

CITY OF ST. HELENA RESOLUTION NO. 2014-24

**APPROVE A MEMORANDUM OF UNDERSTANDING
BETWEEN THE ST. HELENA
EMPLOYEES ASSOCIATION (SHEA)
AND THE CITY OF ST. HELENA**

RECITALS

- A. The compensation, hours of work and other terms and conditions of employment with miscellaneous employees expired June 30, 2013.
- B. Negotiations between the St. Helena Employees Association and the City have resulted in a two and one-half year agreement expiring December 31, 2015. The agreement is reflected in a Memorandum of Understanding (MOU) between the St. Helena Employee's Association (SHEA) and the City in Exhibit A.

RESOLUTION

NOW, THEREFORE, the City Council of the City of St. Helena resolves as follows:

The Council hereby approves and incorporates by reference the attached Memorandum of Understanding between St. Helena Employees Association and the City of St. Helena for the period July 1, 2013 - December 31, 2015.

Approved at a regular meeting of the St. Helena City Council on May 13, 2014
by the following vote:

AYES:	Crull, White, Pitts, Sculatti and Mayor Nevero
NOES:	None
ABSENT:	None
ABSTAIN:	None

Approved:



Ann Nevero
Mayor

Attest:



Cindy Black
Interim City Clerk



MEMORANDUM OF UNDERSTANDING
BETWEEN
ST. HELENA EMPLOYEES ASSOCIATION
AND
CITY OF ST. HELENA
FOR THE PERIOD
JULY 1, 2013 THROUGH DECEMBER 31, 2015

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ARTICLE 1
PREAMBLE

This Memorandum of Understanding (MOU) is made and entered into between the City of St. Helena, hereinafter referred to as "City," and the St. Helena Employees Association, hereinafter referred to as "Association," pursuant to the Meyers-Milias-Brown Act, California Government Code Section 3500 et. seq. The purpose of this MOU is the establishment of rates of compensation, hours of work and other terms and conditions of employment. Employees subject to this MOU are also covered by the City of St. Helena's Employee Handbook currently in effect (Employee Handbook). In the event of a conflict between this MOU and the Employee Handbook, the MOU shall control.

ARTICLE 2 RECOGNITION

The City recognizes the Association as the recognized and exclusive representative for the following classifications:

- Accounting Assistant I, II, III
- Accounting Technician/Human Resources Manager- Confidential Employee
- Administrative Assistant
- Administrative Secretary
- Assistant Engineer
- Associate Engineer
- Assistant Planner
- Associate Planner
- Building Permit Technician I, II, III
- Capital Project Coordinator
- Chief Plant Operator - Water & Waste Water
- Chief Water Dist Operator
- Junior Engineer
- Lead Maintenance Worker
- Librarian I, II
- Library Assistant I, II
- Maintenance Worker I, II, III
- Office Assistant
- Plant Operator I, II, III - Water & Waste Water
- Plant Operator in Training - Water & Waste Water
- Public Works Supervisor
- Senior Librarian
- Senior Librarian Assistant

ARTICLE 3

ASSOCIATION & CITY RIGHTS

A. ASSOCIATION RIGHTS.

The Association shall have the following rights and responsibilities:

1. Reasonable advance notice of any City ordinance, rules, resolution or regulation directly relating to matters within the scope of this MOU.
2. Reasonable use of one (1) bulletin board at City Hall.
3. The right to payroll deductions made for payment of Association dues and for City-approved programs.
4. The right to represent its members before the City Council or the City Council's designee with regard to wages, hours and other matters within the scope of representation, subject to the provisions of applicable Federal, State or City laws and regulations. Inclusion of topics in this MOU does not deem them "negotiable" as that term is defined by applicable law.
5. The use of City facilities for regular, normal and lawful Association activities, providing the appropriate advance arrangements are made. The granting of such use may be conditioned on appropriate charges to offset the cost of such use.
6. Reasonable access to employee work locations for officers of the Association and their officially designated representatives for the purpose of processing grievances or contacting members of the Association concerning business within the scope of representation. Access shall be restricted so as not to interfere with the operations of the City or with established safety or security requirements.

B. CITY RIGHTS.

To insure that the City is able to fulfill its constitutional and statutory functions and responsibilities, the City retains its rights, including, but not limited to, the right to direct the work force; to select and determine the number of employees and skills required; to determine job classifications; to hire, transfer, promote, suspend, discipline and discharge employees; to assign work to employees in accordance with requirements of the City; to establish and change work schedules and assignments; to lay off employees for lack of work; to expand or diminish services; to determine and change methods of operations; to determine and change work locations and the processes and materials to the employee; to take all necessary actions to perform its functions in emergencies.

ARTICLE 4 DEFINITIONS

The words and terms have the following meanings:

Anniversary. The date upon which service time is computed for purposes of step advancement and accrual of vacation and sick leave benefits. (Usually the date of first employment.)

Average Work Day. For a Part-Time Employee, an "Average Work Day" (in hours) is the average number of hours actually worked per day, considering a five day work week. In any case for which the time period to be considered is twelve calendar months, the average work day is the number of hours worked in the preceding twelve months, divided by two thousand eighty, then multiplied by eight.

Benefits or Benefit Package. City-paid Insurance, paid leaves, holidays, and other non-salary items which are part of the compensation paid to any employee.

City. The City of St. Helena, California.

City Manager. The administrative head of the government of the City. The City Manager is responsible for the efficient administration of the affairs of the city, which affairs are under his or her control. The City Manager is considered a Department Head. The City Manager reports to and serves at the pleasure of the Council.

City Service. All positions in all departments and agencies of the City that are subject to control and regulation by the City Council of the City of St. Helena.

Classification. A particular type of employment in the City Service designed to include all positions having duties and responsibilities sufficiently similar so that the same requirements as to education, experience, knowledge, and ability may be required of incumbents and the same schedule or Compensation may fairly be made to apply.

Compensation. The salary, wages, allowances, and all other forms of valuable consideration earned by or paid to any employee by reason of his or her service in a Position, but not including reimbursement for expenses incurred in the course of employment.

Confidential Employee. An employee having access in the course of his/her duties to confidential information on the employer's labor relations and consequently excludable from holding Association office and/or divulging confidential employer information to the Association.

Continuous Employment. Period of uninterrupted employment including holidays and authorized leave but not including periods of leave without pay or times on suspension.

Council. The City Council of the City of St. Helena.

Department Head. A member of the managerial staff of the City, consisting of the City Manager, the Fire Chief, the Police Chief, the City Clerk, the Director of Public Works, the Planning Director, the Library Director, the Recreation Director, the Finance Director and the City Attorney.

Emergency. Emergency shall include an event that damages or continues to threaten damage to the public health, safety, welfare, or property and shall include but not be limited to the following:

The repair or clearance of streets necessary for continued access to properties, including street sweeping.

The repair of public utility facilities.

The repair of City equipment necessary to maintain public safety services.

Activities associated with natural or man-made catastrophe.

On-going investigation, surveillance, or similar police activities and the obtaining and serving of search warrants.

Shortage of personnel necessary to maintain public safety services.

Employee. A person legally occupying a Position or office in the City Service and receiving compensation for services, other than an independent contractor.

Full-Time Employee. An employee who regularly works forty hours per week and is paid a monthly salary.

Non-Probationary Employee. An employee who has successfully completed the Probationary Period.

Non-Qualified Part-Time Employee. An employee who works less than thirty hours per week. Non-Qualified Part-Time Employees are not eligible for the Benefits set forth in this MOU unless specifically stated.

Part-Time Employee. An employee who works less than forty hours per week. Part-Time Employees are designated either as either Qualified Part-Time Employees or Non-Qualified Part-Time Employees.

Position. The title of an occupation along with a group of duties and responsibilities assigned or delegated by competent authority, which requires the full or part time service of one person.

Probationary Employee. An employee who has not yet completed a prescribed Probationary Period. Only Full-Time and Qualified Part-Time Employees may be Probationary Employees.

Probationary Period. The length of continuous service for which an employee must serve in order to attain the status of Non-Probationary Employee.

Qualified Part-Time Employee. An employee whose designated work week is between thirty and thirty nine hours per week. Qualified Part-Time Employees are generally eligible for a pro-rata share of the Benefits set forth in this MOU.

Salary or Pay. The monetary portion of compensation paid to an employee.

Standby. A period or condition which requires that an employee be able to readily report to work and be prepared to undertake work tasks. This will normally include either remaining at his/her home telephone or otherwise arranging for the immediate and convenient notification of an emergency condition, and being prepared to immediately report to the site of the emergency.

Supervisor. The mid-management staff of the City to include the designated assistant to a Department Head or the head of a sub-department or division of a department.

Title. The name applied to a Classification or to each Position included in the Classification.

Work Day.

One calendar day during which an employee is normally scheduled to work. If the employee is engaged in shift work that begins on one calendar day and ends on the following day, only one work day is denoted.

The number of hours of work contained in a calendar day for a given employee, in no case more than eight hours for a Full-Time Employee unless specified otherwise.

**ARTICLE 5
HOURS OF WORK & SCHEDULES**

A. BUSINESS HOURS.

The normal business hours of the City are from 8:00 a.m. to 5:00 p.m. Monday through Friday, except:

- Library hours will be set by the Library Board and may vary.
- Parks hours include Saturday and Sunday. Waste water hours include Saturday and Sunday for a one-year trial period beginning January 1, 2013 through December 31, 2013.
- Streets, Parks, Water, Water Treatment and Waste Water Treatment Department Hours are from 7:00 a.m. to 3:30 p.m.
- Hours of operation differing from these guidelines may be established for any office or Department in order to meet the needs of the City and the citizens of St. Helena.

B. HOURS OF WORK.

Eight (8) hours per day and forty (40) hours per week constitute the normal workweek for all employees. To the maximum extent practicable, work schedules for employees not working normal business hours shall be arranged so that the employee will work for five (5) consecutive days, followed by two (2) days off. Employees are expected to be at their assigned place of work and prepared to commence work with tools at hand at the assigned time.

C. 9/80 FLEX SCHEDULE.

1. Eligibility.

A 9/80 Flex Schedule is available to Association employees in order to allow them time during the workweek to accomplish tasks which do not require public contact (i.e. outside of the 8:00 am to 5:00 pm public hours).

Employees who opt for the 9/80 flex Schedule work 80 hours over nine work days in a two week work period without incurring overtime. The tenth day of the two week work period will be a day off. Only Friday may be the day off (the Friday-Off).

Effective July 1, 2012 only employees currently on the 9/80 schedule will be granted this schedule.

The 9/80 Flex Schedule is voluntary.

The 9/80 Flex Schedule will not impact the accrual of vacation, Sick Leave or other benefits. Vacation time off or Sick Leave days off will be deducted at 9 hours per day for those days which are deemed 9 hour work days.

2. Schedule.

During a two week cycle, an employee working the 9/80 Flex Schedule will work nine hours Monday through Thursday and eight hours on Friday the first week. During the second week, the employee will work nine hours Monday through Thursday and be off on Friday.

For FLSA forty hour per week determination, the work week begins at noon on Friday and ends at noon the following Friday.

In those instances where a holiday falls on the Friday-Off, the preceding work day shall be a day off with holiday pay. Since holiday pay is computed at the rate of eight hours, the affected employee will be required to take one hour of vacation or compensatory time off or to report to work for one hour on the "holiday."

Employees working the 9/80 Flex Schedule will work from 7:00 am to 5:00 pm or from 8:00 am to 6:00 pm on the nine hour days and from 8:00 am to 5:00 pm on Fridays.

Association employees working $\frac{3}{4}$ time (or 30 hours per week), may participate in a 4/30 Flex Schedule in which they work $7\frac{1}{2}$ hours per day for four days and then have each Friday off.

3. Overtime.

Employees working a 9/80 Flex Schedule shall be entitled to overtime for hours worked in excess of nine hours Monday – Thursday or eight hours on Friday.

Employees working a 4/30 Flex Schedule shall be eligible for overtime for hours worked in excess of eight hours in one day.

D. MEAL BREAKS.

Full-Time Employees are scheduled a period of between 30 and 60 minutes, generally in the middle of the workday, during which they are free to eat a meal or do personal errands. Unless directed otherwise, employees are not paid for this time and are free to leave the workplace. Qualified Part-Time Employees may be scheduled a meal break period if they work more than five hours in a work day.

E. REST BREAKS.

For each four (4) hours of work, conditions permitting, employees are granted a fifteen (15) minute rest break during which they may engage in personal conversations, move about, and

otherwise “take a break” from the normal duties of their assignments. This time will be paid by the City as part of the workday.

F. **SHEA ATTENDANCE AT BUDGET MEETINGS.**

One Association officer shall be permitted to attend Council budget meetings held during work hours provided their absence does not create a hardship in the employee’s department nor require employee overtime.

ARTICLE 6

PERSONNEL MATTERS

A. PROBATIONARY PERIOD.

1. Probationary Period.

Each new Full-Time and Qualified Part-Time Employee shall be a Probationary Employee until successful completion of 12 months of Continuous Employment. The purpose of the Probationary Period is to give the Probationary Employee the opportunity to demonstrate that he or she is qualified, able, and willing to meet the expectations of the City with regard to the Position.

2. Termination during Probationary Period.

If at any time prior to successful completion of the Probationary Period the City Manager determines that it is in the best interest of the City to terminate the employment of the Probationary Employee, it will be in his or her discretion to do so without further justification. Probationary Employees are not entitled to the Disciplinary and Appeal Procedures set forth in Article 14 of this MOU and may be terminated at-will, with or without notice.

3. Extension of Probationary Period.

If it appears that the employee will not successfully complete the prescribed Probationary Period, the City Manager also has the discretion of extending the Probationary Period once for an additional six months, if the City Manager feels it is in the best interest of the City to do so.

B. NON-QUALIFIED PART-TIME, TEMPORARY AND CONTRACT EMPLOYEES.

Non-Qualified Part-Time, Temporary and Contract Employees are not subject to a Probationary Period since those employees are subject to discharge at the discretion of the appointing authority, without further justification. Non-Qualified Part-Time, Temporary and Contract Employees are not entitled to the Disciplinary and Appeal Procedures set forth in Article 14 of this MOU and may be terminated at-will, with or without notice and with or without cause.

C. EMPLOYEE EVALUATIONS.

Each employee shall be evaluated no less than annually by his/her Supervisor, according to a system approved by the City Manager. Each employee's evaluation shall be reviewed with the employee by the Department Head, after which the employee is expected to sign the evaluation. Signing the evaluation does not indicate agreement with that evaluation, and the employee may submit reasonable comments in explanation or rebuttal to its contents. After review by the City

Manager, employee evaluations, including reasonable material submitted by the employee, will be placed in the employee's personnel file. A satisfactory or above evaluation must be obtained before each promotion, Classification upgrade, or step increase is granted.

**ARTICLE 7
PAY PLAN**

A. SALARY SCHEDULE

1. Salaries

Salaries paid and any special compensation shall be in accordance with the most recent applicable salary resolution adopted by the City Council, and any amendments thereto. Such resolutions are hereby incorporated as part of this MOU and are available from the City Clerk. (See Appendix A – Salary Schedule)

B. SALARY UPON APPOINTMENT.

Employees appointed to a Position in City Service shall normally be placed in Step “A” of the range. Subject to approval of the City Manager for reasons of an applicant’s outstanding qualifications or for the needs of the City, appointment may be at a higher step. A current City employee being promoted into a range with a higher top step will normally receive at least a five percent (5%) increase.

C. STEP INCREASES.

1. Steps.

Upon completion of the following periods of service, a Full-Time Employee becomes eligible for the next higher step as follows:

- Six (6) months at Step A to become eligible for Step B
- Six (6) months at Step B to become eligible for Step C
- Six (6) months at Step C to become eligible for Step D
- Twelve (12) months at Step D to become eligible for Step E

2. Qualifications for Step Increase.

- a. Employees may be granted a step increase after having served for the designated qualifying period and after a performance evaluation finding that the employee’s performance was not less than satisfactory.
- b. In unusual cases, upon recommendation of the Department Head, where special ability and aptitude is demonstrated, the City Manager may approve advancement of an employee to a higher step before completion of the normal qualifying period.

D. COST OF LIVING ADJUSTMENT (COLA).

A two percent (2%) salary increase shall be provided effective July 1, 2013.

A four percent (4%) salary increase effective January 1, 2014.

A four percent (4%) salary increase effective January 1, 2015.

The 2% salary increase shall be retroactive to July 1, 2013. The 4% salary increase shall be retroactive to January 1, 2014. The retroactive amount shall be applied to each member's payroll as necessary to allow the City to no longer need to complete payroll prior to an employees' hours actually being worked. The City shall issue a check to each member for the balance of the retroactive payment. The City will allow vacation or comp time leave to be used for newer hires receiving an insufficient amount of retroactive pay.

Any COLA for subsequent agreements will be based upon the San Francisco, Oakland-San Jose All Urban Consumers Index.

E. HOURLY RATES.

Where any annual pay rate is to be converted to a salary hourly equivalent, the annual rate of pay shall be divided by 2080 to determine the hourly rate. Daily rates are equivalent to the appropriate hourly rate multiplied by eight (8) hours.

F. OVERTIME.

1. General Policy.

It is the policy of the City that overtime is to be discouraged and used only in cases of emergency. Except for an emergency, a Department Head shall not obligate the City to compensate for overtime without specific advance authorization.

2. Overtime Compensation.

Unless the employee is working a Flex Schedule (see Article 5, section C.2, above), work in excess of eight (8) hours per day, shall be paid at the rate of one and one-half (1.5) times the regular rate of pay; work in excess of twelve (12) hours per day shall be paid at the rate of twice the regular rate of pay. If the employee requests, a Department Head may, at his/her discretion, approve the accumulation of compensatory time to be taken off in lieu of overtime pay. An employee may accumulate up to a maximum of eighty (80) hours of compensatory time. When earned, compensatory time is

accumulated at the same rate as if it were to be paid (i.e. at the rate of 1.5 times the regular rate for hours above 8 but less than 12 in one day).

3. Compensatory Time Off.

An employee, who has accumulated compensatory time as described in Subsection 7.F.2 above, may request time off, to be charged against the accumulated compensatory time. Approval of the request for time off is at the discretion of the Department Head, who will consider the needs of the City, as well as the desire of the employee.

4. Overtime Meal.

If an employee is required to work more than twelve (12) hours with no breaks longer than one (1) hour, the City will provide that employee a meal.

G. HOLIDAY PAY ON HOLIDAYS.

When required to work on a holiday, an employee shall be paid twice the rate of pay at which the employee would be paid on a non-holiday. This section is not applicable to Standby Pay since call out is not a normal designated work day.

H. STANDBY PAY.

Standby Pay shall be paid at a rate of \$75.00 per weekend to those employees in the Public Works Department who are required to be on Standby on weekends (3:30 p.m. Friday to 7:00 a.m. Monday), \$75.00 per week for those employees who are required to Standby for the week (Monday – Friday) and \$75.00 for those employees who are required to Standby on holidays (3:30 p.m. to 7:00 a.m. of the next regular work day).

Public Works employees shall be compensated in 15 minute increments for time worked while on standby handling phone calls from dispatch. City management shall develop a process for including such time on employee timesheets.

I. MINIMUM CALLOUT TIME.

The minimum time charged for being called to work for an emergency shall be two (2) hours (home to home). In addition, such callout time shall be paid at the over-time rate.

J. LONGEVITY PAY.

A raise shall be granted to Full-Time and Qualified Part-Time Employees at the dates and rates below:

At the 5 th Anniversary of Continuous Employment	2.5% of current salary;
At the 10 th Anniversary of Continuous Employment	5.0% of current salary;

At the 15 th Anniversary of Continuous Employment	7.5% of current salary; and
At the 20 th Anniversary of Continuous Employment	10% of current salary.

K. BILINGUAL PAY.

Bilingual pay for fluency in both English and Spanish will be paid to any Full-Time or Qualified Part-Time City employee who is normally available for translation for City business. Such pay will be five percent (5%) of the employee's base salary. Only employees designated by the City are eligible for this additional pay.

L. OUT-OF-CLASS PAY.

When, because of the absence of a Department Head or other Supervisory personnel, an employee performs substantially all of the functions (full-time) of the higher Classification, the employee will receive an increase of no less than ten percent (10%) of his/her base hourly equivalent wage. The increase will be effective after the third (3rd) week of the assumption of those duties and continue during the period those duties are being performed by the employee on a full-time basis. Out-Of-Class-Pay must be pre-approved, in writing, by a Department Head or the City Manager.

M. REPORTING TIME WORKED.

Employees are responsible for reporting on a prescribed form, all hours worked and leave taken during the pay period. The employee is responsible for securing the signature of his/her immediate Supervisor on the form, indicating approval of the hours submitted. The employee is also responsible for seeing that the required documentation for approved leave or overtime worked is attached to the time report. In the event employees are unable to accurately report all time, due to the need to submit the time report prior to the end of the pay period, they shall be responsible for bringing that fact to the attention of their Department Head(s) as soon as practicable, so the payroll records can be adjusted accordingly.

**ARTICLE 8
TIME OFF AND LEAVES OF ABSENCE**

A. VACATION LEAVE.

1. Rate of accrual or award.

Employees shall accrue or be awarded vacation pay based on their years of Continuous Employment at the following rates:

- a. Less than five years of Continuous Employment: Full-Time Employees earn vacation at the rate of ten days per year. Vacation accrues on a monthly basis (six hours and forty minutes per month).
- b. After five years of Continuous Employment with the City, Full-Time Employees will accrue vacation at the rate of fifteen days per year; after six years, sixteen days; after seven years, seventeen days; eight years, eighteen days; nine years, nineteen days; and ten years, twenty days per year.
- c. After twenty five years of Continuous Employment with the City, Full-Time Employees will earn one additional day of vacation each year and continue to earn one additional day of vacation every five years thereafter.
- d. Qualified Part-time Employees shall accrue vacation on a pro-rata basis. For example, a Qualified Part-time Employee that works thirty hours per week shall accrue vacation at the rate of 7.5 days per year during the first five years of Continuous Employment. Vacation Leave accrues on a monthly basis.
- e. Non-Qualified Part-time Employees do not accrue vacation during their first twelve months of Continuous Employment. Thereafter, Non-Qualified Part-Time Employees accrue vacation on a pro-rata basis based on the total number of hours they worked during the previous twelve months of employment as compared to 2,080 hours (full-time). For example, in year two of City Services, a Non-Qualified Part-Time Employee that worked 1,040 hours in his or her first year of employment, will be eligible for five days of Vacation Leave during his or her second year of employment. Vacation Leave accrues on a monthly basis.

2. Administration:

- a. Approving Authority: Department Heads shall have the authority to schedule Vacation Leave according to the needs of the service and the wishes of the employee, in that order.

- b. Leave Requests: An employee's request for approval of Vacation Leave shall be made in writing to the Department Head. Except in the case of an emergency, a request for leave for one to three days should be made at least two days before the commencement of the leave. A leave in excess of three days should be made at least three days prior to the commencement of the leave.
- c. Holidays: If a holiday recognized by the City occurs during Vacation Leave, absence for that holiday shall be charged as Holiday Leave and not as Vacation Leave.
- d. Leave Accumulation: Except with the approval of the Council, accumulated Vacation Leave shall not exceed three hundred and eighty (380) hours and all employees who have accumulated at least eighty (80) hours of vacation shall expend at least eighty (80) Vacation Leave hours per calendar year with at least forty (40) hours being consecutive.

Any employee in a position represented by SHEA, who has more than 320 hours of accrued vacation leave, may have the option to receive a cash payment in lieu of their requested vacation time. This option to receive a cash payment in lieu of vacation time will only be available if (1) the employee has filed a written request for leave at least 30 days prior to the commencement of the leave; and (2) management denies the employee's request for leave because of department workload and staffing needs. Any payment in lieu of requested vacation time will not be PERSable and will not be credited towards the employee's single highest year compensation for retirement purposes. This provision shall not apply to leave which is denied for a requested period due to management's approval of leave for other employees and in which leave would still be available for a period close to the requested vacation period.

- e. Leave Award and Compensation: Vacation Leave shall begin to be earned by an employee upon employment. In the event of a separation of employment, any unused accrued or awarded Vacation Leave shall be compensated with a lump sum payment based on the employee's current rate of pay and included with the employee's final paycheck.
- f. Eligibility and Use: An employee may not take Vacation Leave until after the completion of six months of Continuous Employment. Vacation Leave shall be taken in not less than fifteen minute increments.

B. HOLIDAYS.

1. Holidays.

The following holidays shall be recognized for all Association employees:

New Year's Day (January 1st)

Martin Luther King Day (Third Monday in January)
President's Day (Third Monday in February)
Good Friday (4 hrs) (Traditional Observance)
Memorial Day (Last Monday in May)
Independence Day (July 4th)
Labor Day (First Monday in September)
Veteran's Day (November 11th)
Thanksgiving Day (Fourth Thursday in November)
Friday after Thanksgiving
Christmas Eve Day (December 24th)
Christmas Day (December 25th)

2. Exceptions.

When a holiday falls on a Saturday, the preceding Friday shall be deemed a holiday. When a holiday falls on a Sunday, the following Monday shall be deemed a holiday. When Christmas Eve falls on a Friday, the preceding Thursday shall be deemed a holiday. When Christmas day falls on a Monday, the following Tuesday shall be deemed a holiday. When Christmas falls on a Thursday, the following Friday shall be a holiday in lieu of Christmas Eve Day.

3. Observance.

Except for emergency services, all City offices shall be closed on recognized holidays.

4. Holiday Pay

- a. Full-Time Employees shall receive full pay provided they are employed and in a paid status on the first working day prior to and following the holiday.
- b. Qualified Part-Time Employees who have been continuously employed by the City for at least twelve months will receive Holiday Pay for days designated as fixed holidays, in an amount determined by multiplying the employee's Average Work Day by the employee's hourly rate. If a Qualified Part-Time Employee who is eligible for Holiday Pay is required to work on a holiday, then in lieu of paid time off the employee will receive additional pay equivalent to the employee's Average Work Day or the actual number of hours worked, whichever is greater, but not to exceed eight (8) hours, multiplied by the employee's hourly rate.
- c. Non-Qualified Part-Time Employees who have been continuously employed by the City for at least twelve months will receive Holiday Pay for days designated as fixed holidays in an amount equal to their Average Work Day over the last twelve month period multiplied by their current hourly rate.

C. PERSONAL CONVENIENCE HOLIDAY.

Each Full-Time Employee and Qualified Part-Time Employees shall be eligible for two (2) Personal Convenience Holidays of eight (8) hours each per year. After five years of Continuous Employment, Full-Time and Qualified Part-Time Employees shall be eligible for three (3) Personal Convenience Holidays each year. Personal Convenience Holidays are granted on January 1st of each year and must be used prior to the end of the calendar year and will not accrue. They may be taken at the employee's convenience, subject to the Department Head's approval. These Personal Convenience Holidays shall not incur additional expense to the City, e.g., causing another employee to work overtime, etc. Each Personal Convenience Holiday must be taken as a full day off. Employees do not receive Personal Convenience Holidays during the calendar year in which they are hired.

D. SICK LEAVE.

1. Accrual.

- a. Sick leave with pay shall accrue to all Full-Time Employees at the rate of one work day for each calendar month of service, with no limit to its maximum accumulation.
- b. Qualified Part-Time Employees accrue Sick Leave on a pro-rata basis. For example, a Qualified Part-Time Employee who works 30 hours per week will receive six hours of Sick Leave for each calendar month of service.
- c. Non-Qualified Part-Time Employees are not eligible for Sick Leave.

2. Administration.

An employee who must be absent from work shall personally (if able) notify his or her immediate superior or Department Head prior to or within the first thirty minutes of the absence and may be required to provide a physician's certificate for absence due to illness of more than three working days or at the request of the Department Head. When the City Manager determines that it is job-related and consistent with business necessity, an employee may be required to submit to an examination by a licensed physician designated by the City and at its expense to determine whether the employee is still able to perform the essential functions of his or her job. Any information obtained about the Employee's health condition shall be treated confidentially as provided by federal and state law.

3. Reasons for Granting.

Sick leave shall be granted to eligible employees in the following cases:

- a. Personal illness or incapacity resulting from causes beyond the employee's control or from maternity. In the event of absence from work due to a work-related injury, an employee may receive pay for accrued Sick Leave to the extent necessary to supplement worker's compensation payments to effectively raise the employee's pay received to the level of full-time pay. For a new employee who, at the time of a work-related injury, has not yet earned three days of Sick Leave, up to three days of Sick Leave may be advanced from anticipated future Sick Leave accruals as required to meet this described use.
- b. Illness of a member of an employee's immediate family (defined as father, mother, domestic partner, sister, brother, spouse or children) and of sufficient nature to require the employee's personal care and attention.
- c. Medical appointments and preventive medical, dental, and optical examinations for the employee and the employee's minor children or incapacitated spouse or domestic partner where appointments are unavailable or impractical during non-working hours.
- d. As otherwise provided in the Family Medical Leave Act and Pregnancy Disability Act Policies of the City.

4. Limitations.

- a. An employee may use Sick Leave, in an amount not to exceed one-half of their annual accrual, or six days, to attend to an illness of a child, parent spouse or domestic partner of the employee.

5. Sick Leave Abuse.

"Sick leave abuse" shall mean: "any use of sick leave, for purposes other than those identified in this section." Sick leave abuse may subject the employee to disciplinary action as determined necessary to deter future abuse.

6. Pay-out at Termination of Employment.

- a. Effective July 1, 2012, the City will not pay the employee upon separation in good standing from City employment for unused sick leave accrued on or after July 1, 2012.

Upon separation in good standing from City employment, the City will pay the employee for unused Sick Leave in the following amount: The total number of hours of Sick Leave accumulated multiplied by the hourly rate of pay of the employee at the time of separation, divided by two (2). An employee is not "separating in good standing" if proceedings to terminate the employee have been

initiated or concluded in accordance with the provisions of Article 14, Resignation, Termination or Disciplinary Action. When an employee uses sick leave, City will first reduce employee sick leave balances from sick leave accrued after July 1, 2012.

- b. An employee's termination of employment for reasons of illness, verified by doctor certifications relative to the nature, gravity, and duration of the illness (including maternity) may be paid a lump sum for all Sick Leave accrued and unused at the time of such termination.
- c. An employee who retires or otherwise terminates his or her employment after a finding of industrial disability, may not exhaust his or her Sick Leave before the retirement becomes effective.

E. BEREAVEMENT LEAVE.

All Full-Time and Qualified Part-Time Employees shall be allowed a leave of absence with full pay, not to exceed three (3) working days, or five (5) working days if the death occurs out of State, when such absence is due to death in the immediate family. Those in immediate family are: mother, father, grandmother, grandfather, or a grandchild of the employee or of the spouse or domestic partner of the employee, and the spouse, son, domestic partner son-in-law, daughter, daughter-in-law, brother, or sister of the employee, or any relative living in the immediate household of the employee.

F. JURY OR WITNESS DUTY.

1. All employees shall be granted time off to serve, as required by law, on a jury or grand jury if the employee provides reasonable advance notice to the City. Leave with full pay shall be granted to Full-Time and Qualified Part-Time Employees for jury duty or when called as a witness for a job related law suit. Any compensation received for jury duty, excluding mileage and similar expense reimbursements, shall be remitted to the City. Non-Qualified Part-Time Employees time for jury duty will be unpaid.
2. Leave without pay shall be granted to all employees to appear in court or other judicial proceedings as a witness to comply with a valid subpoena or court order.

G. ADMINISTRATIVE LEAVE WITH PAY.

Administrative Leave with Pay may be assigned to employees by the City Manager if it appears to be in the best interest of the City. In the event such leave is assigned, the City Manager will report to the Council the facts and circumstances of such leave as soon as is practicable.

H. DISCRETIONARY LEAVE WITHOUT PAY.

1. Permissible reasons for leave.

Discretionary Leave Without Pay may be granted by the City Manager as follows:

- a. For personal reasons which are approved by the City Manager.
- b. For reason of illness in the event Sick Leave has been exhausted.
- c. In conjunction with Pregnancy Disability or FMLA Leave.
- d. To pursue a course of education which will increase the employee's usefulness as a City employee.

2. Procedure.

- a. The employee shall provide at least 30 days advance notice of the need for leave without pay, whenever possible. If 30 days notice is not practicable, the employee shall request the leave as soon as practicable.
- b. An employee's request for Discretionary Leave Without Pay shall be submitted to the City Manager, accompanied by a recommendation or an explanation from the Department Head as to how an adequate level of service can be maintained during the employee's absence. The City Manager has the discretion of approving or rejecting the request.
- c. In the case of extended illness the Department Head shall notify the City Manager at such time as the employee has expended all Sick Leave and shall submit a regular status report thereafter pending consideration of termination, disability, retirement, or temporary replacement.

3. Regulations Relative to Discretionary Leave Without Pay are as Follows.

- a. The City Manager may grant Discretionary Leave Without Pay in his or her discretion and only when, in the opinion of the City Manager, it is in the best interest of the City.
- b. In the case of illness, Discretionary Leave Without Pay shall commence at such time as Sick Leave is expended except that the employee may elect to expend any other leave prior to utilizing Discretionary Leave Without Pay.
- c. Except in cases of absence due to illness, Discretionary Leave Without Pay shall be deducted from service time for purposes of computing longevity, time in service, seniority, or for any other purpose.

- d. Vacation or Sick Leave shall not accrue nor shall Holiday Pay be awarded during periods of leave without pay.
- e. Unless the employee notifies the City Manager at the time of the request for Discretionary Leave Without Pay that he or she elects to pay the premiums for continuation of Health, Dental, and Insurance Benefits, those benefits will be terminated beginning with the calendar month following the start of the unpaid leave. If that election is made and the leave is approved, it is the responsibility of the employee to submit payment to the City such that it is received prior to the City processing payment to the insurance carrier. The City will not make a premium payment in anticipation of receipt of the payment from the employee.
- f. Reinstatement of all benefits shall occur at the first opportunity following the employee's return to duty.
- g. Discretionary Leave Without Pay will not normally be approved until Sick Leave (if medically justified), Vacation Leave, and Comp Time have been exhausted.
- h. Retirement benefits shall be adjusted for leave without pay in accordance with Public Employees' Retirement System's (PERS) regulations.
- i. An employee shall, upon completion of authorized leave without pay, be reinstated to the Position held at the time of commencement of leave and at the salary range and step previously held.

**ARTICLE 9
CERTIFICATION AND OTHER BENEFITS**

A. SPECIALIZED SCHOOLS AND TRAINING, AND CERTIFICATION PAY.

1. Specialized Schools and Training.

Individual Full-Time and Qualified Part-Time Association members will be reimbursed for up to \$500.00 per year in educational expenses for job-related courses. The total amount reimbursed to all Association members through this program will not exceed \$6,000.00 per year. Employees will be reimbursed on a first-come, first-served basis, subject to the City Manager's determination that a course or training is job-related. This provision does not include payment of fees or tuition for course work taken in pursuit of an academic degree.

2. Certification Pay.

a. In recognition of the fact that certain functions cannot be performed without special governmental certification or licensing, the City will pay Fifty Dollars (\$50.00) per month for:

- "Operator cross-certification" (Class I or above) for employees assigned to the Water Treatment Plant or Waste Water Treatment Plant, enabling those employees to perform duties at the other plant;
- A necessary pesticide certificate, for Public Works employees responsible for pesticide applications programs for the City;
- Certification for back-flow prevention devices for Public Works Water Department employees.

b. Fifty Dollars (\$50.00) per month and any required physical examinations, the cost to renew the Class B license, and the appropriate time necessary during normal work hours to test for a Class B driver's license, if the Director of Public Works, on a person-by-person basis, certifies the necessity to the City for such license and the City Manager authorizes.

B. UNIFORMS.

1. As a condition of employment, the City may prescribe appropriate apparel or uniforms to be worn during work hours.

2. The City will provide Public Works employees working outside, including but not limited to Parks, Water Plant and Water Personnel, five Polo Shirts and 4 pair of jeans per year, plus 1 safety reflective winter coat on initial hire with a replacement coat every 5 years. One pair of OSHA approved safety steel toed boots or shoes to be replaced when warranted. Any additional uniforms needed shall be supplied at the employee's expense.
3. The City will provide regular uniform service for the, Streets, Parks, Water, Water Treatment, and Waste Water Treatment employees.

C. TOOLS AND EQUIPMENT.

1. For employees, except the City Mechanic, all items of essential equipment and tools will be provided by the City, except that an employee may elect to provide all or any part of his/her own equipment and tools.
2. City-owned equipment and tools shall be used solely in the exercise of official City business.
3. The City Mechanic will personally furnish all hand tools necessary for normal general maintenance to vehicles and equipment. The city will reimburse the Mechanic for one-half (1/2) the Mechanic's cost of hand tools, up to One Hundred Fifty Dollars (\$150.00) per year.
4. Care of Tools and Equipment.

Each employee having care or custody of City-owned property (including money) or equipment has a responsibility to take appropriate care of the property or equipment, including safeguarding it against theft or damage. Any employee becoming aware of the theft of, or malicious damage to City-owned property or equipment shall immediately report it to the Police Department.

ARTICLE 10
HEALTH, DENTAL, LIFE AND DISABILITY INSURANCE

A. HEALTH INSURANCE.

The City will pay provide medical insurance for each Full-Time and Qualified Part-Time Employee and his or her eligible dependents. City is currently a member of Redwood Empire Municipal Insurance Fund (REMIF) and subject to their decisions regarding type and number of plans offered. Should REMIF propose material changes to the insurance plans, City will meet and confer on medical insurance options.

B. DENTAL INSURANCE.

The City will pay the full premium for dental insurance benefits for each Full-Time and Qualified Part-Time Employee and all dependent family members.

C. VISION INSURANCE.

Subject to REMIF approval, the City will obtain and pay the full premium for a REMIF Vision Plan for all Full-Time and Qualified Part-Time Employees.

D. LIFE INSURANCE.

The City will pay the full premium for a \$25,000.00 life insurance plan to cover each Full-Time and Qualified Part-Time Employee. At the employee's expense, an employee has the option to increase the amount of life insurance coverage up to an additional \$20,000.00.

E. SUPPLEMENTAL LIFE INSURANCE.

The City does not provide, however Full-Time and Qualified Part-Time Employees may purchase additional supplemental life insurance.

F. DISABILITY INSURANCE.

The City will pay the full premium for the California State Disability Insurance program primary disability insurance plan covering each Full-Time and Qualified Part-Time Employee.

**ARTICLE 11
RETIREMENT, SOCIAL SECURITY, DEFERRED
COMPENSATION AND DEPENDENT CARE ASSISTANCE**

A. PUBLIC EMPLOYEES' RETIREMENT SYSTEM (PERS).

The City provides the PERS Plan 2% @ 55 for Full-time and Qualified Part-Time Employees hired prior to July 1, 2012. The City pays the employer's contribution and previously paid , for each Full-Time and Qualified Part-Time employee, the employee's seven percent (7%) PERS contribution.

Effective May 1, 2013, employees will pay two percent (2%) of their employee PERS contribution and the City will pay five percent (5%).

Effective January 1, 2014, employees will pay an additional 2.5% of their employee PERS contribution. Employees will pay 4.5% and the City will pay 2.5% of employee PERS.

Effective January 1, 2015, employees will pay an additional 2.5% of their employee PERS contribution. Employees will pay seven percent (7%) and the City will not pay any portion of the employee PERS contribution.

Classic employees hired after July, 1, 2012 will be enrolled in PERS plan 2%@60 based upon their highest 36 month salary. Non-classic employees shall pay the 6.25% employee PERS contribution.

B. SOCIAL SECURITY PAYMENT.

Employee contributions for Social Security are the responsibility of the employee and will not be reimbursed by the City.

C. DEFERRED COMPENSATION PLAN.

The City offers a deferred compensation plan under which employees may designate portions of their salaries to be deferred for tax purposes. The City will equally match an employee's deferred compensation contribution, not-to-exceed Fifty Dollars (\$50.00) per month.

D. CAFETERIA PLAN.

The City allows employees to deposit up to \$5,000.00 of their before-tax earnings into an account and pay themselves back for certain enumerated personal and dependent care expenses with tax-free dollars pursuant to Internal Revenue Code Section 125.

ARTICLE 12
BENEFITS ON TERMINATION/RETIREMENT

Upon termination/retirement of employment, all benefits provided by the City to an employee shall be terminated with the following exceptions:

A. COBRA CONTINUATION.

A terminated employee may be entitled to certain insurance coverage opportunities under the federally mandated COBRA Program.

B. CONTINUATION OF CERTAIN INSURANCE POLICIES.

Upon retirement, an employee enrolled in an insurance program (other than life insurance) maintained or sponsored by the City, may continue to be enrolled in such program subject to the conditions set forth below.

1. Conditions.

- a. That continued enrollment has the approval of the insurance company concerned.
- b. Enrollment will cease at such time as the City terminates or converts an insurance program.
- c. The retired employee shall either regularly reimburse the City for the full premium payment or make payments directly to the insurance company.
- d. Unused Sick Leave, Vacation Leave and/or Comp Time may be credited toward health insurance premium in the manner set forth below.

2. Use of Accrued Sick Leave, Vacation Leave and Comp Time to Offset Premiums.

Retiring employees have the option of applying 100% of their unused sick leave accrued prior to July 1, 2012, Vacation Leave and/or Comp Time toward the payment of continuation insurance premiums, to the extent allowed by law. The total number of hours of leave shall be multiplied by the hourly rate of the employee at the time of retirement. The City will first apply Sick Leave, then Vacation Leave and finally Comp Time to the payment of the premiums. If the employee dies before the Sick Leave, Vacation Leave and/or Comp Time is depleted, the City will make a lump sum payment, less applicable withholdings, to the employee's estate, at the following rates: the remaining Sick Leave multiplied by the employee's hourly rate at retirement multiplied by .50; the remaining Vacation Leave and/or Comp Time multiplied by the employee's hourly rate at retirement.

ARTICLE 13

GRIEVANCE PROCEDURE

A. GRIEVANCE DEFINED.

A grievance is a formal allegation by a member of the Association or by the Association on behalf of a member, regarding an alleged violation of a specific provision of this MOU during its term, excluding all City ordinances, resolutions, rules and regulations, the subject of which are not specifically covered by the provisions of this MOU. This grievance procedure shall not apply to discipline, including the content of performance evaluations, layoff, demotion, reprimand, transfer, denial of reinstatement or denial of step increase. This grievance procedure shall be the exclusive means of resolving contract grievances of employees covered by this MOU.

B. PROCEDURE.

1. Step 1: Informal Discussion.

Within ten (10) calendar days of the occurrence of an act in dispute or within ten (10) calendar days of when a member should reasonably have become aware of the occurrence of the act in dispute, an employee shall discuss it with his or her immediate Supervisor, who shall investigate and attempt to resolve the matter. The Supervisor shall give the employee an oral reply within five (5) calendar days after the discussion. If the employee is not satisfied with the response, he or she may proceed to Step 2.

2. Step 2: Department Head Determination.

Any dispute not resolved at Step 1 may be submitted to the Department Manager in writing within ten (10) calendar days after the Supervisor's response in Step 1. The written statement should cite the specific provision of this MOU in dispute. A copy of the written statement shall be provided to the affected employee's immediate Supervisor. Within five (5) calendar days thereafter, a meeting shall be scheduled with the employee and the Department Head who shall attempt to resolve the matter. The Department Head shall give the employee a written reply within five (5) calendar days after such meeting. If the employee is not satisfied with the response, he or she may proceed to the next step.

3. Step 3: City Manager Review.

Any dispute not resolved at Step 2 may be submitted in writing to the City Manager, with copies of the Step 2 response, within five (5) calendar days after the Department Manager's response. The City Manager shall provide written confirmation of receipt of the dispute to the employee, and shall schedule a meeting within five (5) calendar days, to discuss the matter with the employee. After consideration of the facts, the City

Manager shall give his or her written decision to the employee within ten (10) calendar days after the meeting.

4. City Council Review.

If the employee is not satisfied with the decision, the employee may request a hearing before the City Council. Such request for hearing must be submitted in writing within fifteen (15) days of receipt of the City Manager's decision and shall include in detail the facts giving rise to the general grievance and all supporting documentation necessary for City Council consideration. Management shall calendar on the City Council Agenda such request and supporting documentation within thirty (30) days. The matter may be heard in open or closed session as permitted by law. The City Council shall have the following options: (1) Refuse to hear the appeal; (2) Make a decision on the documentation submitted; or (3) Hold a hearing after which they shall make a decision.

The decision of the City Council shall be final.

C. DEADLINES.

The parties may mutually agree to extend any of the above deadlines in writing. Either party may extend the deadlines for reasons of prolonged illness, canceled meetings, or in response to other unavoidable circumstances.

**ARTICLE 14
RESIGNATION, TERMINATION AND DISCIPLINARY ACTION**

A. RESIGNATION.

An employee wishing to leave his or her service to the City in good standing, shall file with the Department Head, at least two (2) weeks prior to leaving City service, a written resignation stating the effective date and reasons for leaving. The resignation shall be forwarded to the Personnel Office with a Personnel Action Form. Failure to give two (2) weeks notice shall be entered upon the service record of the employee and may be cause for denying future employment by the City. The resignation of an employee who fails to give the required notice shall be reported immediately to the Human Resources Manager by the Department Head.

B. EXIT INTERVIEW.

1. Any person leaving City employment shall be interviewed by the City Manager. The purpose of such an interview shall be to allow the City Manager to receive, and the employee the opportunity to provide, the employee's candid observation of City employment in order to help improve personnel management and departmental functioning. Such interviews normally shall be conducted no earlier than fifteen (15) days prior to nor more than fifteen (15) days later than the employee's effective date of retirement or termination of employment. Such exit interview shall be private, involving only the employee and the City Manager.
2. In addition, the employee may request a similar interview with any two (2) members of the City Council. No one shall be present at this meeting except the employee and the members of the Council. No comments made during such interview shall be published nor revealed by those in attendance to any other persons except in Executive Session of the City Council.

C. DISCIPLINARY AUTHORITY.

A Non-Qualified Part-Time Employee may be disciplined or discharged by his or her Department Head. A Full-Time or Qualified Part-Time Employee may be disciplined or discharged by his or her Department Head or the City Manager, with discharge requiring City Manager review before imposition.

D. PROBATIONARY, NON-QUALIFIED PART-TIME, CONTRACT AND TEMPORARY EMPLOYEES.

1. In accordance with the City's policy on Probationary Employees, Probationary Employees are not entitled to the Disciplinary Procedures or Appeal rights set forth in this Article 14. Probationary Employees are at-will employees and may be disciplined or terminated at-will, without notice and without cause. The City has no obligation to limit its reasons for discipline or termination to those set forth in Subparagraph H. The

City's willingness to discipline or terminate an employee in accordance with this Article 14 does not alter the at-will status of the Probationary Employee's employment.

2. Non-Qualified Part-Time, Contract and Temporary Employees are not entitled to the Disciplinary Procedures or Appeal rights set forth in this Article 14. Non-Qualified Part-Time, Contract and Temporary Employees are at-will employees and may be disciplined or terminated at-will, without notice and without cause. The City has no obligation to limit its reasons for discipline or termination to those set forth in Subparagraph H. The City's willingness to discipline or terminate an employee in accordance with this Article 14 does not alter the at-will status of the Non-Qualified Part-Time, Contract or Temporary Employee's employment.

E. DISCIPLINARY ACTIONS.

The following are appropriate disciplinary actions that may be taken as corrective measures.

1. Reprimand.

An employee may be reprimanded by his or her Supervisor, Department Head or the City Manager. A reprimand may be either verbal or written. A note may be made of a verbal reprimand and placed in the employee's personnel file, and a written reprimand will be placed in the employee's personnel file. Grounds for reprimand include, but are not limited to those listed in Subparagraph H below. Reprimands are not subject to Discipline Procedures and the right to Appeal. However, the employee has the right to meet with the Supervisor/Department Head/City Manager before the reprimand is placed in the employee's personnel file. The employee may also rebut the reprimand by providing a written statement which will be included in the employee's personnel file along with the written reprimand.

2. Suspension.

An employee may be suspended by his or her Department Head or the City Manager. Suspension may be imposed for disciplinary purposes or may be imposed pending investigation and possible discharge. While the matter is being investigated, employee shall continue to receive salary and benefits. Suspension shall be for a fixed period of time. Grounds for suspension include, but are not limited to, those listed in Subparagraph H below. Suspension of Full-Time and Qualified Part-Time Employees who have completed their Probationary Period is subject to Discipline Procedures and the right to Appeal.

3. Reduction in Salary.

A Department Head/City Manager may reduce the salary of an employee for disciplinary reasons, provided that such reduction shall be to a step or percentage within the salary range of the Classification held by the employee. A new Anniversary date (for purpose of salary increases only) shall be established as of the effective date of the reduction in salary, unless the reduction is for a specified period of time, in which case the Anniversary date would not

change, or unless otherwise recommended by the Department Head and approved by the City Manager. Reductions in salary of Full-Time and Qualified Part-Time Employees who have completed their Probationary Period are subject to Discipline Procedures and the right to Appeal.

4. Demotion.

A Department Head/City Manager may demote an employee for disciplinary reasons, to any Classification with a lower salary, provided the employee meets the minimum qualifications for the lower-level class. The employee shall not be eligible for promotion for a period of six (6) months unless otherwise recommended by the Department Head and approved by the City Manager. Disciplinary demotions of Full-Time and Qualified Part-Time Employees who have completed their Probationary Period are subject to Discipline Procedures and the right to Appeal.

5. Dismissal.

A Department Head/City Manager may dismiss an employee for Cause, as set forth in Subparagraph H, below. A decision to dismiss an employee by his or her Department Head must be reviewed by the City Manager before imposition. Dismissal of Full-Time and Qualified Part-Time Employees who have completed their Probationary Period is subject to Discipline Procedures and the right to Appeal.

F. DISCIPLINARY PROCEDURE.

1. Initial Investigation.

An alleged violation of policy, procedure, rules, regulations, directives, orders or laws shall be investigate by the employee's Supervisor, Department Head or designee. The investigator shall complete a written report of the investigation including the employee's statement, the specific violations, all available facts related to the alleged violation(s) and statements of witnesses, if any. The investigator may recommend appropriate discipline. If the Department Head is not the investigating Supervisor, the Supervisor shall forward all written information and other documentation to the Department Head. The Department Head may investigate further to insure that all facts are adequately documented. Based on the information considered, the Department Head shall determine appropriate disciplinary action.

2. Notice of Proposed Discipline.

The Department Head (or City Manager when applicable) shall provide written notice of the proposed disciplinary action to the affected employee. The notice of proposed discipline shall contain the following information:

- A statement which clearly defines the intent to take action and the specific action to be taken;
- The date the action is intended to take effect;
- A statement of the rule(s) or regulation(s) that has/have allegedly been violated;
- A statement of the specific action, charge(s) and facts on which the proposed action is based;
- Copies of the written materials, reports and documents considered by the Department Head in his/her decision to impose the proposed action.
- Notice of the employee's right to respond to the charges, verbally or in writing, to the City Manager within seven (7) calendar days of receipt of the Notice of Proposed Discipline. A statement that the failure to respond within the prescribed time period following receipt of the Notice of Proposed Discipline shall constitute a waiver of the right to respond and the proposed discipline will be imposed.

3. Proposed Discipline Deferred.

If the employee or designated representative requests the right to respond, either orally or in writing, the imposition of proposed discipline shall be deferred until after a pre-disciplinary (Skelly) hearing.

4. Pre-Disciplinary (Skelly) Hearing.

Where a written or oral response has been election, the City Manager shall schedule, coordinate and conduct a Pre-Disciplinary Hearing within ten (10) calendar days of the employee's request. The purpose of the hearing is for the employee to provide additional information and facts relevant to the alleged violation in order for the City Manager to have all the facts prior to making a final decision regarding the proposed disciplinary action. The employee may elect to have representation at the hearing. If the employee fails to appear at or provide a written statement for the Pre-Disciplinary Hearing, his or her right to appeal the proposed discipline is forfeited.

5. Notice of Disciplinary Action.

Within seven (7) working days of the Pre-Disciplinary Hearing, the City Manager will notify the affected employee with a written Notice of Disciplinary Action. The Disciplinary Action will have been made following a factual finding and review of all the information provided. If the City Manager determines not to impose any disciplinary action, he or she will notify the employee of this as well. The Notice of Disciplinary Action shall state the disciplinary action, the date it will take effect and the employee's right to appeal, if any. Disciplinary actions may be imposed prior to hearing the employee's Appeal hearing.

6. Paid Administrative Leave.

The City Manager shall have the right to put any employee on immediate paid administrative leave pending investigation and processing of any potential disciplinary action.

7. Exclusions.

The provisions of this Article 14 shall not apply to reductions in pay which are part of a general plan to reduce salaries and wages or to eliminate positions, employee reclassifications, reprimand, transfers without loss of pay, performance evaluations or economic layoffs. Nor do the provisions of this Article 14 apply to Probationary Employees.

G. APPEAL.

1. Right of Appeal.

An employee who has receive a Notice of Disciplinary Action that provides for the right to appeal, may, within fourteen (14) calendar days of its receipt, appeal to the City Council. An employee, who fails to appeal to the City Council within the fourteen (14) day time period, forfeits his or her appeal and the disciplinary action shall be final and binding.

2. Procedure.

In order to Appeal the Disciplinary Action, the employee shall file, with the City Council, a written answer to the charges contained in the Notice of Proposed Disciplinary Action and/or the Notice of Disciplinary Action and request the right to appeal the City's disciplinary action (collectively, the "Request to Arbitrate"). Upon receipt of the Request to Arbitrate, the City Council shall initiate the Appeal process.

3. Appointment of an Arbitrator.

- a. The parties to the selection of the arbitrator shall be the City and the employee. The employee may represent himself or herself, be represented by counsel or represented by the Association.
- b. The arbitrator shall be selected jointly by the parties within fourteen (14) calendar days of receipt by the City Council of the employee's Request to Arbitrate.
- c. If the parties are unable to mutually agree on an arbitrator within the fourteen day period, the City shall solicit a list of seven (7) arbitrators from the State of California Mediation/Conciliation Service. After receipt of the list, the parties shall, with the City striking first, alternately strike arbitrator's names from the list until on arbitrator remains. The parties shall make every effort to complete

the striking process within ten (10) calendar days of receipt of the list from the State.

- d. If the arbitrator selected declines appointment or is otherwise unavailable, a new list shall be request as described above and the process repeated within the same time period, unless the parties can otherwise mutually agree on an arbitrator.
- e. The cost of the arbitrator shall be shared equally, with fifty percent of the arbitrator's fee paid by the City and fifty percent of the arbitrator's fee paid by the Association or the affected employee.

4. Pre-Hearing Matters.

The arbitration hearing shall be held at the earliest administratively convenient date, taking into consideration the availability of the arbitrator and the availability of counsel and witnesses. The arbitration hearing shall be private. The arbitrator may, prior to or during the hearing, grant a continuance for any reason he or she believes to be important in order to reach a fair and proper decision. Neither party shall have *ex parte* communications with the arbitrator.

5. Conduct of the Hearing.

- a. The hearing shall be conducted in the manner most conducive to the determination of the truth. Both the City and the employee may be represented by legal counsel.
- b. The arbitrator shall determine the relevancy, weight and credibility of the testimony and evidence. The arbitrator shall not be bound by the technical rules of evidence. The arbitrator shall base his or her finding on the preponderance of the evidence. The City shall have the burden of proof.
- c. Each side will be permitted an opening statement and closing argument. The City shall first present its witnesses and evidence to sustain the charges and the employee will then present his/her witness(es) and evidence to rebut the charges.
- d. A court report will be retained by the City to make a transcript of the hearing. No audio or video tape recording will be permitted. The employee or his/her representative may obtain a copy of the transcript of the hearing upon request and at his/her own cost.
- e. Each side will be allowed to examine and cross-examine witnesses. The employee filing the appeal may be called and examined as if under cross-examination.

- f. The arbitrator shall, if requested by either party, subpoena witnesses and/or require production of other relevant records or material evidence. The arbitrator may consider the records of any relevant prior disciplinary actions against the employee, as long as those actions are final.

6. Findings of the Arbitrator.

After the conclusion of the hearing, the arbitrator shall prepare a recommended decision, based on his or her findings of fact and application of law, and forward it to the City Council. The recommended decision shall set forth which charges the arbitrator sustains or does not sustain and the reason(s) for the arbitrator's decision.

7. Decision of the City Council.

After receiving the recommendation of the arbitrator, the City Council may sustain or reject any or all of the charges filed against the employee. The City Council may sustain, reject or modify the disciplinary action invoked against the employee. However, the City Council may not increase the severity of the discipline originally invoked by the City.

H. REASONS FOR REPRIMAND, DISCIPLINE, DEMOTION, SUSPENSION OR DISCHARGE INCLUDE:

The following are deemed sufficient cause to warrant disciplinary action. However, cause to discipline an employee is not limited to these reasons alone:

- Absence without prior approval or tardiness.
- Addiction to or being under the influence of illegal drugs.
- Use of illegal drugs on City property, while on City business, or during work hours.
- Violation of the City's anti-discrimination and/or anti-harassment policies.
- Loss of driver's license when possession is a prerequisite to employment.
- Theft, pilferage, or misuse of City property.
- Falsification of public records.
- Conduct unbecoming an employee in the public service.
- Dishonesty.
- Disorderly or immoral conduct.
- Incapacity due to mental or physical disability
- Incompetence.
- Failure to meet expected performance standards.

- Neglecting to perform expected job duties.
- Inability to perform the essential duties of the job that cannot be reasonably accommodated.
- Insubordination.
- Drinking alcoholic beverages or being intoxicated while on duty.
- Negligence or willful damage to public property.
- Fraud in securing employment.
- Discourteous treatment of the public or other employees.
- Conviction of a felony (including pleas of guilty and nolo contendere) or a misdemeanor (including pleas of guilty) involving moral turpitude.
- Violation of any reasonable regulation or order.
- Violation of the City's policy against violence in the workplace

ARTICLE 15
LAYOFF PROCEDURE

City and SHEA shall develop a layoff procedure by January 31, 2013 in a sidebar letter negotiated after 2012-2013 Memorandum of Understanding adoption for use with this MOU and for incorporation into the body of the next Memorandum of Understanding.

**ARTICLE 16
SEPARABILITY**

Notwithstanding any provisions of this MOU to the contrary, in the event that any Article or Subsections thereof of this MOU shall be declared invalid by any Court of competent jurisdiction or by any applicable State or Federal law or regulation, or shall a decision by any Court of competent jurisdiction or any applicable State or Federal law or regulation diminish the benefits provided by this MOU or impose additional obligations on the City, the parties shall meet and confer or negotiate on the Articles and Subsections thereof affected. All other provisions of this MOU shall continue in full force and effect.

ARTICLE 17
TERM

Following approval by the City and the Association and ratification by the City Council, the term of this MOU shall commence on July 1, 2013 and shall expire on December 31, 2015.

Negotiations for the subsequent agreement will commence in time to be concluded by November 30, 2015.

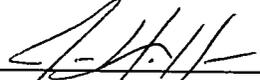
**ARTICLE 18
SIGNATURES**

This Memorandum of Understanding has been ratified and adopted pursuant to the recommendation of the following representatives:

ST. HELENA EMPLOYEES ASSOCIATION



REPRESENTATIVE



REPRESENTATIVE

CITY OF ST. HELENA

Approved by the City Council by Resolution Numbers 2014-24



CITY MANAGER