_\_\_\_\_  
Melissa Stathakopoulos, LMCEA President

  
\_\_\_\_\_  
Todd Sebastian, LMCEA Vice President

  
\_\_\_\_\_  
Stephen J. Salvatore, Chief Negotiator

## APPENDIX A

The Lathrop Management and Confidential Employee's Association (LMCEA) is comprised of regular full-time employees who are incumbents in positions in the job classifications listed as follows:

Accounting Manager	Senior Construction Manager
Assistant Chief Building Official	Senior Management Analyst
Assistant Community Development Director	Senior Planner
Assistant Public Works Director	Special Districts Manager
Budget Manager	Streets and Operations Manager
Chief Planning Official	Utility Maintenance Supervisor
Community Services Supervisor	Utility Operations Superintendent
Construction Superintendent	Utility Plant Supervisor
Customer Service Supervisor	Wastewater Treatment Plant Supervisor
Deputy City Clerk	
Deputy Director Of Parks, Rec & Maint Services	
Deputy Finance Director	
Economic Development Administrator	
Executive Assistant	
Executive Assistant To The City Manager	
Finance Manager	
Human Resources Analyst I	
Human Resources Analyst II	
Information Technology Engineer I	
Information Technology Engineer II	
Information Technology Engineer III	
Land Development Manager	
Landscape and Irrigation Specialist	
Maintenance Services Supervisor	
Management Analyst I (Confidential)	
Management Analyst II (Confidential)	
Parks & Recreation Supervisor	
Parks and Facilities Manager	
Parks and Recreation Superintendent	
Parks Project Manager	
Permit and Plan Check Supervisor	
Police Records Supervisor	
Police Services Manager	
Principal Engineer	
Principal Planner	
Projects Manager	
Recreation Manager	
Senior Accountant	
Senior Administrative Assistant	
Senior Civil Engineer	