

COMPREHENSIVE
MEMORANDUM OF UNDERSTANDING
FOR SUBMISSION TO THE LYNWOOD CITY COUNCIL
REGARDING LYNWOOD EMPLOYEES' ASSOCIATION

July 1, 2010 to June 30, 2011

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ARTICLE I

IMPLEMENTATION

The wages, hours and conditions of employment that are set forth in this memorandum have been discussed and jointly proposed by and between the Municipal Employee Relations Officer of the City of Lynwood (hereinafter called "City") and representatives of the Lynwood Employees' Association (hereinafter called "Association") and shall apply to all employees of Lynwood working in the classifications as set forth herein. The terms and conditions of employment that are set forth in this memorandum have been discussed in good faith between City and Association; and the Municipal Employees Relations Officer agrees to recommend to the Lynwood City Council that all of the items and conditions of employment as set forth herein be incorporated in full in a resolution of the City Council or where appropriate, in a policy statement. Upon the adoption of such a resolution and/or policy statement, all terms and conditions of this memorandum so incorporated, shall become effective as provided without any further action by either party.

ARTICLE II

EMPLOYEE RECOGNITION

Section 1

City continues to recognize the Association as the recognized employee organization for all non-fire, non-management hourly or part-time classifications (hereinafter called the "Unit") which are approved and hereinafter approved by the City to the fullest extent allowable under California law applying to public employees and as further defined in Resolution 82-53, adopted by the Lynwood City Council on April 6, 1982. The Association agrees to indemnify and hold the City harmless against any and all suits, claims, demands and liabilities that may arise out of or by reason of any action that shall be taken by the City for the purpose of complying with this article.

It is understood and agreed that all non-management staff within the City Manager's Department; Payroll Analyst and Executive Assistant in the Finance and Administration Department and Personnel Analyst I and Office Assistant II in the Personnel Division are confidential positions which are not included in the Association represented bargaining unit.

Section 2

In early 2009, Association and City jointly requested a card check election to implement an "agency shop" arrangement per Government Code section 3502.5, which was approved by notice from the State of California Department of Industrial Relations by letter dated April 4, 2009. As a result, all employees in the Unit were required as a condition of continued employment effective with the July 16, 2009 payroll, either to join the Association or to pay the Association a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the Association.

The current Association member dues are twenty-five dollars (\$25.00) per month. The non-member service fee is twenty-two dollars and fifty cents (\$22.50) per month. The non-CalPERS part time/hourly employee fee is thirteen dollars (\$13.00) per month. All Association dues or fees shall be made by payroll deduction as required by Government Code section 3508.5. Payroll deduction will be conducted on a bi-monthly basis (two times per month). Note: If there are three pay days in one month, the third pay day will be exempt from service fee and/or dues collection.

Conscientious objections to joining or financially supporting public employee organizations may contribute the equivalent of their fee to nonreligious, non-labor charitable organizations exempt from taxation under section 501(c)(3) of the Internal Revenue Code instead. Association will provide updates to the charitable organizations names and contact information as part of this memorandum. Current organizations are the American Cancer Society, Cystic Fibrosis Foundation, and the Junior Blind of America.

ARTICLE III

CITY RIGHTS

Section 1

It is understood and agreed that the City retains all of its powers and authority to direct, manage and control its operations to the full extent of the law. Said powers and authority include, but are not limited to, the exclusive rights to: determine its organization; direct the work of its employees; determine the times of operation; determine the kinds and levels of services to be provided, and the methods and means of providing them; establish its policies, goals and objectives; determine staffing patterns, determine the number and kinds of personnel required; maintain the efficiency of City operations; build, move, modify or close facilities; establish budget procedures and determine budgetary allocations; determine the methods of raising revenue; contract out work; and take action on matters in the event of emergency. In addition, the City retains the right to hire, classify, assign, evaluate, transfer, promote, terminate and discipline employees.

Section 2

In cases of emergency, the City retains its right to amend, modify or rescind provisions of this memorandum. Such amendment, modification or recession all remain in force only for the period of the emergency. The determination of whether or not an emergency exists is solely within the discretion of the City Council.

ARTICLE IV
STEP INCREASES

Employees are eligible for a step increase upon successful completion of probation and thereafter will be considered on the basis of merit after intervals of one (1) year.

Section 1

Any employee hired or promoted to Step A of a different range of pay, shall receive the Step B salary at the successful completion of the probationary period. Increases to Step C, D and E within any pay range shall be based on satisfactory job performance by the individual and shall be reviewed at least at the following time intervals:

Step C - One (1) year after the Step B increase

Step D - One (1) year after the Step C increase

Step E - One (1) year after the Step D increase

Section 2

Employees hired or promoted to any step above Step A shall receive the next step at the successful completion of the probationary period. Other increases within the range shall be followed in the method described in Section 1.

Section 3

New employees, as well as current employees accepting another position within the Unit, shall be appointed at the first step of the salary range to which their class is assigned, except when the education and previous training or experience of a proposed employee are substantially superior to those required of the class and justify a beginning salary in excess of such minimum compensation. Upon recommendation of the department head, the City Manager may authorize an appointment to this position at any higher step. The department head shall submit his recommendation to the City Manager in such form, together with such information as the City Manager may require.

The provisions of this Article do not apply to those hired or employed on an hourly basis.

ARTICLE V

SALARIES/WAGES

Section 1

The parties agree that there will be no salary adjustments or cost of living adjustments provided to employees covered by this memorandum during the term of this memorandum. However, step increases set forth in Article IV will continue in full force and effect.

Section 2

Mandatory Direct Deposit- All Unit members shall be on mandatory electronic direct deposit.

ARTICLE VI

STANDBY PAY

All non-management, except hourly employees, in the Recreation and Community Services and Environmental Services Departments who have experience and training to perform call back duties are eligible for standby duty.

When an employee is required to be available for immediate emergency call back at times the employee is not otherwise on duty, the employee shall be compensated at the rate of twenty dollars (\$20.00) per shift.

All employees during the period they are scheduled for such duty shall perform such services as may be designated by the City Manager or his designee and shall be available at all times during the duty shifts for emergency work. No overtime credit shall be accrued to employees on standby shifts. However, the call back pay provisions, as provided in Article XIX of this memorandum, apply when an employee on standby is required to return to work.

The City shall have one combined standby crew for Environmental Services and Recreation and Community Services call backs.

Hourly employees shall not be assigned to standby duty.

A standby shift for a working day is hereby fixed as a duty period extending from 5:00 PM to 6:30 AM of the following day. From 6:30 AM on Fridays (4/10 work week), Saturdays, Sundays, and holidays to 6:30 AM of the following day shall be considered as two (2) standby shifts and the employee will be paid forty dollars (\$40.00).

ARTICLE VII

BILINGUAL PAY

The City Manager may grant compensation to full-time employees who have passed their initial probationary period and CalPERS eligible hourly employees for using bilingual skills in the course of work, providing that such use is for at least twenty percent (20%) of the employee's working time for either written or oral communication.

Employees required to use bilingual skills in the course of their work may request bilingual pay by submitting written justification approved by the department head to the City Manager.

Those employees approved for bilingual pay shall be required to pass a language proficiency examination.

Bilingual pay shall be fifty dollars (\$50.00) per month paid on a bi-weekly basis effective the first full pay period after the first of the month following the submission of a personnel status form with proper approval.

ARTICLE VIII

OVERTIME

Section 1 Definition

A. Time worked over and above the forty (40) hour work week which the supervisor has determined is required for the employee to complete assigned work. Time shall be allowed in increments of 1/4 hour. Hours not worked, such as sick leave, vacation and floating holidays are not counted as time worked when computing overtime. Those holidays identified in Article XV, Section 2, shall be counted as time worked when computing overtime.

B. Call back work incurred at the direction of the supervisor, department head or City Manager wherein City employees are ordered to return to work for the welfare of the public and the City. Call back time begins from the time the employee reaches the place of employment. Regular standby shifts are not considered overtime and are covered elsewhere in this memorandum.

Section 2 Methods of Overtime Compensation

An employee who works in excess of forty (40) hours in a workweek shall receive compensatory time at the rate of 1.5 hours for each hour worked in excess of forty (40) per workweek to a maximum of sixty (60) hours of compensatory time. An employee has the option of either pay for overtime or accrual of overtime to the maximum hours allowed by marking the appropriate section on the timecard for the payroll period during which the overtime was worked. Any hours in excess of sixty (60) hours will be paid. Accumulated compensatory time up to the sixty (60) hour maximum will only be paid as described below or upon termination.

The City will allow for thirty (30) hours of buy back of accrued compensatory time. In addition, for converting other forms of leave to cash, excluding sick leave, please see Article XXI, Annual Vacation Leave. The form will be available in the Human Resources Division.

The City reserves the right to reject a request to take compensatory time if it determines that the absence of the employee at the time requested would unduly disrupt the City's operations.

Section 3 Procedures for Reporting Overtime

Overtime should be reported as actual hours on the appropriate line provided on the time card, i.e., overtime to be paid or overtime to be accrued. Finance will do all the necessary calculations. Cumulative totals will be reported on the employee's check as is current practice.

ARTICLE IX

TOOL ALLOWANCE

Full-time classified employees performing mechanic duties in the Municipal Garage shall receive an allowance for furnishing and using their own tools. The allowance is payable annually in June through payroll. The amount of payment will be calculated at the rate of forty dollars (\$40.00) per each full month of employment during the previous twelve (12) month period. If the employee leaves City service prior to the June payment date, the amount of tool allowance will be as accrued with appropriate documentation initiated by the department prior to termination of City employment.

ARTICLE X

UNIFORM AND CLOTHING ALLOWANCE

The City shall furnish annually to all hourly recreation employees three (3) shirts and one (1) windbreaker identifying them as City employees. All Natatorium personnel shall be provided with one (1) swimsuit annually to identify them as City employees.

The City will furnish Environmental Services Department employees whose duties require uniforms, three (3) uniform changes per week plus two (2) additional laundered shirts per week.

The City shall also furnish Crossing Guards three uniform changes per week plus two (2) additional laundered shirts per week.

Employees identified below that are required to wear OSHA safety boots/shoes shall receive one-hundred fifty dollars (\$150.00) as a uniform allowance annually. The allowance is taxable and will be included within the employee's paycheck.

Positions entitled to uniform and/or clothing allowances are identified below as follows:

Street Maintenance Worker
Street Maintenance Lead Worker
Sr. St. Maintenance Worker
Maintenance Worker / Laborer
(Assigned to Street, Water, Right-of-Way, Grounds Maintenance)
Water Service Worker
Water Service Worker II
Water Service Lead Worker
Senior Water Service Worker
Electrical Maintenance Worker
Park Maintenance Lead Worker
Building Maintenance Worker
Custodian
Public Works Inspector
Utility Worker

ARTICLE XI

MILEAGE REIMBURSEMENT

With the approval of the department head and the City Manager, the City will reimburse full-time and hourly employees required to use their personal vehicles for the purpose of conducting City business at the current rate contained in the Internal Revenue Service code book at the time of use.

Necessity for and payment of out-of-town mileage must be approved by the employee's supervisor. The employee must document the date, destination and beginning and ending odometer from his or her vehicle in supporting the request. Said information must be logged on Mileage Claim Form when requesting payment.

ARTICLE XII

EDUCATION INCENTIVE PAY

To encourage employees in undertaking outside study to the end that they may perform their duties in a more efficient manner, a system of education pay, over and above established pay schedules, is hereby established.

Effective the first full pay period following ratification, education incentive pay is allowable for completed courses of approved subjects at accredited schools, and is fixed at one dollar (\$1.00) per month for each semester unit of credit satisfactorily completed by the employee with a grade of "C" or better. A quarter unit is the equivalent of a semester unit and is compensated at one dollar (\$1.00) per month for each semester unit. Maximum pay is fixed at one-hundred fifty dollars (\$150.00) per month.

All courses of study must have prior approval by the employee's department head and the City Manager in order to receive education credit. Accredited schools are herein defined as colleges, junior colleges, universities or other accredited schools providing college credit as may be approved by the City Manager.

The City will pay up to one-hundred dollars (\$100.00) per month incentive to Civil Engineering Assistants upon certification from the California State Board of Registry as a Certified Professional Engineer (Civil). The City will pay up to one-hundred dollars (\$100.00) per month incentive to Water Service Workers upon receipt of a Grade II Water Treatment Operator Certificate or Water Backflow Tester Certificate and up to one-hundred dollars (\$100.00) per month incentive to Code Enforcement Officers, Building Inspector and Housing Rehabilitation Specialists upon certification from the International Conference of Building Officials as a Building Inspector or from NAHRO as a Construction Rehabilitation Specialist.

Suitable written certification from the school or granting agency showing satisfactory completion of each course or program shall be submitted to the Human Resources Division for personnel records. Education pay shall commence the first full pay period in the month following the submission of written certification.

The City will contribute one-hundred percent (100%) of the cost of tuition fees for such courses, up to seven-hundred fifty dollars (\$750.00) per semester or quarter course while the employee is accruing the one-hundred fifty dollars (\$150.00) per month maximum education incentive pay. The maximum City contribution to cost of tuition and books is one-thousand five-hundred dollars (\$1,500.00) annually. Tuition Reimbursement Program guidelines are available through the Human Resources Division.

The provisions of this section do not apply to hourly employees or employees undertaking an approved course during a regular work day or assigned shift.

ARTICLE XIII

LONGEVITY PROGRAM

A longevity program is hereby established for regular full-time City employees as follows:

1% of base salary at the end of seven (7) years of service; and an additional

1% of base salary at the end of twelve (12) years of service; and an additional

1% of base salary at the end of seventeen (17) years of service; and an additional

Effective 7-1-95:

2% of base salary at the end of twenty-two (22) years of service

The additional percent(s) to base salary shall be paid on normally assigned position and not any temporary or special assignment.

ARTICLE XIV

EMPLOYEE'S INSURANCE COVERAGE

Effective the first full pay period of the month following City Council adoption of this memorandum, the City shall provide funding for medical expenditures as follows:

1. The City is a contracting agency for participation in the Public Employees' Medical and Hospital Care Act ("PEMCHA"). Government Code § 22892 provides for the minimum employer contributions to allow enrollment in PEMCHA.

2. Effective the first full pay period of the month following adoption of this memorandum by the City Council, the City's minimum contribution to PEMCHA shall be ninety-seven dollars (\$97.00) monthly and shall from calendar year to calendar year, be adjusted to correspond with statutory amended minimum employer contribution rates. (The City has been advised that effective January 1, 2009, the minimum mandated employer contribution shall be one-hundred one dollars (\$101.00) monthly per employee.)

3. For each employee in the represented Unit hired prior to January 1, 2009, the City will fund an amount which, when added to the minimum mandated employer contributions to participate in PEMCHA, equals the "Other Southern California Region" (as defined by PEMCHA) Family Premium Rate for Kaiser coverage, as that amount from time to time exists. This funding will be implemented by a combination of (a) direct contributions by the City to CalPERS of eighty percent (80%) of the "Other Southern California Region" (as defined by PEMCHA) Family Premium Rate for Kaiser coverage and (b) direct contributions by the City of twenty percent (20%) of "Other Southern California Region" (as defined by PEMCHA) Family Premium Rate for Kaiser coverage under a health reimbursement arrangement maintained for those employees by the City.

4. For each employee in the represented Unit hired on and after January 1, 2009, the City will fund an amount which, when added to the minimum mandated employer contributions to participate in PEMCHA, equals eighty percent (80%) of the "Los Angeles Area Region" (as defined by PEMCHA) Kaiser Family coverage rate.

5. The balance of any premiums due for coverage selected by the employee for the employee and eligible dependents will be funded under a cafeteria plan by payroll deductions from each such employee.

6. Regardless of date of hire, an employee may select any of the Health Insurance Plans offered through PEMCHA, for the employee and any eligible dependents.

7. Regardless of date of hire, no cafeteria plan benefits shall include cash.

Caveat: If an administrative or judicial entity finds this Article to be invalid or of negative financial impact to the City, to its employees and/or to the provision of these benefits, the parties agree that this Article XIV shall be immediately subject to a meet and confer reopener. The parties do further agree that a substitute provision resulting from the meet and confer process shall result in no greater economic expenditure to the City than that which would have occurred pursuant to the above provisions.

The City will continue to pay the full cost of dental plan premiums for fulltime and CalPERS eligible part-time employees and their eligible dependents for the duration of this memorandum. The City

further agrees to enhance the current dental benefits to include a retirement benefit for employees who retire from active City service with at least five (5) years tenure with the City. Verification of CalPERS retirement application will be required. In March of each year the City will reimburse active employees for dental plan deductibles incurred in the previous calendar year. Said reimbursement also applies to hourly employees who are eligible for dental coverage.

The City shall continue to provide fifty-thousand dollars (\$50,000.00) life insurance for all full-time and CalPERS eligible part-time employees with the full cost of the premium paid by the City inclusive of a retirement benefit.

The City shall continue to pay the full cost of Vision Plan premiums for all fulltime and CalPERS eligible part time employees and their dependents inclusive of a retirement benefit clause. The City will reimburse employees up to a maximum of thirty dollars (\$30) per eligible dependent/employee for vision co-payments incurred in the previous calendar year with proper documentation.

The City shall continue to participate in the State Disability Insurance Program for Unit members with the full cost of such plan to be paid by the City.

The City will contribute toward health and dental coverage for all hourly Unit employees who pursuant to CalPERS regulations are members of CalPERS and mandated to participate in the CalPERS health plan. Such benefit shall continue only for such time as CalPERS requires such a contribution.

The City shall implement an Employee Assistance Program (EAP) with the full insurance premium incurred by the City for full-time and hourly CalPERS eligible employees.

ARTICLE XV

SICK LEAVE POLICY

Sick leave with pay shall be granted by the City Manager at the rate of one work day for each calendar month of service accrued at 3.69 hours per pay period or prorated if not a full pay period. Sick leave shall not be considered as a privilege which an employee may use at his discretion, but shall be allowed only in case of necessity and actual sickness or disability. In no event will sick leave with pay be granted in excess of that which is accrued.

In order to receive compensation while absent on sick leave, the employee shall notify his or her immediate supervisor prior to, or within two (2) hours after the time set for beginning duty, unless notification is physically impractical. A physician's certificate or personal statement will be submitted for absences of three (3) days or more. The City may require a physician's certificate and release to return to work whenever there is reasonable doubt as to the employee's ability to perform his duties satisfactorily and safely. The City maintains the right to discipline any employee for excessive absenteeism.

The City shall comply with Labor Code Section 233 as required by law. An employee shall be allowed to use in any calendar year sick leave accrued and available in an amount not less than what would be accrued in six (6) months of employment to attend to the illness of a child, parent or spouse of the employee. For purposes of this section, six (6) months sick leave accrual will be based on thirteen (13) pay periods. All conditions and restrictions placed by the City upon the use by an employee of sick leave shall also apply to the use by an employee of sick leave to attend to an illness of his or her child, parent, or spouse.

This section does not extend the maximum period of leave to which an employee is entitled under Section 12945.2 of the Government Code or under the federal Family and Medical Leave Act of 1993, regardless of whether the employee receives sick leave compensation during that leave.

There shall be a sick leave pay off program. This program uses a sick leave limit of ninety-six (96) work days and the frozen amount, if applicable, which consists of sick leave hours earned in excess of ninety-six (96) work days prior to July 1, 1974 and retained and frozen as of that date. The method of compensation shall be on a straight time pay basis at the rate of pay in effect at the time of pay off. The pay off program has three elements: resignation or termination and annual compensation.

For purposes of the pay off program, retirements are limited solely to regular service (non-disability) retirements. Upon regular service (non-disability) retirement employees shall receive fifty percent (50%) compensation for unused sick leave hours up to the maximum of the ninety-six (96) work days. Fifty percent (50%) compensation shall also be received for the sick leave hours frozen as of June 30, 1974.

For purposes of the pay off program, resignations and terminations shall exclude terminations for cause and retirements. Upon resignation or termination as specified herein and only after ten (10) years of continuous City service, employees shall be compensated for one-quarter (1/4) of their unused sick leave hours up to the maximum of the ninety-six (96) work days. Twenty-five percent (25%) compensation shall also be received for the sick leave hours frozen as of June 30, 1974.

The annual compensation element of the sick leave pay off program provides as follows: Fifty percent (50%) of the sick leave earned beyond ninety-six (96) work days or the frozen amount shall be annually compensated to the employee at the end of each calendar year.

The remaining fifty percent (50%) of such excess sick leave remains on the books but shall be used for actual sick leave purposes only and shall not entitle the employee to any additional compensation. Sick leave accrued beyond the ninety-six (96) work days maximum or frozen amount shall be used prior to the earlier earned sick leave.

ARTICLE XVI

HOLIDAYS

Section 1

The City and Association agree to incorporate into this memorandum the following holidays to be eliminated and have floating holidays replace them. The holidays to be eliminated are: Washington's Birthday, Lincoln's Birthday, Columbus Day, Admission Day and Veteran's Day.

A. The total number of floating holidays is five (5) with all floating holidays available at the beginning of the calendar year. All floating holidays to be taken off are subject to operational and scheduling factors and must be approved by the employee's supervisor.

B. Subject to (c) below, no floating holidays will be available until the successful completion of the original probationary period. At that time such employees will be credited with a pro-rata portion of the aforesaid five floating holidays based upon the time remaining in the initial calendar year of employment, but in no case less than one day.

C. No floating holiday may be carried over to another calendar year. The City Manager may approve deferral as warranted.

D. The availability of five (5) floating holidays on January 1 of each year (in the case of permanent employees) and of a pro-rata portion thereof upon successful completion of the probationary period (in the case of new employees) is based upon the assumption that the employee will successfully complete employment with the City for the calendar year in question. If an employee fails to successfully complete employment for the said calendar year, the number of floating holidays available to the employee shall be prorated on the basis of the portion of the calendar year for which the employee was employed by the City. If, under such circumstances, the employee has used more floating holidays than were actually available, the City shall make an appropriate reduction in its payment of final compensation to such employee.

E. Effective January 1, 1992 the accrual for five (5) floating holidays for full time employees shall be fifty (50) hours per annum based on a 4/10 work schedule.

F. In the event the city returns to an 8 hour/5 day work week the accrual rate will reflect such change.

Section 2

Employees covered under this memorandum shall be allowed the following paid holidays: New Year's Day, January 1, Martin Luther King Jr., third Monday in January; Presidents' Day, third Monday in February; Cesar Chavez Day, March 31;; Memorial Day, last Monday in May; Independence Day, July 4; Labor Day, first Monday in September; Thanksgiving Day, fourth Thursday in November; day after Thanksgiving, fourth Friday in November; Christmas Day, December 25.

Personal leave day may be taken on any day of the employee's choosing subject to operational and scheduling factors and must be approved by the employee's supervisor. The Personal Leave

day must be taken within the calendar year or it is lost. Employees who terminate without using their Personal Leave day for that calendar year shall receive payment for this day. When a holiday named in this regulation falls on Sunday, it shall be observed on the following Monday. As the City is currently operated on a flexible work schedule, those holidays which fall on a Friday in any given year will not be observed by 4/10 employees. Those employees working a 5 day/8 hour (5/8) workweek will be paid for those holidays falling on a Friday. This provision is made with the understanding that the accrual rates for floating and personal leave time (Article XXXVI) will be adjusted annually for 5/8 scheduled employees as warranted to compensate both the 4/10 and 5/8 work schedules on an equal basis. In the event the City returns to a 5/8 work schedule for all full-time employees, then those holidays falling on a Saturday will be observed on Friday. The City Manager may determine and approve as warranted the carryover of up to two (2) floating holidays into the following year for full-time employees. Said approved holidays shall be taken no later than June 30 of the carryover year. All requests must be submitted to the City Manager no later than November 1 to be considered.

Section 3

A. Effective July 1, 1991 all hourly employees who have attained CalPERS eligibility shall receive compensation for seven (7) hours in observance of Christmas Day, December 25, annually.

B. Effective July 1, 1991 all hourly employees who have attained CalPERS eligibility shall receive one (1) seven (7) hour paid Personal Leave day each calendar year. A Personal Leave day may be taken on any day of the employee's choosing subject to operational and scheduling factors and must be approved by the employee's supervisor. The Personal Leave day must be taken within the calendar year or it is lost. Employees who terminate without using their Personal Leave day for that calendar year shall receive payment for this day.

Hourly employees who subsequently attain CalPERS eligibility within said calendar year shall be credited with the Personal Leave day. All other provisions stated in above paragraph shall apply.

C. Effective January 1, 2011, all hourly employees who have attained CalPERS eligibility shall receive compensation for seven (7) hours in observance of Presidents' Day, third Monday in February.

Section 4

All hourly employees not specifically addressed are excluded from the provisions of this Article.

ARTICLE XVII

ACTING SUPERVISORY COMPENSATION

At such time as a supervisory position becomes temporarily vacant for reasons of sick leave, leave of absence or injury on duty status, a civil service employee may be assigned the supervisory duties and designated as "acting." Further, at such time a supervisory position becomes vacant on other than a temporary basis as described above, i.e., without an incumbent, a civil service employee, who has less than the minimum training or experience requirements for temporary appointment, may be assigned the duties and designated as "acting" upon determination by the department head (or City Manager, if appropriate) that said employee is best qualified to perform all or a substantial portion of the duties of the supervisory position. The selection of the employee for "acting" status shall be within the sole discretion of the department head. Employees acting in a supervisory position shall not be entitled to any additional compensation for doing so unless they work eight (8) or more days in that assignment at which time they shall be entitled to acting compensation retroactive to the first day of that assignment. Such compensation shall continue until such time as the incumbent returns or, in the case of a position being vacant, the employee meets the temporary appointment requirements. Acting compensation is at the step rate in the supervisory position range which exceeds but is closest to the employee's current rate of pay in the permanent position or one-hundred fifty dollars (\$150.00) per month, whichever is less.

Hourly employees are excluded from these provisions.

ARTICLE XVIII

RETIREMENT POLICY

Retiree Health Insurance

The City amended its contract with CalPERS to provide credit for unused sick leave effective August 1, 1992.

For employees hired on and after January 1, 2009, the City shall fund retiree medical premiums in an amount equal to the City's statutory minimum contribution to PEMCHA (effective January 1, 2011, the minimum mandated employer contribution shall be one-hundred eight dollars (\$108.00) monthly per employee). Eligibility for said retiree medical premiums shall be subject to applicable City adopted resolution(s) governing eligibility for retiree medical payments.

Employees hired after January 1, 2011, will not be eligible for City paid health, dental, vision or life insurance coverage upon retirement.

For employees hired prior to January 1, 2009, City funded retiree medical premiums shall be governed by existing practices. The substance of the existing practice shall be articulated in writing by the parties not later than sixty (60) calendar days after City Council adoption of this memorandum.

Pension/Retirement Formula

Each employee, eligible for service retirement, may have his/her City paid CalPERS contribution reported as compensation for all or any part of the twelve (12) month period prior to his/her service retirement date upon written request to the Director of Finance. Accordingly, the CalPERS contribution will be deducted from employee's higher based salary. This provision will remain in effect unless otherwise prohibited by CalPERS law.

The City amended its contract with CalPERS to increase the 1959 Survivor Benefit from basic level to third level effective October 16, 1992. The City amended its contract with CalPERS to increase the 1959 Survivor Benefit from Level 3 to Level 4 in 2003.

Effective October 17, 1999, the City amended the CalPERS contract to provide the 2% at 55 formula. Effective FY 02-03 the City amended the CalPERS contract to provide the 3% @ 60 formula with the City paying the additional 1% employee contribution (8%). The City will continue to provide Unit employees a pension through CalPERS using the 3% @ 60 formula.

For the CalPERS 3% @ 60 retirement formula, the total Employer Paid Member Contribution (EPMC) is eight percent (8%) of reportable compensation.

- a. The City will continue to pay the full eight percent (8%) Employer Paid Member Contribution (EPMC) to CalPERS for all current full-time and part-time CalPERS eligible employees.

- b. Effective January 1, 2011, all new employees (hired on or after January 1, 2011) shall pay the full member contribution of eight percent (8%) directly to CalPERS through payroll withholding.
- c. The City shall adopt the necessary resolutions and submit them to CalPERS to reflect the above reductions in EPMC.

ARTICLE XIX

CALL BACK PAY

In the event an employee, including an employee on standby, is called back or required to report to work, such employee shall be paid a minimum of two and one-half hours (2 ½) at the rate of pay applicable under the Fair Labor Standards Act (time and one-half of the regular rate if the hours worked exceed forty (40) in the work week). Response to further emergency calls within the paid two and one-half (2 ½) hour minimum period do not result in additional two and one half (2 ½) hour minimum periods.

Hourly employees are excluded from the provisions of this Article.

ARTICLE XX

NON-DISCRIMINATION

It is agreed that neither the City nor the Association shall discriminate against any employee because of race, national origin, age, sex, Association membership or activity. It is further agreed that neither the City nor Association shall discriminate against any employee because of religion, marital status, political affiliation or a qualified physical or mental disability.

ARTICLE XXI

ANNUAL VACATION LEAVE

The purpose of annual vacation leave is to enable employee annually to return to his work mentally refreshed. All employees in the classified service shall be entitled to annual vacation leave with pay. Employees not eligible for vacation leave with pay are: Employees still serving their original probationary period in the service of the City; however, vacation credits for the time shall be granted to such employee who later received a permanent appointment.

All eligible employees in the first through seventh year of continuous service shall earn vacation credit at the rate of fourteen (14) calendar days (10 work days) per year. Beginning with the eighth (8th) year and through the fourteenth (14th) year of continuous service employees shall earn vacation credit at the rate of twenty-one (21) calendar days (15 work days) per year. Beginning with the fifteenth (15th) year of continuous service and thereafter employees shall earn vacation credit at the rate of twenty-eight (28) calendar days (20 work days) per year.

Each eligible employee shall be required to have served the equivalent of one year of continuous service in the City in order to be eligible for their full annual vacation leave; provided, however, that after six (6) months of continuous service, they may be permitted to take vacation leave not to exceed seven (7) calendar days. In no event, however, will paid vacation be granted in excess of earned vacation credits.

Vacation leave must be approved in advance by the department head. The times during a calendar year at which an employee may take his vacation shall be determined by the department head with due regard to the wishes of the employees and particular regard for the needs of the service. Subject to the provisions of the next paragraph, any employee eligible for vacation credit may, not later than the first day of October of any calendar year, make a request of their department head and the City Manager jointly, for permission to defer taking not to exceed one week of the vacation time to which they are entitled during the year the request is made and filed, to the following calendar year.

The department head and City Manager, acting jointly, or in their absence, or in case of their inability to act, for any reason, the acting head of said employee's department, or the next in authority and the Assistant City Manager, acting jointly, shall, within five days after filing of the request, give the employee written notice of their decision, either to grant or to deny the request.

If the request is granted the employee shall be entitled to said one week's vacation during the calendar year immediately following the calendar year the employee's request was filed, in addition to any vacation time to which said employee is entitled during said calendar year to which the one week has been deferred.

Under no circumstances, however, may any employee accrue more than twenty-eight (28) calendar days (20 working days) of vacation leave in one calendar year.

Full-time employees eligible for vacation leave must take a minimum of one week of accrued vacation time each time vacation is requested. Deviation from this policy is allowed only with the written approval of the department head and the City Manager, acting jointly.

In the event one or more municipal holidays fall within an annual vacation leave, then such holidays shall not be charged as vacation leave, and the vacation leave shall be extended accordingly.

Employees who successfully complete probation and who terminate employment shall be paid in a lump sum for all earned vacation leave prior to the effective date of termination.

Effective January 1, 1992, all hourly employees who have attained CalPERS eligibility shall receive two (2) seven (7) hour paid vacation days each calendar year.

Except for those hourly employees identified above as receiving vacation, employees who work on an intermittent or seasonal basis and all other hourly employees are ineligible for vacation leave.

Members of the Unit may be paid for up to forty (40) hours per annum for compensable time. Sick time is excluded from this provision.

Payment shall be made in the following manner:

- a. Payment will be made annually at the employee's current hourly rate of pay.
- b. Payment will not exceed forty (40) hours per calendar year.
- c. Payment requests require the approval of the employee, department head and Human Resources Director.
- d. Payment requests can be submitted throughout the calendar year, with a maximum of forty (40) hours per year.
- e. Such payment shall be included in the employee's check within two pay-periods following the signature of the employee, Department Head and Human Resources Director.

ARTICLE XXII

MILITARY LEAVE

Military leave shall be granted in accordance with the provisions of federal and state law.

ARTICLE XXIII

FAMILY CARE AND MEDICAL LEAVE POLICY

Section 1 Statement Of Policy

In addition to other leaves available under this memorandum and/or other City provided leaves of absences, employees may also be eligible for leave under federal and state law.

The City will provide family and medical care leave for eligible employees as required by state and federal law, including leaves under the Federal Family Leave Act ("FMLA"), the State of California Family Rights Act ("CFRA"), and Paid Family Care Leave ("PFCL").

An individual who is entitled to leave under the FMLA and the CFRA must take Family Temporary Disability Insurance leave concurrent with leave taken under the FMLA and the CFRA.

Section 2 Definitions

In implementing this policy, the following definitions will apply:

- A. "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- B. "Parent" means the biological, foster, or adoptive parent of an employee or an individual who stands or stood *in loco parentis* (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.
- C. "Child" means a child under the age of eighteen (18) years of age, or eighteen (18) years of age or older who is incapable of self care because of a mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes, a biological, adopted, foster or step-child, a legal ward, a son or daughter of a domestic partner, or a son or daughter who stands in loco parentis to that child.
- D. "Spouse" means a husband or wife as defined or recognized under California State law for purposes of marriage.
- E. "Domestic Partner" means a partner as defined in Section 297 of the Family Code.
- F. "Family Member" means a child, parent, spouse, or domestic partner as defined in this policy.
- G. "Serious Health Condition" means an illness, injury impairment, or physical or mental condition that involves:

1. Inpatient Care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom); or

2. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider as defined under federal and/or state law.

H. "Health Care Provider" is defined pursuant to the FMLA and CFRA.

Section 3 Reasons For Leave

Leave is only permitted for the following reasons:

A. The birth of a child or to care for a newborn of an employee or the employee's domestic partner;

B. The placement of a child with an employee in connection with the adoption or foster care of a child by the employee or domestic partner;

C. Leave to care for a child of the employee, spouse or domestic partner who has a serious health condition; or

D. Leave because of a serious health condition that makes the employee unable to perform the functions of his/her position;

E. Leave to care for a parent, spouse, or domestic partner who has a serious health condition.

Section 4 Employees Eligible For Leave (Not applicable to PFCL)

An employee is eligible for leave if the employee:

A. Has been employed for at least twelve (12) months; and

B. Has been employed for at least one-thousand two-hundred fifty (1,250) hours during the 12-month period immediately preceding the commencement of the leave.

Section 5 Amount Of Leave

Eligible employees are entitled to a total of twelve (12) workweeks of leave during any 12-month period.

A female employee has a reasonable leave of absence of up to four months whenever she becomes disabled as a result of pregnancy, childbirth, or related medical conditions.

Four months is the maximum allowed for pregnancy-related disability leave. A female employee who is physically and mentally capable of returning to work before the expiration of four months is not entitled to a full four month leave of absence.

Notwithstanding any leaves available under this policy, once an employee exhausts all federal and state leaves, and any accrued paid leaves, the employee may apply for an unpaid administrative leave of absence pursuant to Article XXXVI for successive periods of up to thirty (30) days each up to a maximum of one hundred eighty (180) consecutive days. The City has the discretion to either grant or deny any request for an unpaid administrative leave. Benefits shall not accrue during the term of an unpaid leave of absence nor does such time count as service time for step increases, seniority or other purposes.

A. Minimum Duration of Leave

If leave is requested for the birth, adoption or foster care placement of a child of the employee or domestic partner, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for at least one day, but less than two weeks duration on any two occasions.

If leave is requested to care for a child, parent, spouse, domestic partner or the employee him/herself with a serious health condition, there is no minimum amount of leave that must be taken. However, the notice and medical certification provisions of this policy must be complied with.

B. Spouses Both Employed by the City

In any case in which a domestic partner, husband and wife are both employed by the City and both are entitled to leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to twelve (12) workweeks during any 12-month period if leave is taken for the birth or placement for adoption or foster care of the employees' child (i.e., bonding leave). This limitation does not apply to any other type of leave under this policy.

Section 6 Employee Benefits While On Leave

Leave under this policy is unpaid. While on leave, employees will continue to be covered by the City's group health insurance to the same extent that coverage is provided while the employee is on the job.

Employees may make the appropriate contributions for continued coverage by payroll deductions or direct payments made to these plans. Depending on the particular plan the City will inform you whether the premiums should be paid to the carrier or to the City. Your coverage on a particular plan may be dropped if you are more than thirty (30) days late in making a premium payment. However, you will receive a notice at least fifteen (15) days before coverage is to cease, advising you that you will be dropped if your premium payment is not paid by a certain date. Employee contribution rates are subject to any change in rates that occurs while the employee is on leave.

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the City shall have the right to recover its share of health plan premiums for the entire

leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control. The City shall have the right to recover premiums through deduction from any sums due the City (e.g. unpaid wages, vacation pay, etc.).

Section 7 Substitution Of Paid Accrued Leaves

While on leave under this policy, as set forth herein, an employee may elect to concurrently use paid accrued leaves. Similarly, the City may require an employee to concurrently use paid accrued leaves after requesting FMLA, CFRA leave and Paid Family Leave, and may also require an employee to use Family and Medical Care Leave concurrently with a non-FMLA/CFRA leave which is FMLA/CFRA-qualifying.

A. Employer's Right to Require An Employee to Use Paid Accrued Leaves Concurrently With Family Leave

Where an employee has earned or accrued paid vacation and/or administrative leave, that paid leave must be substituted for all or part of any (otherwise) unpaid leave under this policy.

As for sick leave, an employee is entitled and may use sick leave concurrently with leave under this policy if:

1. The leave is for the employee's own serious health condition; or
2. The leave is needed to care for a parent, domestic partner, spouse or child with a serious health condition, and would be permitted as sick leave under the City's sick leave policy.

As for compensatory time, an employee may use compensatory time concurrently with leave under this policy.

As a condition of an employee's initial receipt of family temporary disability insurance benefits during any twelve (12) month period in which an employee is eligible for these benefits, the City may require an employee to take up to two weeks of earned but unused vacation leave prior to the employee's initial receipt of these benefits. If the City requires the employee to take vacation leave, that portion of the vacation leave that does not exceed one week shall be applied to any applicable waiting period for receipt of family temporary disability insurance benefits.

Section 8 Medical Certification

Employees who request leave for their own serious health condition or to care for a child, parent, domestic partner or a spouse who has a serious health condition must provide written certification from the health care provider of the individual requiring care if requested by the City.

If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to perform the essential functions of his/her position.

A. Time to Provide a Certification

When an employee's leave is foreseeable and at least 30 days notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the City within the time frame requested by the City (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

B. Consequences for Failure to Provide an Adequate or Timely Certification

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency.

However, if an employee fails to provide a medical certification within the time frame established by this policy, the City may delay the taking of FMLA/CFRA leave until the required certification is provided.

C. Recertification

If the City has reason to doubt the validity of a certification, the City may require a medical opinion of a second health care provider chosen and paid for by the City. If the second opinion is different from the first, the City may require the opinion of a third provider jointly approved by the City and the employee, but paid for by the City. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a recertification.

D. Intermittent Leave or Leave on a Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, or for pregnancy-disability leave, the employee must provide medical certification that such leave is medically necessary. "Medically necessary" means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

Section 9 Employee Notice Of Leave

Although the City recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact date(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed. If the City determines that an employee's notice is inadequate or the employee knew about the requested leave in advance of the request, the City may delay the granting of the leave until it can, in its discretion; adequately cover the position with a substitute. All notices required under this Policy must be submitted to the department head.

Section 10 Reinstatement Upon Return From Leave

A. Right to Reinstatement

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA/Paid Family Leave period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and City the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to return.

B. Employee's Obligation to Periodically Report on His/Her Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

C. Fitness for Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

ARTICLE XXIV

HOURS OF WORK

All classified City employees shall work five (5) eight (8) hour shifts per week, Monday through Friday, except as designated by other resolutions and ordinances enacted by the City Council and by directives of the City Manager acting within the framework of said resolutions and ordinances.

Resolution 76-86 provides that no hourly person, temporary help or seasonal worker shall work more than thirty-five (35) hours in any week.

All employees covered by this memorandum shall continue to be eligible to work a compressed workweek (4/10 or 9/80) or flexible work schedule as mutually agreed between the employee and department head and approved by the City Manager or his designee.

ARTICLE XXV

ATTENDANCE

Employees shall be in attendance at their work in accordance with the rules regarding hours of work, holidays and leaves. If an employee is unable to report to work, he must notify his supervisor in accordance with departmental policy. Failure to do so may result in disciplinary action. Any employee who is unable to report to work for a period in excess of ten (10) working days must be on paid leave status (vacation, holiday or sick leave) or must apply to the department head for an unpaid leave of absence. Failure on the part of an employee, absent without leave, to return to duty within twenty-four (24) hours after notice to return shall be deemed a resignation unless an acceptable reason is given. Such notice to return shall be sent by registered mail to the addressee only, return receipt requested. It is the responsibility of the employee to notify the supervisor and the Human Resources Division of any change of address or telephone number.

ARTICLE XXVI

GRIEVANCE AND DISCIPLINARY APPEAL PROCEDURE

A "Grievance" shall be defined as a controversy between the City and the Association or an employee or employees covered herein. The provisions of this Article do not apply to probationary or in the case of hourly employees, those who have not reached CalPERS eligibility. A controversy as defined in this Article must pertain to any of the following: (1) Any matter relating to working conditions, (2) Any matter involving the interpretation or application of any provision of this memorandum, or (3) Any matter involving the violation of any provision or intent of this memorandum except any articles and provisions which state that they are not subject to this Article. An appeal of a disciplinary action, including suspension, discharge for cause, demotion or disciplinary reduction in pay, shall initially be submitted at Step 3, and contain a succinct written statement of the basis of appeal, within ten (10) working days of the imposition of discipline. All written responses to a disciplinary appeal will specify reasons for the decision and inform the employee of the appeal procedure and applicability of Section 1094.6 of the Code of Civil Procedure limiting the time within which legal actions must be commenced.

There shall be an earnest effort on the part of both parties to settle grievances promptly through the steps listed below. The employee may request the assistance of a representative of his own choosing in preparing and presenting a grievance. Either party to the grievance may invite persons with relevant information to be present. For purposes of this procedure "working days" refers to Monday through Thursday, 7:00 AM to 6:00 PM and excludes weekends and holidays.

Step 1: An employee's grievance must be orally discussed with the first line supervisor immediately in charge of the aggrieved employee within ten (10) working days after the event giving rise to the grievance, or ten (10) working days after the date that he should have been reasonably expected to have had knowledge of the grievance. The supervisor will give his answer to the employee by the end of the tenth (10th) working day following the presentation of the grievance and the giving of such answer will terminate Step 1.

Step 2: If the grievance is not settled in Step 1 and the employee wishes to pursue it further, the grievance will be reduced to writing by the employee, fully stating the facts surrounding the grievance and/or detailing the specific provisions of this memorandum alleged to have been violated, signed and dated by the employee and presented to the department head, or in his absence, his designee within ten (10) working days after termination of Step 1.

Written discrimination allegations must contain a description of the purported discriminatory action and the specific basis which is defined by Federal or State law (if any). A meeting between the employee and his department head or, in the department head's absence, his designee may be arranged at a mutually agreeable location and time to review and discuss the grievance. If scheduled, such meeting will take place within ten (10) working days from the date the grievance is received by the department head or, in his absence, his designee. The department head or, in his absence, his designee will give a written reply by the end of the fifth (5th) work day following the date of the meeting and giving of such reply will terminate Step 2.

Step 3: If the grievance is not settled at Step 2, the employee may move the grievance to Step 3 by serving written notice upon the City Manager within ten (10) working days after receipt of the reply in Step 2, or within ten (10) working days after the reply was due, requesting a meeting.

Said meeting shall be scheduled within ten (10) working days after receipt of such request. The City Manager or, in his absence, his designee shall provide the employee with a written disposition of the grievance within ten (10) working days after the meeting. The City Manager's decision shall be final and binding, except in disciplinary and discrimination cases as specified below.

Step 4: The employee may seek review by the Personnel Board of the City Manager's decision in grievance matters by submitting a written request to the Personnel Department within ten (10) working days from the date of the answer in Step 3. The Personnel Board may grant an informal hearing and the Board's role in such matter is advisory only, except that in disciplinary and discrimination cases, the Board shall grant a hearing and the Board's decision shall be final and binding.

If an employee has complied with the above steps and requested Personnel Board review in a disciplinary appeal or discrimination allegation, the Board shall hold a hearing within thirty (30) days of the request and take such action as it deems appropriate. It is agreed that neither party shall attempt to influence the Personnel Board prior to the hearing.

Upon conclusion of any investigation or hearing, the Personnel Board shall, within ten (10) working days, notify the Human Resources Division in writing of its findings and recommendations. A copy of such findings shall be transmitted to the affected employee.

All costs of representation resulting from this process shall be borne by the party incurring them.

No employee shall use City time, staff or materials in the pursuit of a grievance or in response to a proposed or effected disciplinary action, unless he or she has obtained specific authorization to do so.

A grievance or other appeal which is not brought or brought forward within the time limit provided within each of the sections of this article shall be deemed to have been waived and settled, unless such time limit is expressly extended by mutual agreement. Time limits are set forth above and may be extended by a mutual agreement between the parties, but neither party shall be required to do so.

Any letter of reprimand that is not included as part of a current progressive discipline matter will be removed from the file of an employee after twelve (12) months, upon written request from that employee to the Human Resources Division.

ARTICLE XXVII

BEREAVEMENT LEAVE

In the event of a death in the employee's immediate family, the department head or City Manager may grant a four (4) day bereavement leave with pay. "Immediate Family" is defined as mother or father or grandparents of employee or mate; mate, brother, sister, children or grandchildren of employee.

Effective October 1, 1995, all hourly employees who have attained CalPERS eligibility may be granted a three (3) day bereavement leave with pay under the same provisions as stated above.

ARTICLE XXVIII

EMERGENCY LEAVE

In the event of an emergency, the City Manager may grant the use of a maximum of two (2) days sick leave annually as emergency leave. Application for emergency leave may be under the following conditions: 1) Hospitalization or illness in immediate family (not covered under Labor Code Section 233/Sick Leave and, 2) Death in family not covered by bereavement leave. 3) Other events which preclude the employee's attendance at work and which the department head determines constitutes an emergency. If the department head denies an employee's request for emergency leave, the employee may request in writing that the City Manager review the request. The City Manager's decision shall be final.

Hourly employees are excluded from the provisions of the Article.

ARTICLE XXIX

JURY DUTY

The City shall compensate a full-time employee who has been called for jury duty. Compensation shall be at the employee's regular hourly rate of pay. The employee shall remit to the City the amount paid by the courts minus any mileage reimbursement.

Service on a grand jury is specifically excluded from this article.

ARTICLE XXX

SERVICE DISABILITY

Under the provision of the Worker's Compensation Insurance and Safety Act of California, employees are compensated for injuries sustained in the course of employment, rendering them unable to perform their duties. The City provides full salary continuance for ninety (90) calendar days to an employee who is disabled by injury or illness arising out of and in the course of his or her duties. Time off work due to an on-the-job injury is not deductible from accumulated sick leave for period not to exceed ninety (90) calendar days.

Thereafter, compensation shall be only as provided in the Worker's Compensation Insurance and Safety Act.

Hourly employees are excluded from the provisions of this Article relating to the salary continuance.

ARTICLE XXXI

NO STRIKE

Section 1 Prohibited Conduct

- A. The Association, its officers, agents, representatives and or members agree that during the term of this memorandum they will not cause or condone any strike, walkout, slowdown, sick-out, or any other job action by withholding or refusing to perform services.

- B. Any employee who participates in any conduct prohibited in subsection A above, shall be subject to termination by the City.

- C. In addition to any other remedies or disciplinary actions available to the City if the Association fails, in good faith, to perform all responsibilities listed below in Section 2 A below, the City may suspend any and all of the rights, privileges, accorded to the Association under the Employer-Employee Relations Resolution in this memorandum including, but not limited to, right of access, check-off, the use of the City bulletin boards and facilities.

Section 2 Association Responsibility

- A. In the event that the Association, its officers agents, representatives, or members engage in any of the conduct prohibited in Section 1 A, above, the Association shall immediately instruct any persons engaging in such conduct is in violation of this memorandum and unlawful and they must immediately cease engaging in conduct prohibited in Section 1 A, and return to work.

- B. If the Association performs all of the responsibilities set forth in Section 2 A above, its officers, agents, representatives shall not be liable for damages for prohibited conduct performed by employees who are covered by this memorandum in violation of Section 2 A above.

ARTICLE XXXII

FULL FAITH AND CREDIT CLAUSE

For purposes of administering the terms and provisions of the various ordinances, resolutions, rules and regulations which may be adopted by the City pursuant to this memorandum, all matters resolved in memoranda of understanding for prior years, all resolutions of the City Council, and all existing matters resolved regarding wages, hours, fringe benefits and conditions of employment prior to Myers-Milias-Brown Act of 1968, will remain unchanged and unaltered except where expressly changed or altered in this memorandum.

ARTICLE XXXIII

SAVINGS CLAUSE

Any resolution of the City incorporating any provisions of this memorandum or of such resolution of any kind is at any time or in any way held to be contrary to any law by any court of proper jurisdiction, the remainder of this memorandum and the remainder of such resolution shall not be affected thereby and shall remain in full force and effect.

ARTICLE XXXIV

EMPLOYEE ORGANIZATION DEDUCTION

The City shall deduct from each Unit member's first and second paycheck of each month and remit to the Association all such monies pursuant to Article II, Section 2, that are authorized either by the employees individually and voluntarily authorize in writing, or pursuant to agency shop, to the extent required by law. Such employee authorizations shall comply with appropriate laws and regulations, and shall be made on a form provided by the City.

ARTICLE XXXV

GENDER REFERENCES

As used in this memorandum, all references to gender, such as references to "he", "him", and "his" and references to "they", "them" and "theirs", shall apply equally to both sexes.

ARTICLE XXXVI

LEAVE BENEFIT ACCRUAL RATES

The following shall represent leave benefit accrual rates for full-time classified employees:

VACATION	80 Hours/year	$(80/26)= 3.08$ hours/pay period
VACATION	120 hours/year	$(120/26)= 4.62$ hours/pay period
VACATION	160 hours/year	$(160/26)= 6.15$ hours/pay period
SICK LEAVE	96 hours/year	$(96/26)= 3.69$ hours/pay period
FLOATING HOLIDAYS	50 hours/year	$(50/26)= 1.923$ hours/pay period

Effective 1-1-05:

4/10	Floating Holiday	50 hours
	Personal Leave	20 hours
5/8	Floating Holiday	58 hours
	Personal Leave	20 hours

ARTICLE XXXVII

LAYOFF

The City may separate any employee or class of positions without prejudice, because of the financial or economic condition of the City, reduction of work or the necessity for the position or employment no longer exists. The City shall give such employee not less than thirty (30) days advance notice of separation and the reason therefore. However, no permanent full-time employee shall be separated while emergency, seasonal, probationary, part-time or temporary employees are employed into the same positions according to the needs of the service as determined by the City.

The conditions of layoff shall be as follows:

1. **PROMOTIONAL EXAMINATIONS.** For purposes of layoff, all promotional opportunities will be conducted prior to layoffs proceeding.
2. **ORDER OF SEPARATION.** The principal criterion used in determining the order of separation and bumping right shall be seniority based on the total years of continuous full-time service and any prior part-time service as calculated on a pro-rata basis with the City provided the employee presently possesses the skill, ability and qualifications to perform the job. Layoffs shall be in the reverse order as hired. That is, the employee in the affected job class with the least total City service shall be laid off first.

Whenever seniority is equal, the following criteria shall be applied in the indicated order:

- a. Ranking on eligibility list;
- b. Performance Evaluations;
- c. Drawing of lots

3. **BUMPING RIGHTS.** Any full-time employee who has been given notice of lay off may displace another employee in the same job class with less seniority in the same job class, or bump to another class in which they formerly held a permanent appointment and there is an employee with less seniority. It is understood that an employee seeking to bump into a lower class shall first occupy any vacant position before displacing an existing employee.

After the City has notified the affected employee of the layoff and the position available to the employee, if any, to bump, he/she must notify the Personnel Officer of his/her intent to exercise the bumping rights within ten (10) calendar days of the position in the City which they intend to bump, or the bumping rights shall be barred and waived to the employee. The employee with the least seniority shall be displaced by the person who is laid off.

The employee displaced shall be considered as laid off for the same reason as the person who displaced him/her and shall in the same manner be eligible to bump to a position within the City in which he/she formally held a permanent position.

4. **APPOINTMENT OF LAID-OFF EMPLOYEES TO LOWER CLASS.** Any employee in a represented job class who is scheduled to be laid off due to lack of work, lack of funds or elimination of position, may not later than ten (10) calendar days after notice of layoff, request to

displace (“bump”) an employee in a lower job class within the job series provided the laid off employee has greater overall City service seniority than the employee in the lower job class and is qualified by education and/or experience for such a position. If there is more than one employee who is qualified for such appointment(s), the “Bump” shall be based on seniority with the employee with the highest seniority offered the position first, then the next highest, etc.

The City Manager shall approve the appointment of an employee who is to be laid off to a lower class which the employee is qualified without requiring an examination within the job series. An employee who has not previously served in the lower class may be required to successfully complete the probationary period for the class.

If the employee(s) have the same seniority, then the procedure for breaking ties set forth in this article shall apply.

The employee displaced as a result of being “bumped” shall be considered as laid off for the same reasons as the person originally displaced and the same displacement rights shall be afforded.

5. SALARY PLACEMENT. An employee(s) who accepts an appointment to lower job class as a result of a layoff and/or a displacement (“bump”) shall be placed at the step of the salary range which most closely corresponds to, but in no case exceeds, the salary step of the previously held position.

ARTICLE XXXVIII

LEAVE OF ABSENCE

A permanent classified employee may be granted an unpaid leave of absence of up to thirty (30) days for medical, personal and other reasons. Pregnancy shall be treated as any other disability, except that beginning with the first day of absence from the job, a total of four (4) months leave time with, and/or without, pay shall be granted if medically necessary to an employee whether on temporary/hourly or permanent status. Additional time will be considered if the employee remains disabled, and may be authorized subject to the needs of the service as are other disability leaves. Extensions on other leave requests may also be granted for successive periods of up to thirty (30) days each up to a maximum of one hundred eighty consecutive days unless otherwise approved by the City Council. Benefits shall not accrue during the term of an unpaid leave of absence nor does such time count as service time for step increases, seniority or other purposes. Available compensatory time off and, in the case of a medical leave request, sick leave shall be used prior to the commencement of a leave of absence. All requests for unpaid medical leave must be in writing and submitted for department head and City Manager approval. The City Manager may approve up to 30 days unpaid leave for personal leave requests. All other requests for leaves of absence must be submitted in writing and be approved by the City Council. Requests for medical leave and extensions of medical leave must be accompanied by a certificate from the employee's physician stating the necessity for the leave or extension. An employee returning from medical leave shall present a certification from the employee's physician stating that the employee is able to return to his/her normal work. The City may, whenever it appears justified, independently verify the physician's statements provided for in this section. During the term of such medical leave the City shall continue to pay the health insurance premiums for the employee only.

Upon expiration of an approved unpaid leave of absence the employee shall be reinstated in the position held at the time leave was granted. Failure on the part of an employee on leave to report promptly at the expiration of such leave shall be cause for discharge.

Hourly employees are excluded from these provisions with the exception of the pregnancy specification.

ARTICLE XXXVIII

ELIMINATION OF EXEMPT STATUS

Effective July 1, 1982 all full-time employees who are in classifications covered by this memorandum shall no longer be considered "Exempt". All such employees shall be subject to all provisions of this memorandum except that any employee who was hired as an "Exempt" employee prior to July 1, 1982 and has not completed the probationary period shall be entitled to accrue and use holidays and vacation during such probation.

ARTICLE XXXIX

RENEGOTIATION

The parties shall use their best efforts to submit new proposals for a successor MOU by April 2011 and shall begin negotiations by May 1, 2011.

The City and Association may agree to meet on an as-needed basis to improve communications and address mutual concerns.

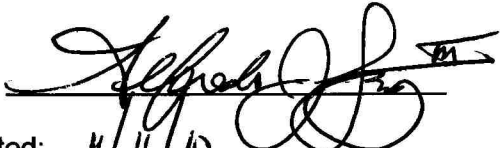
ARTICLE XXXX

TERM


This memorandum shall cover all Unit members for the period from July 1, 2010 through June 30, 2011.

In witness whereof, the parties hereto have caused their duly authorized representatives to execute this Memorandum of Understanding on


Alfredo J. Lopez, III, Human Resources Director
of the City of Lynwood

BY 
Dated: 11/11/10

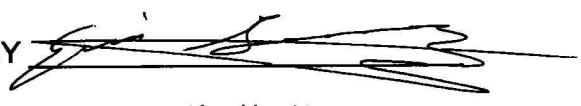
Lilly Hampton, President, Lynwood
Employees' Association

BY 
Dated: 11-11-10


Robert S. Torrez, Assistant City Manager
of the City of Lynwood

BY 
Dated: 11/11/10

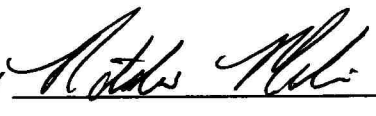
Eric Gonzalez, Vice-President, Lynwood
Employees' Association

BY 
Dated: 11-11-10

Roger L. Haley, City Manager of the
City of Lynwood

BY 
Dated: 11.11.10

Natalia Medina, Secretary, Lynwood
Employees' Association

BY 
Dated: 11-11-10