OPERATIONS AND MAINTENANCE UNIT SUCCESSOR MOU
TERM: JULY 1, 2014 - JUNE 30, 2016

CITY OF STOCKTON

MEMORANDUM OF UNDERSTANDING

OPERATIONS AND MAINTENANCE UNIT
MUNICIPAL UTILITIES DEPARTMENT

Operating Engineers' Local 3, AFL-CIO and representatives of the City of Stockton have met and conferred in good faith regarding wages, hours and other terms and conditions of employment of employees in the representation unit identified in Section 1, have exchanged freely information, opinions and proposals and have endeavored to reach agreement on all matters relating to the employment conditions and employer-employee relations of such employees.

This Memorandum of Understanding is entered into pursuant to the Meyers-Milias-Brown Act (Government Code sections 3500-3510) and has been jointly prepared by the parties.

This Memorandum of Understanding shall be presented to the Stockton City Council as the joint recommendations of the undersigned for salary and benefit adjustments for the period commencing July 1, 2014 and ending June 30, 2016.

OPERATIONS AND MAINTENANCE UNIT SUCCESSOR MOU
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Section 1. Recognition

Operating Engineers' Local 3, AFL-CIO, hereinafter referred to as the "Union," is the recognized employee organization for the Operations and Maintenance Unit, certified pursuant to the Employer-Employee Relations Ordinance (Stockton Municipal Code §§ 2-200, *et seq.*).

Section 2. Union Security

2.1 Dues Deduction

(a) General. The Union may have the regular dues of its members within the representation unit deducted from employees' paychecks under procedures prescribed by the City for such deductions. The Union has the exclusive privilege of dues deduction for its members.

Authorization, cancellation or modification of payroll deductions shall be made upon forms provided or approved by the City. The payroll deduction authorization shall remain in effect until canceled or modified by the employee by written notice to the City or until the first day of the calendar month following the transfer of the employee to a unit represented by another employee organization as the representative of the unit to which the employee is assigned, or until employment with the City is terminated.

Additional authorization shall not be required for deduction of increased membership dues when such increase has been duly approved by the membership of the Union. Notification of such approval shall be forwarded to the City in the form of written notice on official Union letterhead and signed by the duly authorized Union official. Upon receipt of notification, the City shall authorize the payroll deduction of the increased amount.

If an employee is promoted to a position which is represented by another employee organization or to an unrepresented unit, membership dues for the former unit will not be deducted from the employee's paycheck by the City.

Amounts deducted and withheld by the City shall be transmitted to the officer designated in writing by the Union as the person authorized to receive such funds, at the address specified.

In addition to the deduction of dues, the City will deduct from the paychecks of Union members who request it, premiums for group insurance and investment

plans sponsored by the Union. Such deductions shall be made in one lump sum and only upon signed authorization from the employee upon a form satisfactory to the City.

The employee's earnings must be sufficient after all other required deductions are made, to cover the amount of the deductions herein authorized. When an employee is in a non-pay status for an entire pay period, no withholdings will be made to cover that pay period from future earnings nor will the employee deposit the amount with the City which would have been withheld if the employee had been in pay status during that pay period. In the case of an employee who is in a non-pay status during a part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made.

In this connection, all other required deductions have priority over the employee organization deduction.

(b) Indemnity and Refund. The Union shall indemnify, defend and hold the City harmless against any claim made and against any suit initiated against the City on account of check off of Union dues or premiums for benefits. In addition, the Union shall refund to the City any amounts paid to it in error upon presentation of supporting evidence.

2.2 Agency Fee

(a) Employee Rights

(1) The City and the Union recognize the right of employees to form, join, and participate in lawful activities of employee organizations and the equal, alternative right of employees to refuse to form, join and participate in employee organizations. Neither party shall exert pressure upon or discriminate against an employee in the exercise of these alternative rights.

(2) Accordingly, membership in the Union shall not be compulsory. A unit member has the right to choose, either: to become a member of the Union; or, to pay to the Union a fee for representation services; or, to refrain from either of the above courses of action upon the grounds set forth in Section (f) below.

(b) Unit Members' Obligation to Exclusive Representative

(1) A bargaining unit member who does not fall within one (1) of the exempted categories as set forth in Section (f) below, and who has not voluntarily made application for membership in the Union within the sixtieth (60) day following the date upon which said employee has been formally hired by the City as a bargaining unit employee, must as a condition of continued employment in the City pay to the Union a representation fee, in exchange for representation services necessarily performed by the Union in conformance with its legally imposed duty of fair representation on behalf of said unit member who is not a member of the Union.

(2) In the event that a unit member does not become a member of the Union or pay such fee directly to the Union, the City shall begin automatic payroll deduction. There shall be no charge to the Union for such mandatory agency fee deductions.

(3) Prior to beginning such automatic payroll deduction, the Business Representative of the Union will certify to the City in writing that the employee whose pay is to be affected by the deduction has: 1) refused to join the Union; and 2) has refused to tender the amount of the agency fee as defined herein; and 3) has not applied for an exemption under Section (f) herein. In addition the Union must also certify that it has provided the employee with a copy of the fee verification required by Section (e) herein.

(c) Definition of Agency Fee

(1) The agency fee collected pursuant to Section (b) above from unit members who are not members of the Union shall be an amount not to exceed the standard initiation fee, periodic dues and general assessments of the Union for the duration of this Agreement, minus any amount which is prohibited by the Constitution because such funds pay for political or ideological purposes not related to collective bargaining.

(2) Any dispute as to the amount of the representation fee shall be resolved pursuant to the provisions of Section (h) herein.

(d) Exceptions. Unit members on leave without pay and unit members who are in laid-off status shall be exempt from these provisions herein; except that the election as to membership or payment of a fee as set forth herein must be exercised within the first ten (10) work days upon return to paid status.

(e) Annual Verification of Agency Fee by the Union. Prior to January 31, of each year and before the collection of an agency fee from any unit member pursuant to these provisions herein, the Union shall submit a written certification to the fee payers verifying that the total amount of its representation fee conforms to Section (c) above, and itemizing all component parts of such fee which shall provide an adequate explanation for the basis of the fee. Each year such amount shall be verified and submitted in writing to the fee payers by the Union prior to January 31st. The Union will submit a copy of such verification to the Director of Human Resources of the City. The parties agree that such annual verification is a condition precedent to the collection by either the City or the Union of a representation fee from a unit member.

(f) Employees Exempted From Obligation to Pay Union

(1) Any unit member shall be exempt from the requirements of Section (b) above, if such employee has a bona fide religious objection as defined by Section 3502.5 of the Government Code to the payment of any fee in support of a Union or "employee organization" as defined in Section 3540.1(d) of the Government Code.

(2) Such exempt unit member shall, as an alternative to payment of a representation fee to the Union, pay an amount equivalent to such representation fee to:

a. United Way.
b. American Cancer Society.
c. Any charity jointly agreed in writing by the parties.

(3) If a unit member desires to be exempted for reasons set forth in Section (f) herein, the unit member must first request such exemption in writing from the Union setting forth briefly the rationale for the exemption. If the Union notifies the unit member in writing that the Union will not honor the request, then the matter shall be referred automatically to a panel for determination according to the procedure set forth below. The panel shall be composed of one (1) person selected by the Union, one (1) person selected by the unit member, and an arbitrator selected by the parties chosen from a list submitted by the State Conciliation Service. If either one or both parties fail to nominate a panel member, the process of hearing will continue without that party's panel member.

(4) The panel shall first receive arguments and evidence from the unit member requesting the exemption. Thereafter the Union may present any arguments or evidence. The proceedings shall be conducted in an informal manner, and the rules of evidence will not apply. The arbitrator shall act as chair and rule on all matters before the panel with the exception of the final determination of the panel. The panel shall prepare a written decision within fifteen (15) calendar days of the completion of the hearing which shall be final and binding upon the parties. Any expenses of the panel shall be borne by the parties incurring them.

(5) Upon receipt of the decision of the panel, the City shall release any funds held in escrow to the Union or to the charity. Any decision by the panel shall apply for the duration of this Memorandum of Understanding.

(6) In addition, the Union may require such exempt unit member to submit proof of payment of an amount equivalent to such representation fee to one (1) of the alternative funds or organizations listed above. If the bargaining unit member has not provided payment, the City will institute deductions pursuant to Section (b)(2), and forward such monies to a charity listed in Section (f)(2).

(7) Such payments shall be made on or before January 31, of each year or no more than thirty (30) days after commencing duties for any newly hired employee.

(g) Escrow Account. If any unit member either disputes the amount of the fee or disputes whether or not an exemption was appropriately denied, the City shall deposit the fee which was deducted and place such amount into a special escrow account established by the Union for such purposes.

(h) Procedure for a Unit Member Who Contests the Amount of the Fee

(1) The parties agree that in order to provide a uniform definition of the representation fee, any disputes involving the amount of such fee shall be referred to the Union's procedure for determination, provided that the parties have first complied with the other provisions of this Section.

(2) The Union shall notify the City in writing within twenty (20) days after it becomes aware that any employee disputes the amount of the fee.

(3) The Union will verify in writing to the City that all of the conditions of Section (b)(3) have been met prior to the City's initiation of the fee deductions set forth in Section (b)(2). Thereafter, the City will notify the affected employee in writing that such deductions will commence and a copy of the Union's written verification will be attached to the City's notice. Thereafter, the City will begin the deductions.

The monies held in escrow shall be released to the appropriate party upon the rendering of a final decision by the Union's internal procedure.

(i) Payment Method/Payroll Deduction

(1) A unit member may voluntarily sign and deliver to the City a written assignment authorizing deduction of the properly established representation fee as defined in Section (c) above, subject to the conditions set forth elsewhere in this agreement for payroll deductions, or the amount of the fee will be deducted automatically in accordance with Section (b)(2) herein.

(2) The City is under no obligation to make payroll deductions for the periods during which a unit member is either terminated from active employment, or not on the City's active payroll for any reason, including, but not limited to, layoff and voluntary leave of absence for more than thirty (30) days.

(3) Upon the rehiring of any unit member, or upon the recalling of any unit member from layoff status, the City will resume or initiate dues deductions for such unit member.

(j) Obligations of Parties

(1) City's Obligations. The City's obligation under this Article is to notify any unit member who has failed to comply with the provisions of this Section that, as a condition of continued employment with the City, such unit member must become an Union member, or pay a representation fee, or establish an exemption status and make payment pursuant to provisions of Sections (b) and (f) of this Agreement. Under no circumstances shall the City be required to dismiss or otherwise discipline any unit member for failure to fulfill their obligations to pay the fees established herein.

(2) Union's Obligations. Except as specified herein, the Union and not the City, shall be responsible for requiring unit members to fulfill obligations defined herein. It is the obligation of the Union to collect any representation fees which may be due and payable to the Union in consideration for its services as the exclusive representative of unit employees.

(k) Hold Harmless Provision. The Union shall hold the City harmless, and shall fully and promptly reimburse the City for any fees, costs, charges or penalties incurred in responding to or defending against any claims, disputes, challenges, whether formal or informal, which are actually brought, or attempted or threatened to be brought, against the City or any of its agents, or employees, in connection with the interpretation, application, administration or enforcement of any Section of this Agreement pertaining to representation fee. Such reimbursement shall include, but not be limited to, court costs, litigation expenses, and attorney's fees incurred by the City. The City shall have the right to be represented by its own attorney in any action in which it is a named party to the action. Disputes over the amount of reimbursement shall be automatically submitted to the arbitration provisions of this Memorandum, Section 8.3(e).

2.3 Use of City Facilities

(a) The Union shall be allowed by the City department in which it represents employees' use of space on available bulletin boards for communications having to do with official Union business, such as times and places of meetings, provided such use does not interfere with the needs of the department. The Union may submit to the City Employee Relations Officer written communications having to do with official Union business for distribution by the City to identified shop stewards. Distribution may be by e-mail.

(b) Any representative of the Union shall give notice to the department head or designated representative when contacting department employees on City facilities during the duty period of the employees, provided that solicitation for membership or other internal Union business shall be conducted during the non-duty hours of all employees concerned. Pre-arrangement for routine contact may be made with individual department heads and when made shall continue until revoked by the department head.

(c) City buildings and other facilities may be made available for use by City

Employees of the Union or their representatives in accordance with such administrative procedures as may be established by the City Manager or department heads concerned.

2.4 Advance Notice

Except in cases of emergency, reasonable advance written notice shall be given to the Union if affected by any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to negotiate if requested with the designated management representatives prior to adoption.

In cases of emergency when the foregoing procedure is not practical or in the best public interest, the City may adopt or put into practice immediately such measures as are required. At the earliest practicable date thereafter the Union shall be provided with the notice described above and be given an opportunity if requested to negotiate changes to said notice with the management representatives designated by the City Manager.

2.5 Attendance at Meetings by Employees

City employees who are official representatives or unit representatives of the Union shall be given reasonable time off with pay to attend meetings with City management representatives where matters within the scope of representation or grievances are being considered. Such employee representatives shall submit a request for excused absence to their respective department heads, in a manner satisfactory prior to the scheduled meeting whenever possible. Time spent for these purposes while a representative is not scheduled to work shall not be compensated by the City and shall not be considered as hours worked. Except by mutual agreement the number of the employees excused for such purposes shall not exceed three (3) per recognized bargaining unit.

2.6 Maintenance of Membership

All employees in the Operations and Maintenance unit who are members of the Union, tendering periodic dues at the execution of this agreement, and all employees who thereafter become members of the Union shall, as a condition of employment, pay dues to the Union for the duration of this Memorandum of Understanding, and each year thereafter. For a period of thirty (30) days prior to January 1, 2009 and thirty (30) days prior to any January 1, thereafter, any employee in the aforementioned unit who is a member of the Union shall have

the right to withdraw from the Union discontinuing dues payments and retain employment in the City, subject to provisions of Section 2.2. Agency Fee. Said withdrawal shall be communicated by the employee in writing to the City. The provisions of this section shall be operative only to the extent that they are permissible under California law.

2.7 Assignment of Classifications

New job classifications established by the City shall be assigned to the bargaining unit pursuant to Section 8 (b) of the City's Employer-Employee Relations Resolution after providing notice and the opportunity to consult with the Union regarding such matters.

2.8 Contract Ratification

Ratification votes for Contract will be handled on city time during the day.

Section 3. Compliance with Federal Laws/Safety

3.1 Non-Discrimination. The City and the Union agree that there shall be no discrimination of any kind because of age (over 40), race, creed, color, religion, national origin, ancestry), veterans status, physical or mental disability, marital status, sexual orientation, sex (sexual, gender based, pregnancy/childbirth), political affiliation or legitimate union activity or on any other basis prohibited by applicable federal and State law against any employee or applicant for employment.

3.2 Fair Labor Standards Act. The Union agrees to cooperate with the City to insure its members' compliance with the provisions of the Fair Labor Standards Act.

3.3 Safety. The Union shall cooperate with the City in promoting safety objectives as defined in Federal, State and local regulations by actively supporting safety programs, promoting safe work habits of members and encouraging an ongoing, active participation by its members in safety related procedures and practices as offered and promulgated by the City of Stockton.

Section 4. Probation

4.1 Purpose

The probationary period shall be utilized for closely observing the employee's work, for securing the most effective adjustment of a new employee to a position, and for rejecting any probationary employee whose performance does not meet the required standards of work.

4.2 Original Entrance and Promotional Positions

All original appointments shall be tentative and subject to a probationary period of one (1) year with a review completed after 6 months from original appointment. Promotional appointments shall be subject to a probationary period of 6 months. The probationary period for original and promotional appointments will not be extended.

4.3 Retention/Rejection of Probationer

At the end of the probationary period, if the service of the probationary employee has been satisfactory to the appointing authority, then the appointing authority shall file with the Director of Human Resources a statement in writing to such effect and stating that the retention of such employee in the service is desired. The City will make a good faith effort to notify a probationary employee two (2) weeks before the end of the probationary period whether or not permanent status is granted; however, a failure on the part of the appointing authority to file such a statement at the end of the probationary period shall constitute a rejection of the probationer as defined in Civil Service Rules.

During the probationary period an employee may be rejected at any time by the appointing authority. Any employee rejected during the probationary period following a promotional appointment, shall be reinstated to the position from which promoted unless charges are filed and the employee is discharged in the manner provided in Section 7 of this Memorandum of Understanding and in the Civil Service Ordinance and Civil Service Rules, which are consistent therewith.

4.4 Alcohol and Drug Testing. All original and reemployed appointments must pass a drug and alcohol screening prior to being offered City employment. This shall include non-represented part-time, seasonal, provisional, and temporary appointments.

Section 5. Layoff

5.1 Layoff

Any employee may be laid off by an appointing authority in the event of the abolition of the employee's position by the City Council, or if a shortage of work or funds requires a reduction in personnel.

5.2 Layoff Scope

(a) Layoffs shall be within departments of the City.

(b) Departments of the City are defined as follows:

(1) Administrative Services
(2) City Attorney
(3) City Auditor
(4) City Clerk
(5) City Manager
(6) Community Development
(7) Community Services
(8) Economic Development
(9) Fire
(10) Human Resources
(11) Information Technology
(12) Municipal Utilities
(13) Police
(14) Public Works

5.3 Notice of Layoff

The City will give advance written notice of at least one pay period to employees who will be laid off.

5.4 Precedence by Employment Status

(a) No permanent employees shall be laid off while employees working in an extra help, seasonal, temporary, provisional, or probationary status are retained in the same classification as such permanent employee. The order of layoff among employees not having permanent status shall be according to the following categories:

(1) extra help or seasonal
(2) provisional
(3) temporary
(4) probationary

Layoffs shall be by job classification according to reverse order of seniority as determined by total service in the City, except as specified above. For the purpose of this procedure part-time classes shall be considered as separate from regular full-time classes.

The following provisions shall apply in computing total continuous service:

(1) Time worked in a permanent or probationary status shall count as service.
(2) Time spent on military leave shall count as service in the event the leave was taken subsequent to entry.
(3) Time worked in an extra help, seasonal, provisional, temporary, grant or other limited term status shall not count as service.

If two (2) or more employees have the same seniority, order of seniority shall be determined by their respective ranking on the eligibility list for hire.

If two (2) or more employees have the same seniority, but were not hired from a ranked eligibility list, the order of seniority shall be determined by lot.

If two (2) or more employees have the same seniority, but were hired from separate ranked eligibility lists, the order of seniority shall be determined by lot.

(b) Any employee in the Operations and Maintenance Unit who is laid off may complete a City employment application for any position currently staffed by a part time, provisional, or temporary employee. The Human Resources Department will evaluate the employment application. If the laid off employee meets the minimum qualifications of that position, he/she shall have the option of displacing the part time, provisional, or temporary employee.

5.5 Employee Options

Employees laid off shall have any of the following choices:

(a) Displacing the employee in the same department and in the same or clearly comparable classification as determined by the Director of Human Resources as having the least (total service) seniority. This option shall be exercised before any other option.

(b) Taking a voluntary demotion within the department to a classification in which the employee had prior permanent status, thus displacing the employee working in the classification who has the least (total service) seniority.

5.6 Health and Welfare Benefits during Layoff

Permanent employees who are laid off will have an option of maintaining their existing health and welfare benefits for thirty-six (36) months from the date of layoff, provided timely payments of the premiums by the employee are made to the City, according to City regulations, and provided the employee otherwise meets the requirements of Federal and State regulations.

Section 6. Reemployment

(a) The name of each employee who is laid off in accordance with Section 5. shall be placed at the head of the eligibility list for the class of positions which that employee held, and shall be given preference in filling vacancies in that class.

(b) An employee laid off in accordance with this Section shall be placed on the eligibility list or lists for any lower or comparable class or classes in the same department, provided that the appointing authority and the department head in charge of this lower or comparable class determine that the employee is competent to perform the duties thereof in strict accordance with the class specifications. This right of a laid off employee shall remain effective for two (2) years from the date of latest separation from the service. The employee shall not be placed on said eligibility list or lists without first submitting a written request. Employee's place on said list or lists shall be at the head of the eligibility list for the class of positions for which qualified as hereinabove set forth and shall be given preference in filling vacancies except for those persons placed on said list or lists of reemployment in the same positions previously held. An employee who waives reemployment to a full time position three times shall have his/her name removed from this reemployment list unless mutually agreed to by the Department and employee. Upon certification for appointment to a new position never having been held by this employee, the probationary period must be

completed as required in this Memorandum of Understanding.

Section 7. Discipline

Disciplinary action, including discharge, suspension, reduction in pay or demotion, may be taken against any employee for cause.

7.1 Predisciplinary Rights

An employee facing potential disciplinary action will be entitled to the following predisciplinary rights:

(a) Notice of proposed discipline.

(b) Date(s) proposed discipline will be effective.

(c) Reasons for the proposed discipline, the specific grounds and particular facts upon which the action is taken.

(d) Seven (7) calendar days in which an employee or the representative may respond either orally or in writing to the department head.

(e) The employee must be provided with any written materials, reports and documents upon which the action is based.

7.2 Administrative Leave

The City may place an employee on administrative leave pending the completion of the predisciplinary process.

7.3 Provisions

The appointing authority may discharge, suspend or demote any employee in the classified service provided the Stockton Municipal Code provisions and the rules and regulations of the Civil Service Commission and any applicable provisions of law are followed. Such provisions allow the employee suspended, demoted or discharged to appeal such action. The employee may take only one (1) of the following actions:

(a) File no appeal.

(b) File an appeal with the Civil Service Commission within ten (10) calendar days of written notification of the action. (Such filing will foreclose use of the grievance procedure.)

(c) File a grievance as provided for in Section 8 within ten (10) calendar days of written notification of the action.

If the employee fails to do (b) or (c) above within the prescribed time frames, these rights will have been waived.

All verbal reprimands and written reprimands shall be removed from the employee's record after a period of one year if there has been no reoccurrence of the infraction and the employee has a good work record. All other disciplinary records shall be removed from an employee's work record after two (2) years if there has been no reoccurrence of the infraction and the employee has a good work record.

Section 8. Grievance Procedures

8.1 Definition

A grievance is any dispute which involves the interpretation or application of those rules, regulations and resolutions which have been, or may hereafter be, adopted by the City Council to govern personnel practices and working conditions, including such rules, regulations and resolutions as may be adopted by either the City Council or the Civil Service Commission to affect Memoranda of Understanding which result from the meeting and conferring process.

8.2 Filing Deadline

(a) No grievance involving demotion, suspension, discharge or other employment penalty will be entertained unless it is filed in writing with the Director of Human Resources within ten (10) calendar days of the time at which the affected employee received written notification of such action. All other grievances must be filed within thirty (30) calendar days from the time the employee knew or had reason to know of the facts giving rise to the grievance.

(b) With written consent of the City Manager or his/her designee and the Union Business Agent or his/her designee, time limits may be extended and/or Steps 1, 2 and/or 3 of the Grievance Procedure waived.

8.3 Grievance Processing

(a) Step 1 - Departmental Review. Any employee claiming to have a grievance may discuss the complaint with such management official in the department where employed as the department head may designate. If the issue is not resolved within the department within twenty (20) calendar days from the day of presentation or if the employee elects to submit the grievance directly to the Union recognized as the representative of that employee's classification, or if the employee/Union official notifies the Director of Human Resources, in writing, that a grievance exists, the procedure hereinafter specified may be invoked.

(b) Step 2 - Director of Human Resources Review. If the employee is not satisfied with the response at level one, then the employee may appeal the grievance to the Director of Human Resources within twenty (20) calendar days of the receipt of written response at level one. Such appeal must state with particularity: 1) the specific policy, rule or provision which is alleged to have been violated; 2) the statement of facts comprising the violation; and 3) the requested remedy. The Union may file and process grievance(s) on behalf of the specifically named employee. The Director of Human Resources shall have twenty (20) calendar days in which to investigate the issues, meet with the complainant and attempt to reach a satisfactory resolution of the problem. No grievance may be processed under the following two (2) paragraphs which has not first been filed and investigated in accordance with this paragraph, except for the resolution of compensation complaints.

(c) Step 3 - Arbitration. If the parties are unable to reach a mutually satisfactory accord on the grievance at Step 2, within twenty (20) calendar days either the Union or the City may require that the grievance be referred to an impartial arbitrator mutually selected by the parties, or if the parties are unable to mutually agree, from a list of seven (7) arbitrators provided by the State Conciliation Service. The arbitrator shall be chosen by the alternative strike method, with first choice being determined by lot. The fees and expenses of the arbitrator and of a court reporter shall be shared equally by both parties. Each party, however, shall bear the cost of its own presentation, including preparation and post hearing briefs, if any.

(d) Effect of Decision. Decisions of arbitrators on matters properly before them shall be final and binding on the parties hereto except as provided otherwise herein.

8.4 Scope of Arbitration

(a) No arbitrator shall entertain, hear, decide or make recommendations on any dispute unless such dispute involves a position in a unit represented by the Union and unless such dispute falls within the definition of a grievance as set forth in paragraph 8.1.

(b) Proposals to add to or change this Memorandum of Understanding or written agreements or addenda supplementary hereto shall not be arbitrable and no proposal to modify, amend or terminate this Memorandum of Understanding, nor any matter or subject arising out of or in connection with such proposal, may be referred to arbitration under this Section. No arbitrator selected pursuant to this Section shall have the power to amend or modify this Memorandum of Understanding or written agreements or addenda supplementary hereto or to establish any new terms or conditions of employment.

No changes in this Memorandum of Understanding or interpretations thereof (except interpretations resulting from arbitration proceedings hereunder) will be recognized unless agreed to by the Director of Human Resources and the Union.

8.5 Other Provisions

If the Director of Human Resources or City Manager, in pursuance of the procedures outlined above, resolves a grievance which involved suspension or discharge, they may agree to payment for lost time or to reinstatement with or without payment for lost time, but in the event the dispute is referred to arbitration and the arbitrator finds that the City had cause to take the action complained of, the arbitrator may not substitute his judgment for the judgment of management and if the findings are that the City had such right, the arbitrator may not order reinstatement and may not assess any penalty upon the City.

Complaints which allege the employee is not being compensated in accordance with the provisions of this Memorandum of Understanding shall be considered as grievances and processed pursuant to Section 8.3. Any other matters of compensation are to be resolved in the meeting and conferring process and if not detailed in the Memorandum of Understanding which results from such meeting and conferring process shall be deemed withdrawn until the meeting and

conferring process is next open for such decision. No adjustment shall be retroactive for more than one-hundred and eighty (180) calendar days from the date upon which the complaint was filed.

Specified time limits may be modified only in writing. All appeals and responses must be provided in writing.

A grievant will be provided release time without loss of pay for all required meetings with management. The City cannot discriminate or retaliate in any manner against an employee for filing a grievance or exercising rights under this Section.

The provisions of this Section shall not abridge any rights to which an employee may be entitled under the Stockton Municipal Code and/or Civil Service Rules and Regulations, nor shall it be administered in a manner which would abrogate any power which, under the Stockton Municipal Code, may be within the sole province and discretion of the Civil Service Commission.

All grievances of employees in representation units represented by the Union shall be processed under this Section. If the Stockton Municipal Code and/or the Civil Service Rules and Regulations requires that a differing option be available to the employee, no action under paragraph (c) of Subsection 8.3 above shall be taken unless it is determined that the employee is not utilizing such option.

No action under paragraph (c) of Subsection 8.3 above shall be taken if action on the complaint or grievance has been taken by the Civil Service Commission or if the complaint or grievance is pending before the Civil Service Commission.

If any award by an arbitrator requires action by the City Council or the Civil Service Commission before it can be placed in effect, the City Manager and the Director of Human Resources will recommend to the City Council or the Civil Service Commission, as appropriate, that it follow such award.

Section 9. Leaves

9.1 Vacation Leaves

All regular employees, excluding provisional and temporary shall accrue vacation leave with pay in accordance with the following schedules:

(a) Vacation - FLSA Non-Exempt employees shall accrue vacation leave with pay in accordance with the following schedule:

(1) Less than one and one-half (1-1/2) years continuous employment ..... 80 hours/year.

(2) After one and one-half (1-1/2) to seven and one-half (7-1/2) years continuous employment ..... 108 hours/year.

(3) After seven and one-half (7-1/2) to fifteen (15) years continuous employment ..... 144 hours/year.

(4) After fifteen (15) to twenty-five (25) years continuous employment ..... 189 hours/year.

(5) Thereafter, seven (7) additional hours for each completed year of service in excess of twenty-five (25) years.

(6) Employees shall accrue vacation on a twice-monthly payroll basis.

(b) FLSA Non-Exempt Employees Maximum Vacation Accrual. Employees reaching the maximum hours shall stop accruing additional hours until they are below the caps listed here. No vacation hours maybe added to sick leave and balances without exception.

The maximum number of vacation hours that FLSA non-exempt employees shall accrue are as follows:

Under 1.5 years	120 hours
1.5 - 7.5 years	240 hours
7.5 - 15 years	280 hours
15 – 25 years	320 hours
26 years	328 hours
27 years	336 hours
28 years	344 hours
29 years plus	7 hours each additional year

(c) Vacation - FLSA Exempt employees shall accrue vacation leave with pay in accordance with the following schedule:

(1) Less than one and one-half (1-1/2) years continuous employment…….120

hours/year.

(2) After one and one-half (1-1/2) up to seven and one-half (7-1/2) years continuous employment……...148 hours/year.

(3) After seven and one-half (7-1/2) up to fifteen (15) years continuous employment……188 hours/year.

(4) After fifteen (15) up to twenty-five (25) years continuous employment……..229 hours/year.

(5) Thereafter, seven (7) additional hours for each completed year of service in excess of twenty-five (25) years.

(6) Employees shall accrue vacation on a twice-monthly payroll basis.

(d) FLSA Exempt Employees Maximum Vacation Accrual. Employees reaching the maximum hours shall stop accruing additional hours until they are below the caps listed here. No vacation hours may be added to sick leave balances without exception.

The maximum number of vacation hours that FLSA exempt employees shall accrue are as follows:

Under 1.5 years	200 hours
1.5 – 7.5 years	320 hours
7.5 – 15 years	360 hours
15 – 25 years	400 hours
25 years	408 hours
26 years	416 hours
27 years	424 hours
28 years plus	7 hours each additional year

(e) Vacation Scheduling. Vacation leaves shall be scheduled with due consideration for the wishes of the employee and so as to not interfere with the normal operation of the City business. Vacation requests are accepted on a day for day basis.

(f) Holiday during Vacation. If any such paid holidays fall within an employee's vacation leave, the employee will not be charged vacation accrual for

that day.

(g) Cash Payment Option for Vacation.

(1) An employee may elect to receive cash payment for up to a maximum of forty (40) hours of accumulated vacation hours annually except that all cash outs shall be suspended during furlough or fiscal emergency periods and during the term of this MOU and until a successor MOU is reached.

(h) Vacation Cash Out Upon Separation

An eligible employee separating from City service effective July 1, 2014 for any reason who has unused vacation time shall be paid for such vacation time up to the effective date of the last day of employment with the City. Payment for unused vacation shall be made at the final rate of pay. Payment for the unused vacation hours shall be paid post separation date at no later than the second regularly scheduled pay period pay date following separation. Prior to separation from City service, the City does not provide to employees any vacation cash out or sell back for accrued but unused vacation hours.

9.2 Sick Leave

(a) Accrual. All regular full-time employees, except provisional and temporary employees, shall accrue sick leave at the rate of eight (8) hours for each month of completed service.

All regular employees, except provisional and temporary employees, scheduled to work less than a full month shall accrue sick leave on a prorated basis. Unused sick leave shall accrue from year to year. Employees shall continue to accrue sick leave while off duty on authorized sick leave; provided, however, an employee shall not accrue sick leave during any leave or leaves of absence without pay granted to the employee.

(b) Usage. Employees are entitled to sick leave pay for those days which the employee would normally have worked, to a maximum of the hours accrued, described as:

Preventive medical, dental, optical care, illness, injury or exposure to contagious

disease which incapacitates the employee from performing normal work duties. This includes disabilities caused or contributed by pregnancy, miscarriage, abortion, childbirth and recovery therefrom.

(c) Family Sick Leave. Employees may utilize up to one-half of their annual sick leave accrual in the case of illness or injury in the employee's immediate family when such illness or injury requires personal care that otherwise would not be covered by the FMLA or CFRA leaves.

Such leave shall be restricted to the employee's parents, spouse, mother-in-law, father-in-law, child, stepchild, brother, sister, brother-in-law, sister-in-law, grandparent and grandchild, legal dependent, and registered domestic partner.

In special cases, with the approval of the Director of Human Resources, a department head may grant the use of sick leave in other circumstances.

It is not the intent of this provision to conflict with any state or federally mandated policies, such as the Family Medical Leave Act (FMLA), the California Family Rights Act (CFRA), or Pregnancy Disability Leave (PDL).

(d) Reporting Procedures for Sick Leave. When the requirement for sick leave is known to the employee in advance of the absence (for example, including but not limited to scheduled medical, dental or vision appointments), the employee shall request authorization for such sick leave from the department head prior to such absence.

If an employee is not able to report due to illness or injury, the employee shall report as soon as possible to the appropriate supervisor, but in no case more than thirty (30) minutes after the start of the work day, except for extenuating circumstances prohibiting giving notice.

Failure to notify as soon as possible and in conforming to the thirty (30) minute notification shall be cause for the following disciplinary action:

(1) For the first time within a six (6) month period, a Memorandum of Discussion.

(2) For the second time within a six (6) month period, a Letter of Reprimand.

(3) For any subsequent time within a six (6) month period,

suspension from work; or at any time four (4) or more incidents occur within a six (6) month period, the employee may be discharged.

The six (6) month period will be defined as six (6) months from the most recent incident. If no other incident occurs within six (6) months of the most recent incident, the disciplinary data will be removed from the employee's active file.

(e) Verification Procedures

(1) Before being paid for the use of accrued sick leave, the employee shall submit a signed statement to the department head, on a prescribed form, stating the dates and hours of absence, the exact reason, and such other information as is necessary for the request to be evaluated. If an employee doesn't return to work prior to the preparation of the payroll, other arrangements may be made with the department head.

(2) Doctor's Certificate or Other Proof. The Director of Human Resources may require a doctor's certificate or other reasonable proof of illness as he/she deems necessary in order for an employee to receive an excused absence from work and sick leave pay. The employee shall be given notice prior to returning to work that he or she will be required to provide such documentation. Employees who have unscheduled absences due to illness on a scheduled work day preceding or following a holiday may be required to bring a doctor's certificate or other reasonable proof of illness in order to receive an excused absence and sick leave pay. If an employee's illness results in an absence from work for more than three (3) consecutive days, a doctor's certificate or other reasonable proof of illness may be required. In addition, the City may monitor and control the appropriate use of sick leave by employees and if reasonable cause is articulated, can limit use of sick leave and require additional verification.

(3) If the City has a reasonable basis to believe that an employee is abusing the sick leave benefit, the City or the employee's supervisor must first meet with the employee to: 1) explain the reasonable basis for the believed abuse, and 2) discuss the reasons for the employee's absence. The employee has the right to Union representation at such meeting. After such meeting, and depending on the factual circumstances, the City may:

(a) Place the employee on restricted sick leave for a

period of not more than four (4) months, under the direction of the Director of Human Resources pursuant to section (e)(2) above;

(b) Suspend the employee without pay for up to five (5) days for abuse of sick leave; or dismissal from employment if a prior suspension involved abuse of sick leave;

(c) Place the employee in an employee assistance program, if agreed to by the employee.

(f) Use of Sick Leave While on Vacation. An employee who is injured or who becomes ill while on vacation may be paid for sick leave in lieu of vacation provided that the employee:

(1) Was hospitalized during the period for which sick leave is claimed, or

(2) Received medical treatment or diagnosis and presents a statement indicating disabling illness or injury signed by a physician covering the period for which sick leave is claimed.

(g) Payment for Unused Sick Leave for Unit Employees. Effective February 17, 2012, all accumulated or future accruals of sick leave shall have no cash value upon separation of employment and employees shall not be allowed to cash out unused sick leave except as provided below.

(h) CalPERS Service Credit for Unused Sick Leave. Employees shall be eligible for CalPERS service credit for any unused sick leave at retirement not otherwise compensated for in (i) below. Employees hired on or after December 29, shall not be eligible for this service credit.

(i) Sick Leave Retention Benefit. If, after subtracting the equivalent of one full year of service credit (2080 hours), which may be applied to CALPERS service credit, any balance remaining upon separation shall be paid as follows to employees who have remained in City service until the dates specified:

(1) Separation prior to July 1, 2014, no payment of unused sick leave at separation shall occur for separating employees before this date;

(2) Separation between July 1, 2014 and June 30, 2015, payment of

unused sick leave which the employee held on 2/16/12 shall be paid at 35% of its cash value to separating employees between these dates; and

(3) Separation after July 1, 2015, payment of unused sick leave which the employee held on 2/16/12 shall be paid at 50% of it's cash value to separating employees after this date.

(4) Service credit for unused sick leave shall be in accordance with PERS regulations.

9.3 Other Leaves with Pay

(a) Bereavement Leave. In the event of a death in the immediate family of an employee, the employee shall, upon request be granted up to three (3) days bereavement leave with pay without charge to his accumulated sick leave credits or vacation eligibility. The Director of Human Resources may grant an additional two (2) days bereavement leave upon request which shall be charged against the employee's accumulated sick leave credits in cases where extensive travel is required to attend the funeral. For the purposes of this paragraph, the immediate family shall be restricted to the employee's parents, spouse, mother-in-law, father-in-law, child, stepchild, brother, sister, brother-in-law, sister-in-law, grandparent, grandchild, and registered domestic partner.

In the event of the death of a person not immediately related to an employee as defined above, the employee's department head may grant up to three (3) days bereavement leave upon request which shall be charged against the employee's accumulated sick leave credits.

(b) Court Appearance. Upon approval by the department head, an employee, other than a provisional or temporary employee, shall be permitted authorized absence from duty for appearance in Court because of jury service, in obedience to subpoena or by direction of proper authority, in accordance with the following provisions:

Said absence from duty including necessary travel time, will be for actual hours served on jury duty or testifies as a witness in a criminal case, other than as a defendant. This shall include the time from when the employee is ordered to appear until the time the employee is released from the court. As a condition of receiving such pay, the employee must remit to the City, through the employee's department head, within fifteen (15) days after receipt, all fees received except those specifically allowed for mileage and expenses.

If an employee is not due to appear for jury duty or as a witness until an afternoon court session, the employee will be expected to work his usual morning schedule. If an employee is required to appear for a morning court session and is sent home before noon and not required to return in the afternoon, the employee will be expected to work his usual afternoon schedule.

Said absence from duty will be without pay when the employee appears in private litigation to which the City of Stockton is not a party.

Any fees allowed, except for reimbursement of expenses incurred, shall be remitted to the City through the employee's department head.

Notwithstanding the foregoing, attendance in court in connection with an employee's official duties or in behalf of the City of Stockton in connection with a case in which the City of Stockton is a party, together with travel time necessarily involved, shall not be considered absent from duty within the meaning of the Section.

(c) Military Leave. An employee of the City who is a member of the National Guard or Naval Militia or a member of the Reserve Corps or Force of the Federal Military, Naval or Marine Service and is ordered to duty shall be granted leave with pay while engaged therein, provided the leave does not exceed thirty (30) days in any calendar year.

All regular employees in the service of the City shall be allowed leave of absence without pay for duration of a national emergency who have been inducted into the Army, Navy, Marine Corps, Air Force or any other branch of the Military Service of the United States or the State of California. Said employees shall be reinstated in the position they held when they were inducted into Military Service, except as hereinafter stated, providing they are physically fit as shown by a medical examination by the City Physician or other physician appointed to make a medical examination.

In the case of a probationary employee having served a minimum probationary period of six (6) months at the time of induction, it shall be optional with the department head and the City Manager to grant regular status to said employee before induction.

All probationary employees inducted into Military Service not having served the minimum probationary period of six (6) months, or having served the minimum

probationary period of six (6) months, but not having received regular status shall be allowed leave of absence without pay for the duration of a national emergency, but said employees shall be placed at the head of the eligible list for such position in the order of their seniority of employment and when appointed to a vacant position, they must be physically fit as above specified and shall serve the balance of their probationary period before attaining the status of a regular employee.

Two (2) or more regular employees granted military leave of absence without pay from the same position shall be reemployed according to their seniority of employment providing they are physically fit as above specified.

9.4 Workers' Compensation Leave

(a) Workers' Compensation Benefits shall be provided in accordance with State law and schedules whenever an employee is absent from duty because of disability caused by illness or injury arising out of and in the course of employment which has been declared to be compensable under the Workers' Compensation Law. An employee on Workers' Compensation may use accrued leave, if needed, to supplement benefits, up to the amount required to receive a full paycheck.

(b) Forms and Procedures. Workers' compensation processing shall be consistent with City procedures and in accordance with state workers' compensation regulations. An employee who sustains a work-related injury or illness shall immediately inform his/her supervisor no matter how minor an on-the-job injury may appear. An employee who sustains a work-related injury or illness is required to seek medical care at facilities designated by the City unless they have filed a pre-designation of personal physician prior to sustaining the work-related injury or illness. For a list of City designated medical care facilities and/or physicians, please contact Human Resources.

9.5 Leave of Absence Without Pay

(a) Entitlement. Employees shall not be entitled to leave of absence without pay as a matter of right, but only upon the determination of the City that the granting of such leave is in the best interest of public service and that there is a presumption that the employee intends to return to work upon the expiration of the leave of absence. The granting of a leave of absence provides the employee the right to return to the position vacated.

(b) Approval. All leaves of absence without pay must be recommended by the department head and approved by the Director of Human Resources. No such leave may extend beyond twelve (12) months, except in the case of absence due to job incurred disability where a determination may be made based upon the needs of public service, or in the event an application for service connected disability retirement has been filed.

(c) Leaves of absence without pay for illness may only be approved following the expiration of entitlement of sick leave and vacation where applicable.

9.6 Absence Without Official Leave (AWOL)

(a) Refusal of Leave or Failure to Return after Leave. Failure to report for duty or failure to report for duty after a leave of absence request has been disapproved, revoked, or canceled, or at the expiration of a leave, shall be considered an absence without official leave.

(b) Voluntary Resignation. Any employee in this bargaining unit absent without official leave for two (2) or more consecutive scheduled days without a satisfactory explanation as approved by the Human Resources Director shall be deemed to have voluntarily resigned from the City of Stockton. An employee must provide a written statement to the Human Resources Department regarding a "satisfactory explanation", within ten (10) calendar days after the City mails a notice of voluntary resignation to the employee's last known address.

Section 10. Days and Hours of Work

10.1 Workweek

The normal workweek in this unit consists of five (5) consecutive eight (8) hour days or a total of forty (40) hours, generally Monday through Friday in a seven (7) day work period. Where operational requirements of a department require deviations from this schedule, the department head with City Manager approval may institute alternate work schedules as long as the City meets with the Union over the impact of such schedules and conforms to work period requirements of the Fair Labor Standards Act.

10.2 Meal Periods and Rest Periods

(a) Employees shall receive a one (1) hour or one half-hour (1/2) meal

period, without pay, each day and a fifteen (15) minute paid rest period during the first half of the work day and a second fifteen (15) minute paid rest period during the second half of the work day. Employees who exceed the time limits prescribed above for lunch and/or rest periods shall have their pay reduced accordingly.

(b) Where operational requirements of a department require deviations from this schedule, meal periods of other durations and alternate rest periods may be instituted with the approval of the Department Head or Designee.

10.3 Reporting to Work

Repeated failure to report to work on time may result in appropriate discipline as set forth below:

(a) For the first time in a six (6) month period, a Memorandum of Discussion.

(b) For the second time within a six (6) month period, a Letter of Reprimand.

(c) For any subsequent time within a six (6) month period, suspension from work; or at any time four (4) or more incidents occur within a six (6) month period, the employees may be discharged.

If an employee reports to the work site after the designated starting time, the employee will be paid only for time actually worked; however, the employee may be allowed to utilize annual leave for lost pay, provided the employee's supervisor approves.

Any Memorandum of Discussion or Letter of Reprimand regarding tardiness which is more than six (6) months old will be removed from the personnel file upon request.

Section 11. Overtime

11.1 Overtime Authorization

All compensable overtime must be authorized by the department head or his designated representative in advance of being worked. If prior authorization is not feasible because of emergency conditions, a confirming authorization must be made on the next regular working day following the date on which the

overtime was worked.

11.2 Definition

The following provisions pertaining to authorized or statutorily required overtime work shall apply to non FLSA exempt employees.

(a) Statutory overtime shall be paid on actual time worked in excess of forty (40) hours in any workweek. Such overtime shall be paid for at time and one-half (1-1/2) including employees employed on a per hour or per day basis or except as provided elsewhere herein. Holiday hours taken, and observed holidays where the City is closed shall be considered as time worked. Sick leave, vacation, or other compensated time off shall not be considered as actual time worked.

(b) On a holiday observed by the City an employee who are not regularly scheduled to work holidays shall be paid for a regular day plus time and one-half (1-1/2) for actual time worked not to exceed eight (8) hours including employees employed on a per hour or per day basis, or except as provided elsewhere herein.

(c) The City may require mandatory overtime when operational needs if the City dictate the need to work such overtime. Work in excess of forty (40) hours worked as defined in (a) above in any workweek that qualifies for overtime will be paid or taken as CTO in accordance with Section 11.5(b).

(d) Exempt Status of Classifications

The parties have agreed that effective upon the first full pay period after ratification of this contract the classifications of Chemist and Microbiologist will be exempt from overtime as provided by the Fair Labor Standards Act (FLSA) and will be considered Exempt in the City's attendance and pay policies, and for the accrual of vacation. In consideration of this exempt status, employees in these classifications will receive the FLSA exempt employee vacation accrual rates and maximum accrual allowances as listed in Sections 9 (c) and (d) of this MOU.

Vacation - FLSA Exempt employees shall accrue vacation leave with pay in accordance with the following schedule:

(1) Less than one and one-half (1-1/2) years continuous employment……120 hours/year.

(2) After one and one-half (1-1/2) up to seven and one-half (7-1/2) years continuous employment……...148 hours/year.

(3) After seven and one-half (7-1/2) up to fifteen (15) years continuous employment……188 hours/year.

(4) After fifteen (15) up to twenty-five (25) years continuous employment……..229 hours/year.

(5) Thereafter, seven (7) additional hours for each completed year of service in excess of twenty-five (25) years.

(6) Employees shall accrue vacation on a twice-monthly payroll basis.

FLSA Exempt Employees Maximum Vacation Accrual. Employees reaching the maximum hours shall stop accruing additional hours until they are below the caps listed here. No vacation hours may be added to sick leave balances without exception.

The maximum number of vacation hours that FLSA exempt employees shall accrue are as follows:

Under 1.5 years	200 hours
1.5 – 7.5 years	320 hours
7.5 – 15 years	360 hours
15 – 25 years	400 hours
25 years	408 hours
26 years	416 hours
27 years	424 hours
28 years plus	7 hours each additional year

11.3 Standby Duty

When warranted and in the interest of the City operation, department heads or their designee may assign employees to "standby" status.

(a) Application of "standby" shall be as follows:

(1) Each employee so assigned to "standby" shall be provided with a communication device while on standby and shall be able to

report to the work site with best efforts within 30 minute; in no event longer than forty-five (45) minutes. Employees on Standby shall ensure that they available and able to return to work to perform their assigned duties.

(2) Employees on standby shall have the option to trade hours of standby status with another qualified employee in the same unit or division with departmental approval.

(3) Standby shall be assigned in a minimum of eight (8) hours blocks., i.e., Monday - Friday work week standby can be 8, 16, 24 hour blocks. The block of standby will be to one (1) person per 24 hour period.

Standby for weekends i.e., Saturday, Sunday or extended holiday weekends (Friday – Sunday, or Saturday – Monday) will be assigned 8 - 48 hour blocks to one (1) person per weekend (up to 72 hours for holiday weekend).

(b) Compensation of "standby" shall be as follows:

(1) Employees assigned to standby duty shall be paid $3.00 per hour while assigned to be on standby. An employee shall earn time and one-half (1-1/2) for all actual time worked while on standby duty status only if eligible for overtime as defined in Section 11.2 above. An employee shall not continue to receive the “standby” premium during actual time worked, or for any hours paid as overtime or call back. Standby is not considered as time in “paid status because of work performed” for purposes of calculating overtime.

11.4 Call Back

Employees called back to work from off duty status, the employee shall be compensated for a minimum of two (2) hours and forty-five (45) minutes pay at time and one-half (1-1/2) or actual time worked at time and one-half (1-1/2), if eligible for overtime as defined in Section 11.2, above, whichever is greater.

To be eligible for call-back pay, both of the following conditions must be met:

(a) The call-back must occur outside of the employee’s regular work

hours; including overtime.

(b) The call-back time worked must not be contiguous to the employee's regular work hours; including overtime.

(c) An employee is ineligible to receive a premium for both standby and call back. For example, employees shall not receive standby pay for hours in which they are paid overtime or call back pay.

11.5 Compensatory Time

(a) Definition. As used in this Section, the term Compensatory Time refers to that time which an employee is entitled to be absent from duty with pay for hours worked in addition to or excess of their normal work schedule

(b) Accrual. For hours worked in excess of forty (40) hours in a seven (7) day work period as defined in Section 11.2(a), Compensatory Time may be earned at the rate of time and one-half (1-1/2). No more than eighty (80) hours (forty (40) hours worked at time and one-half [1-1/2]) may be carried on the books at any time.

(c) Use. Use of Compensatory Time shall be scheduled with due consideration for the wishes of the employee and so as to not interfere with the normal operation of City business. Approval of requests for use of Compensatory Time shall be at the sole discretion of the department head, but once approved, cannot be changed unless an emergency situation arises.

(d) Payment. Once eighty (80) hours of Compensatory Time is accrued on the books, all other hours worked in excess of forty (40) hours in a seven (7) day work period will automatically be paid.

At the end of each calendar year, all CTO will be carried forward (40 hours maximum), unless the employee elects to have the compensatory balance paid. Carryover CTO cannot exceed the forty (40) hours maximum.

Any CTO balance in excess of forty (40) hours remaining at the end of the calendar year will automatically be paid to the employee.

11.6 Meal Allowance

The City shall provide a meal allowance of FIFTEEN DOLLARS AND NO CENTS ($15.00) for an employee who is held over and works a minimum of four (4) hours. Employees called back to work or called back from a day off with less than two (2) hours notice shall qualify for the FIFTEEN DOLLARS AND NO CENTS ($15.00) meal allowance when they work a minimum of four (4) hours. Extension of the work schedule or call-back must be properly authorized by the employee's supervisor or other designated personnel.

Section 12. Holidays

12.1 Qualifying for Holiday Pay

All regular employees, excluding provisional and temporary employees, shall be entitled to take all authorized holidays at full pay not to exceed eight (8) hours for any one (1) holiday.

12.2 Holidays Observed by the City

(1) January 1 .....New Years' Day
(2) Third Monday in January (FLOATING) .....Martin Luther King Jr.'s Birthday
(3) Second Monday in February (FLOATING)..... Lincoln's Birthday
(4) Third Monday in February (FLOATING)..... Washington's Birthday
(5) March 31 (FLOATING).....Cesar Chavez Birthday
(6) Last Monday in May ..... Memorial Day
(7) July 4..... Independence Day
(8) First Monday in September .....Labor Day
(9) Second Monday in October (FLOATING).....Columbus Day
(10) November 11..... Veteran's Day
(11) Fourth Thursday in November..... Thanksgiving
(12) The day following the day known as Thanksgiving
(13) December 25.....Christmas Day

FLOATING holidays to be used within calendar year. Floating holiday hours (40 total per calendar year) may be taken in one (1) hour increments. Any hours not used by December 31 of each year expire and are not carried forward into the subsequent year. There is no cash value for any unused floating holiday hours. While the floating holiday leave hours will be available as of January 1 each year, employees have not earned each of the floating holidays until the actual holiday occurs; if an employee separates employment and has utilized more floating holiday hours than earned, the employee’s vacation or compensatory time hours

will be charged for the same number of hours previously taken as floating holiday hours.

If any of said holidays fall on a Sunday, the following Monday shall be observed as a holiday. If any of said holidays fall on a Saturday, the preceding Friday shall be observed as a holiday.

In order to receive Holiday Pay the employee must be in a paid status the day before and the day after the holiday.

For employees on the 9/80 alternative work schedule, employees may shift their work schedule so that their 8 hour day falls on the designated holiday with the approval of their supervisor.

An employee who takes a holiday off on a normally scheduled work day will receive 8 hours of holiday pay at their regular rate of pay, and the holiday hours count as time worked for FLSA overtime calculation purposes. A holiday that falls on an employee's normally scheduled day off will receive 8 hours of holiday pay at their regular rate of pay, however the holiday hours will not be counted as time worked. If an employee works on a holiday, the employee will receive 8 hours of holiday pay at their regular rate of pay, actual hours worked will be paid at the time and one half (up to 8 hours) and holiday hours will not be counted as time worked. If an employee works only partial hours on a holiday, partial holiday hours will be counted as time worked for FLSA overtime calculation purposes (up to 8 hours combined maximum).

12.3 Compensation for Holidays Worked

Prior approval for holiday work must be secured from the City Manager except in emergency situations where said approval cannot be obtained beforehand.

Section 13. Compensation and Allowance Other Than Base Salary

13.1 Public Employee Retirement System Benefits for Unit Employees hired on or before December 28, 2012.

(a) The City will pay seven percent (7%) of the employee's current base salary (employee's contribution) and other compensation as qualified by State law towards the Public Employees' Retirement System (P.E.R.S.). Such

amounts will be applied to the employee's individual account in accordance with California Government Code section 20691 unless modified below.

(b) The City's P.E.R.S. retirement plan is two percent (2%) at age 55.

(c) The City's P.E.R.S. retirement plan is modified to reflect California Government Code section 21024 (Military Service Credit as Public Service) and section 21027 (Military Service Credit for Retired Persons) effective upon adoption by Stockton City Council and Board Administration of the P.E.R.S.

(d) The City will provide P.E.R.S. California Government Code section 20692 (Employer Paid Member Contributions Converted to Payrate during the Final Compensation Period) as added P.E.R.S. benefits. At the beginning of employee's last year of employment, the employee will pay their employees' seven percent (7%) benefit cost through an automatic payroll deduction. The City will increase the base salary for those employees by the same seven percent (7%) for the last twelve (12) months of employment. Internal Revenue Service (IRS) Code 414H(2) will be concurrently implemented with P.E.R.S. California Government Code section 20692, to be effective upon adoption by the Stockton City Council and P.E.R.S. Administration Board.

The City will provide P.E.R.S. California Government Code section 20965 (Credit for Unused Sick Leave) as added P.E.R.S. benefits, to be effective upon adoption by the Stockton City Council and P.E.R.S. Administration Board.

The City will provide P.E.R.S. California Government Code section 21574 (Fourth Level of 1959 Survivor Benefits) as added P.E.R.S. benefits, to be effective upon adoption by the Stockton City Council and P.E.R.S. Administration Board.

The City will provide PERS California Government Code section 21335 up to a 5% Annual Cost-of-Living Allowance, as added PERS benefit.

(e) Effective August 1, 2011, in consideration of (a) above, employees hired on or before December 28, 2012 shall pay seven (7%) of the employee's current base salary and (employee contribution) and other compensation as qualified by state law towards the Public Employees' Retirement System (P.E.R.S.) towards employer's share of cost for P.E.R.S. pension on a post-tax basis in the form of a payroll deduction. The City will seek an IRS private letter ruling to determine whether or not the IRS permits the employee's contribution to the employer's share of pension cost to be treated on a pre-tax basis. If the IRS issues a private

letter ruling allowing employee's contribution towards employer pension cost on a pre-tax basis, the City will change the deduction from post-tax to pre-tax as soon as administratively possible after the IRS final determination.

13.2 Public Employee Retirement System Benefits for Unit Employees hired on or after December 29, 2012.

(a) The City amended its contract with P.E.R.S. effective December 28, 2012 to provide a new second tier retirement program of 2% at 60 with three year average salary formula and no other additional P.E.R.S. benefits for all unit employees hired on or after December 29, 2012.

(b) Employees hired on or after December 29, 2012 shall pay the entire seven percent (7%) of the employee's current base salary (as the employee contribution) and any other compensation as qualified by state law towards P.E.R.S. retirement benefit through a payroll deduction.

13.3 PERS Benefits for Employees hired on or after ~~January 1, 2013~~ December 29, 2012

(a) Employees with Reciprocity:

Employees hired on or after December 29, 2012, who had service under another CalPERS agency or public retirement system with reciprocity prior to January 1, 2013, and a break in service of less than 6 months and are considered classic employees by PERS AB340, shall be subject to the PERS pension formula of 2% at 60 with no optional pension enhancements and the other provisions of the retirement tier they were hired under. Employee's shall pay the entire seven percent (7%) of the employee's current base salary (as the employee contribution) and any other compensation as qualified by state law towards P.E.R.S. retirement benefit through a payroll deduction.

(b) Employees without Reciprocity:

Employees hired on or after January 1, 2013, shall be subject to the PERS AB340 pension formula of 2% at 62 with no optional pension enhancements and the other provisions of the retirement tier they were hired under. Employees shall pay 50% of the City's normal cost rate for the 2% at 62 as determined by CalPERS.

13.4 Uniforms

(a) The City shall provide uniforms for all employees assigned to this unit who are required to wear uniforms during the course of work.

(b) Safety Protective Footwear Reimbursement Allowance. Employees required to wear safety protective footwear in accordance with City Manager's Administrative Directive HR-34, and approved for safety protective footwear reimbursement, the City will authorize safety protective footwear reimbursement in the amount of TWO HUNDRED DOLLARS ($200.00) as needed and approved by the employee's supervisor and department head.

13.5 Preventive Shots

Those employees in the Municipal Utilities Department whose work assignments involve potential exposure to hazardous waste water shall, at the employee's option, be provided all necessary medical immunization available for the prevention of job incurred illness.

13.6 Special Driver's License Pay

Job classifications requiring a Class A and/or Class B Driver's License or Hazmat endorsement will receive special pay equal to one and one-half percent (1-1/2%) of top step of job classification.

Special Driver's License Pay will only be implemented with the concurrent implementation of the Operating Engineers' Local No. 3 - City of Stockton, Drug/Alcohol Safety Program.

13.7 Longevity Pay

Effective August 1, 2011, longevity pay shall be eliminated. However, the City shall grandfather only those employees who complete twelve (12) continuous years of service with the City as of July 1, 2012, with two and one-half percent (2.5%) of top salary step of the employee's pay range to the employee as a longevity incentive pay allowance. As of July 1, 2012, longevity incentive pay allowance for these grandfathered employees shall be reduced to one and one-half percent (1.5%).

13.8 Credit Union

The City will accommodate payroll deduction to Operating Engineers' Local No. 3 Credit Union, within the limitations of City payroll system. Any modification costs will be borne by Operating Engineers' Local No. 3.

13.9 Education, Training and Development.

The City will provide internal and external training programs on a wide variety of subjects. Employee participation will be based on subject matter relevance to job requirements, budgetary constraints and workload demands. Any Training programs that employees are directed or authorized to participate by their department will be fully paid for by that department. Costs paid by the City include tuition, registration fees, related materials, and mileage/meal reimbursement if the training is not located on City premises.

13.10 Certification, Certification Training and Special Certifications

(a) Certification dues or fees required of employees in their specialized fields of work will be reimbursed by the City at the actual costs. Pre-approved training(s) to maintain a job related certification will be paid at 100 percent by the City. The City will pay for two attempts at passing the test.

(b) The City will offer a one time add pay off the salary line for employees who receive State certification for Water, Wastewater, Water Distribution, or CWEA. All employees are eligible to obtain certification in Water and Wastewater.

Water, Wastewater	Water Distribution	CWEA	One Time Add Pay
5	4	4	$1,000.00
4	3	3	$500.00
3	2	2	$125.00
2	1	1	$100.00
1			$75.00

A maximum of two certification levels will be paid by the City in a calendar year to any one employee. Certifications (at State specific levels) will be required for some positions. Loss of certifications shall result in the employee being demoted to the level according to their certification level. The employee will be moved

back to his or her former level if he or she obtained the necessary certification within 12 months. Any employee who loses or is denied a certification shall notify his or her supervisor within seven (7) calendar days, and shall submit a copy of any notice received from the state or any other agency.

(c) Add on pays will be issued to employees with the following special certifications:

Crane	$0.30
Backflow	$0.75

(d) An employee assigned to the wastewater function in the operator series who receives and maintains a level 4 or 5 Wastewater Operator Certification will receive the following quarterly amounts added to his or her monthly paychecks for each wastewater grade level certification above a grade 3 certification that exceeds the certification level required for the position held. Any employee receiving such certification pay will perform duties authorized by such certification level as required when necessary due to operational needs.

One level above required certification level	$1,000.00
Two levels above required certification level	$2,000.00

As of June 30, 2014, any current employee who is receiving this certification pay who does not meet the requirement of being within the operator series of classifications shall be grandfathered in to continue receiving such add pay as long as other requirements are met as described above. Effective July 1, 2014, no additional employees shall receive this certification pay unless all requirements above are met. In addition, any current employees who are receiving this certification pay based upon a certification level which is required for the position held shall have this certification pay reduced accordingly.

(e) Employees who are employed in the classification of Water/Sewer Equipment Operator and possess a Grade D1 Distribution Operator Certificate issued by the California Department of Health Services shall receive an additional three percent (3%) of base pay.

Section 14. Insurance Plans and Retirement Benefits

14.0 Reopener Clause for Health Insurance

The Association agrees at the City's request, to meet and confer on any changes that are within the mandatory scope of bargaining in any City proposals related to its City sponsored medical plans that may be related to the implementation of the Affordable Care Act (ACA).

14.1 Health and Welfare Benefits

(a) Choice of Health Plans. Employees in this bargaining unit shall have a choice of enrolling themselves and their eligible dependents in any of the City sponsored medical, dental and visions plans or Operating Engineer Health and Welfare Trust Fund Plan (PPO Plans A, B, C, and D, and Kaiser HMO Plans A and B). The City shall offer two or more medical plans to regular employees.

(b) Eligibility. Employees shall become eligible for Medical insurance on the first day of the month subsequent to completion of thirty (30) days of continuous service with the City. Employees shall become eligible for Dental insurance on the first day of the month subsequent to completion of sixty (60) days continuous service with the City. An eligible employee and eligible dependent may be enrolled in a City offered medical plan either as a subscriber in a City offered medical plan or, as the dependent spouse/registered domestic partner or another eligible City employee, but not both. If an employee is also eligible to cover their dependent child, the child will be allowed to enroll as a dependent on only one employee plan (i.e., an employee and his or her dependent cannot be covered by more than one City-offered health plan).

(c) City Contribution towards the cost of insurance programs. Effective upon the first full pay period following ratification of this Memorandum of Understanding by the Union and approval by the City Council on its regular agenda in accordance with the Brown Act:

- The City shall contribute up to $543.00 per month toward the cost of the monthly premium for employee-only medical/dental/vision plan coverage.

- The City shall contribute up to $988.00 per month toward the cost of the monthly premium for employee plus one dependent

medical/dental/vision plan coverage.

- The City shall contribute up to $1,313.00 per month toward the cost of the monthly premium for employee plus two or more dependents medical/dental/vision plan coverage.

These contributions are based on full-time employment; regular part-time employees shall receive a prorated contribution based on their percentage of full-time employment. Insurance plan premiums that exceed the City's monthly contribution shall be paid by the employee through payroll deductions. The City shall maintain its IRS 125 Plan to allow for employee contributions for medical/visions/dental to be pre-tax premium conversion.

(d) Plan Rules. Employees may insure themselves and their eligible dependents under the medical, vision and dental plans provided by the City, in accordance with the rules and regulations applicable to the selected Plan. Benefits in the Plan shall be in accordance with the Plan document.

(e) Provisional and temporary employees are not eligible for any of the above benefits.

(f) Employees that promote, demote, or transfer from a classification in the Operations and Maintenance unit to an unrepresented classification shall continue to have the option to retain the Operating Engineers' Local No. 3 Health and Welfare Plan.

(g) Payment of costs for City administrative overhead for Operating Engineers sponsored Plans.

The City costs to administer the health plans offered to employees and retirees are incorporated into the monthly rates for City Sponsored medical, dental and vision insurance paid by the City and the plan participants. Effective July 1, 2014, the City will add to the monthly plan costs for the Operating Engineer Plans offered to employees those City administrative overhead costs associated with these plans in addition to the City sponsored plans. Only costs associated with the OE3 plans will be charged to those plans. As of July 1, 2015 the cost is $26.98 per month per employee participating in the OE3 plan.

14.2 Long Term Disability Insurance

The City shall provide, at no cost to the employee, long term disability insurance coverage. Plan benefits shall be as described in the Plan document, but shall include:

(a) Each disability – sixty-six and two thirds percent (66 2/3%) of salary up to the maximum salary replacement amount as specified in the City's long term disability plan.

(b) Disability income payments shall commence after a ninety (90) day waiting period. Employees may use sick leave and other leave balances to cover this waiting period, or leave without pay. .

(c) Benefit payable until age sixty-five (65).

(d) The City shall continue its normal contribution for employee medical premiums during the ninety (90) day waiting period.

14.3 Life Insurance

Effective July 1, 2012, the City shall provide, at no cost to the employee, a term life and an accidental death and dismemberment insurance policy with a value of $50,000. In addition, employees shall have the opportunity to purchase additional voluntary life insurance through their union or through the City's IRS125 vendor.

14.4 Retiree Enrollment in City Sponsored Health Plans

An eligible retiree and eligible dependent may be enrolled in a City offered medical plan either as a subscriber in a City offered medical plan or, as the dependent spouse/registered domestic partner or another eligible City employee/retiree, but not both. If an employee/retiree is also eligible to cover their dependent child, the child will be allowed to enroll as a dependent on only one employee or retiree's plan (i.e., a retiree and his or her dependent cannot be covered by more than one City-offered health plan). However, the City may discontinue the enrollment of retirees in City sponsored medical plans at its discretion as per the City's Bankruptcy plan of Adjustment. The City does not provide any retiree medical program, allowance, or City contribution for employees.

Nothing in this section shall be construed to create vested rights to benefits for employees or retirees after the expiration of this MOU.

14.5 Long-Term Care

Employees can purchase optional long term care coverage from PERS to cover home care and nursing home care. The premiums rates are established by PERS based on the age of the participant.

14.**6** Health Reimbursement Account – HRA

The City will contribute an amount equal to five and one half percent (5.5%) of the employee's current base salary that was previously contributed to deferred compensation and redirect that same contribution into an IRS qualified HRA for each employee to use for reimbursement of current and retiree medical cost reimbursements.

Section 15. Salaries

15.1 Salary Rates

The salary table for all employees in the aforementioned representation unit will be as set forth in Appendix "A," which is attached hereto and made a part hereof and shall represent the salaries in effect as of July 1, 2012 .

The rates of pay set forth in Appendix "A" do not include reimbursement for actual and necessary expenses for traveling, subsistence and general expenses authorized and incurred incident to City employment.

Effective upon the first full pay period following ratification of this Memorandum of Understanding by the Union and approval by the City Council on its regular agenda in accordance with the Brown Act, employees will receive a base salary increase of 2%.

Dependent upon agreement to changes in section 13.10 (d), the Senior Plant Operator job classification will receive a base salary increase of approximately 16.7%, effective upon the first full pay period following ratification of this Memorandum of Understanding by the Union and approval by the City Council on its regular agenda in accordance with the Brown Act.

15.2 Salary upon Appointment

Except as herein otherwise provided, the entrance salary for a new employee entering the classified service shall be the minimum salary for the class to which appointed. When circumstances warrant, the Director of Human Resources may approve an entrance salary which is more than the minimum salary for the class to which an employee is appointed. Such a salary may not be more than the maximum salary for the class to which that employee is appointed.

15.3 Salary Equivalents

Any monthly, daily or hourly rate of pay may be converted into an equivalent rate of pay, or to any other time bases when, in the judgment of the City Manager, such a conversion is advisable. In determining equivalent amounts on different time bases the City shall provide tables or regulations for the calculation of payment for service of less than full time, and for use in converting monthly salaries to hourly rates, as well as for calculating hourly rates. Overtime rate and premium pay shall be calculated according to the provisions of the Fair Labor Standards Act.

15.4 Salary Step Plan

(a) There shall be five (5) to seven (7) salary steps in each range.

The first step shall be the minimum rate and shall be the normal hiring rate for the class. (In a case where a person possesses unusual qualifications, the Director of Human Resources may authorize appointment above the first step after receiving the recommendation of the department head. The same provision shall apply to hourly paid and part-time employees.)

If a department head recommends to withhold increases to salary steps two (2) through seven (7) because an employee has not achieved the level of performance required, notice must be received by the City Manager at least four (4) weeks in advance of the employee's eligibility date. The affected employee shall be furnished a copy of the department head's recommendation. Failure to abide by the above four-week limitation shall not automatically cause a step increase to be granted; however, if an employee does not receive notice by the actual anniversary date, the increase shall be automatically granted.

The second step shall be paid upon the satisfactory completion of six (6) months

service at the first step.

The third step shall be paid upon the satisfactory completion of one (1) year service at the second step.

The fourth step shall be paid upon the satisfactory completion of one (1) year service at the third step.

The fifth step shall be paid upon the satisfactory completion of one (1) year service at the fourth step and upon written recommendation of the department head.

The sixth step shall be paid upon the satisfactory completion of one (1) year service at the fifth step and upon written recommendation of the department head.

The seventh step shall be paid upon the satisfactory completion of one (1) year service at the sixth step and upon written recommendation of the department head.

Regardless of an employee's length of service, step advancements in any given class may be made upon recommendation of the department head with the approval of the Director of Human Resources, but not above Step No. 7 for a given range.

Salary step increases shall be effective the first day of the pay period following appointment or revision. If the date of appointment or revision is the first day of a pay period, salary step increases shall be as of that date.

Changes in an employee's salary because of promotion, demotion, postponement of salary step increase or special merit increase will set a new salary anniversary date for that employee, which date shall be as stated in the preceding paragraph.

Salary range adjustments for a classification will not set a new salary anniversary date for employees serving in that classification.

(b) Salary Step Entry-Level Classifications. The City Manager may create a ten percent (10%) salary step reduction to any entry-level classification represented by this bargaining unit. The next and all subsequent salary steps shall be paid upon the satisfactory completion of one (1) year service at current

salary step.

15.5 Salary Step after Military Leave

All employees who have been granted military leave shall, upon their return to the City service, be entitled to the automatic salary advancements within the range of their classification for the period they were in the military service.

15.6 Salary Step When Salary Range is Increased

Whenever the monthly schedule of compensation for a class is revised, each incumbent in a position to which the revised schedule applies shall be entitled to the step in the revised range which corresponds to the employee's step held in the previous range, unless otherwise specifically provided for by the Director of Human Resources.

15.7 Salary Step After Promotion or Demotion

(a) When an employee is promoted from a position in one class to a position in a higher class, and at the time of promotion is receiving a salary equal to, or greater than, the minimum rate for the higher class, that employee shall be entitled to the next step in the salary scale of the higher class which is "approximately" five percent (5%) above the employee's current base salary, except that the next step shall not exceed the maximum salary of the higher class. Add pays are not included in the calculation of base salary for purposes of this section. When an employee is promoted into another bargaining unit, the new bargaining unit’s salary on promotion rules shall apply.

(b) When an employee is demoted, whether such demotion is voluntary or otherwise, that employee's compensation shall be adjusted to the salary prescribed for the class to which demoted.

(1) If the salary of the employee is reduced for cause or disciplinary reasons, the employee shall receive the salary at the same step prior to promotion.

(2) If the salary of the employee is reduced through no fault of the employee (i.e., layoff), the salary at demotion shall be at the nearest lower salary to that which was received prior to the demotion.

15.8 Transfer

An employee may be transferred from a class in one department, or to a position of the same class in another department, or to a comparable class, with the approval of both the employee and Department Heads. In the case of a comparable class, the employee must be qualified, as determined by the Director of Human Resources. The Director of Human Resources, in making such a determination, must assure that the maximum salary rate for the classes in question must be equal to or less than the employee's current top step salary, and shall consider, among other things, whether the employee possesses the minimum qualifications for such class, and is able to demonstrate through education, experience, or successful completion of pertinent tests, that he/she is qualified for the transfer. If the transfer involves a change from the jurisdiction of one appointing authority to another, both must consent thereto.

15.9 Salary on Reinstatement

If a former employee is reinstated in the same position previously held or to one carrying a similar salary range, the employee's salary shall not be higher than the salary at the time of separation unless there has been an increase within the salary range.

If a former employee is reinstated to a position in a lower class, the employee's salary shall be set at the same step previously held, but in the pay range of the lower classification.

15.10 "Y" Rate

When an employee's classification is changed to a lower paid classification as the result of a classification study or other action, the employee may be placed on a "Y" rate. A "Y" rate means that the monthly compensation for the employee shall remain in effect until such time as further changes in the pay range of the new classification exceeds the "Y" rate.

15.11 Acting Pay

(a) General Provisions. Any employee in this unit who is assigned by a supervisor to work in a higher paid classification for two (2) or more hours in one (1) day, shall receive the rate of pay in the step of the higher classification which would have been received if the employee had been promoted into that classification, or at least five percent (5%) more than the employee's salary in the

present classification, whichever is greater. Out-of-class assignment pay during overtime status will commence at the first hour worked.

(b) When there is an existing promotional eligibility list, and acting pay assignment is expected to be for more than twenty (20) work days, acting pay shall be assigned from the top three (3) on the promotional eligibility list. If the assignment is for twenty work days or less, the highest ranking employee on the promotional list within the division shall be assigned. When there is no eligible list, section (c) below shall apply.

(c) If there is no existing list, acting pay selection shall be made from the five (5) most qualified employees in the section.

(1) Sections are defined, for the purpose of this clause only, as the sub-groups listed:(a) Water, (b) Sewer, (c) Wastewater Operations, and (d) Wastewater Maintenance; and

(2) Qualifications for the purpose of this Section, as determined by the department head or designee, shall include all the following equal factors:

(a) Seniority in grade within any class immediately below the vacant position.

(b) Worker experience relative to the vacant position.

(c) Prior job performance and attendance.

(d) Certificates or other formal qualification devices such as eligibility lists.

If all things are equal based on above factors, the seniority within the City shall be considered.

(3) The opportunity for acting Pay shall be rotated among the five (5) most qualified employees within each section.

(d) Assignments from other than a promotional eligibility list shall not exceed 120 days per fiscal year per employee.

15.12 Special Assignment Pay

The City Manager may approve additional compensation in an amount not to exceed one additional salary step when an employee is assigned in writing by the supervisor to perform additional duties and responsibilities for the duration of the special assignment.

Any Senior Plant Operator who is assigned in writing by an appropriate authority to assume supervisory authority over another Senior Plant Operator shall receive an additional five percent (5%) special assignment pay per shift when so assigned.

15.13 Special Certification Pay

Water Systems Operator and/or Senior Water Systems Operators who possess a Distribution Operator Certificate issued by the California Department of Health Services shall receive an additional three percent (3%) of base pay.

Section 16. Severability of Provisions

In the event that any provision of this Memorandum of Understanding is declared by a court of competent jurisdiction to be illegal or unenforceable that provision of the Memorandum of Understanding shall be null and void but such nullification shall not affect any other provisions of this Memorandum of Understanding, all of which other provisions shall remain in full force and effect.

In the event that Federal legislation changes the current applicability of the Fair Labor Standards Act, both parties agree to consult and/or confer on the impacts of such legislation to the extent required by law.

Section 17. Past Practices and Existing Memoranda of Understanding

Continuance of working conditions and practices not specifically authorized by ordinance or by resolution of the City Council is not guaranteed by this Memorandum of Understanding.

This Memorandum of Understanding shall supersede all existing Memoranda of Understanding between the City and the Union.

Section 18. Scope of Agreement

Except as otherwise specifically provided herein, this Memorandum of Understanding including Appendices "A", "B", and "C" which are attached to this Agreement and by this reference incorporated herein, and fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire agreement between the parties on any and all matters subject to meeting and conferring. Neither party shall, during the term of this Memorandum of Understanding, demand any change therein nor shall either party be required to negotiate with respect to any matter; provided that nothing herein shall prohibit the parties from changing the terms of this Memorandum of Understanding by mutual agreement.

Section 19. Duration of Agreement

This Memorandum of Understanding shall be effective the date of execution through June 30, 2016.

Section 20. Maintenance of Operations/City Rights

(a) It is recognized that the need for continued and uninterrupted operation of City services is of paramount importance. Therefore, the Union and each employee represented thereby agrees that from the date of execution, through exhaustion of the impasse process/mediation/fact finding as set forth in the Employer/Employee Relations Resolution Section 12 (g) the Union or any person acting in its behalf, or each employee in a classification represented by the Union, shall not cause, authorize, engage in, encourage, or sanction a work stoppage, slowdown, refusal of overtime work, refusal to operate designated equipment (provided such equipment is safe and sound), or picketing, other than informational picketing, against the City or the individual or concerted failure to report for duty or abstinence from the full and faithful performance of the duties of employment, including compliance with the request of another labor organization or bargaining unit to engage in such activity in an attempt to induce a change in wages, hours, and other terms and conditions of employment.

(b) An employee shall not be entitled to any wages or City paid benefits whatsoever if the City Council, by majority vote, determines to its satisfaction, that the employee is, or has, engaged in any activity prohibited by subsection (a) of this Section. The City may take other action which it deems appropriate.

(c) If the City Council, by majority vote, determines to its satisfaction, that subsection (a) of this Section has been violated by the Union, the City may take such remedial action as it deems appropriate.

(d) The Union recognizes the duty and obligation of its representatives and members to comply with the provisions of this Memorandum of Understanding and to make every effort toward inducing all employees in this unit to fully and faithfully perform their duties. In the event of any activity prohibited by subsection (a) hereinabove, the Union agrees to take supererogatory steps necessary to assure compliance with this Memorandum of Understanding.

Section 21. Bankruptcy

Operating Engineers' Local 3, AFL-CIO Operations and Maintenance Unit (hereinafter "O&M"), which is defined for the purposes of this section as including bargaining unit members, officials, attorneys and affiliates, agrees that this MOU shall supersede the terms of all prior MOUs, side letters, and any other agreements between the parties as to the subjects covered herein. O&M further agrees that it shall file no claims in the City's bankruptcy case upon the terms of any agreements that precede this or prior MOUs. However, nothing in this paragraph shall limit O&M's ability to challenge any breach of this MOU.

O&M further agrees that the City is eligible for chapter 9 relief, and that it will not oppose the City's eligibility should eligibility be contested by another party. O&M agrees to support any plan of adjustment consistent with the terms of this MOU.

OPERATIONS AND MAINTENANCE UNIT SUCCESSOR MOU
TERM: JULY 1, 2014 - JUNE 30, 2016

IN WITNESS WHEREOF this Memorandum of Understanding was ratified by a membership vote of the Association on October 1, 2015, and by an affirmative vote of the Stockton City Council on November 3, 2015. The parties hereto have executed this Memorandum of Understanding this _____day of _____.

OPERATIONS AND MAINTENANCE UNIT

Approved as to form:
Operating Engineers' Local No. 3

By: Michael Eggener 11-2-15
MICHAEL EGGENER
Business Representative

CITY OF STOCKTON

APPROVED AS TO FORM:

By: _____
KURT WILSON
City Manager

By: _____
DeAnna L. Solina, Esq.
Interim Director of Human Resources

By: _____
ALLYSON HAUCK
Negotiator for the City

Approved as to form:

John Luebberke, City Attorney

By: _____
MARCI ARREDONDO
Deputy City Attorney

ATTEST:
CITY CLERK

_____
BONNIE PAIGE
City Clerk

Appendix A. Salary Table

Salary Table is deleted.

For up-to-date Salary Schedule, please check the Human Resources Website.

Appendix B. Side-Letter of Agreement
Exhibit A & B Employees

Provisions in this APPENDIX B Side Letter of Agreement pertain only to Employees identified in Exhibit A However, nothing contained herein prohibits the parties from mutually agreeing to changes, but neither party can be compelled to negotiate and/or agree to any changes to this Appendix B, Side-Letter of Agreement.

Section 1 – Re-employment and Employment

The City shall provide regular full-time employment at the City's municipal wastewater utility and water utility to all of the employees listed in Agreement electing to accept such employment effective March 1, 2008.

Section 2 – Terms and Conditions of Re-employment and Employment

(a) City's offer of employment and re-employment shall be unconditional, and shall not be subject to other health, competency or other test, fact, or circumstances relating to an individual employee.

(b) All service with OMI/Thames Water will be counted as service with the City.

(c) Waste Water Certification – Employees outside of the Waste Water Division who hold Waste Water II or higher certification and are available for short-term assignment to the waste water facility will receive an additional five percent (5%) of the top step, which shall be PERS reportable earnings. Certification must be kept current. Employees who decline short-term assignments to the waste water facility subject to department guidelines will lose this additional pay.

Section 3 – Supplemental Retirement Contribution and Benefit

The City shall contribute an amount necessary to fund a supplemental retirement benefit for Exhibit A employees. The supplemental retirement benefit shall be developed and administered by the Public Agency Retirement Services ("PARS") benefit and shall be based on the following criteria:

(a) Only employees listed in Exhibit A shall be eligible to participate;

(b) Commencing March 1, 2008, employees must complete at least one (1) year of continuous City of Stockton service to be eligible for the PARS benefit;

(c) The PARS benefit shall be paid only to those employees listed in Exhibit A who retire from the City in accordance with rules and criteria established pursuant to PERS and the MOU in effect between the City and the OE3;

(d) The benefit level paid to each eligible employee shall be based on their retirement category as identified in Exhibit A based on the following formula:

(1) Categories 1, 2 and 3: All actual years of service (prior City of Stockton only, OMI and City of Stockton years of service as of March 1, 2008 prospectively) x 0.6%.

(2) Category 4: Actual years of service with OMI x 2.0%; actual years of service with City of Stockton as of March 1, 2008 prospectively x 0.6%.

Benefits shall accrue and be paid in accordance with the PARS plan document adopted by City Council.

Section 4 – Compensation and Benefits – Exhibit B Employees Only

Employees identified in Exhibit B shall receive fully paid employee City Health Plan (Medical, Vision, and Dental) or the option of the fully paid OE3 Medical Plan Schedule A through June 30, 2013. Effective June 30, 2013, employees identified in Exhibit B shall receive the same city contribution towards cost of insurance programs as stated in MOU section 14.1(c).

Appendix B – Exhibit A Employees

No.	Name	Retirement Category
1	Alatorre, Jose	4
2	Alejo, Paul	2
3	Anderson, Donnie	4
4	Anderson, Melissa	4
5	Bauman, Richard	2
6	Benedict, Rex	4
7	Bernsdorff, Vic	2
8	Biles, John	4
9	Bing, Sophat	4
10	Callas, David	1
11	Campoy, Kenneth	2
12	Campoy, Steve	1
13	Carter, Quincy	2
14	Castro, Richard	1
15	Cobb, Kevin	4
16	Cook, Lance	2
17	Cordova, Anthony	4
18	Daclan, Felix	1
19	De Anda, Michael	2
20	Esquivel, Jose	4
21	Flagg, Keary	2
22	Flores, Everardo	4
23	Flores, Manuel	4
24	Flores, Raymond	1
25	Freeman, Jason	2
26	Freeman, Shaun	4
27	Gallego, Bruce	1
28	Garcia, Fermin	2
29	Gini, Robert	1
30	Gomez, Ray	3
31	Goode, Jerry	4
32	Grant, Russell	1
33	Gruber, Joseph	2
34	Guardado, Victor	1
35	Hale, Roy	4
36	Handel, Ralph (Ron)	2
37	Harrison, Randy	1
38	Hensley, Debra	2

Appendix B – Exhibit A Employees

No.	Name	Retirement Category
39	Hernandez, Gil	4
40	Hernandez, Ricardo	2
41	Hilinski, James	3
42	Hill, Dale	1
43	Hinkle, Terry	2
44	Hinsz, Tory	2
45	Horn, Timothy	2
46	Howe, Larry	1
47	Hurtado, Abel	4
48	Jones, Anthony M.	1
49	Jones, Frank	4
50	King, Mike	2
51	Kondradi, John	4
52	Lobosco, Orlando	1
53	Lopez, Paul Jr.	1
54	Lucas, Raymond	1
55	Marquez, Ramiro	1
56	Matteson, Gary	1
57	Medina, Nikkie	3
58	Medrano, Alfredo	4
59	Miller, Delbert	2
60	Newell, Debbie	1
61	Newell, William	1
62	Palacio, Manuel	2
63	Palacio, Robert	2
64	Parson, Eric	4
65	Pederson, Michael	2
66	Perez, Julian	2
67	Perry, Dwayne	2
68	Piper, Darren	3
69	Price, Michelle	2
70	Quevado, Jeremiah	4
71	Quinones, Rudy	2
72	Ramsey, Harvey	1
73	Retzius, Tom	1
74	Richards, David	1
75	Rivas, Richard	1
76	Saha, Richard	1

Appendix B – Exhibit A Employees

No.	Name	Retirement Category
77	Saunders, James	3
78	Serpa, Vincent	2
79	Serrano, Alfred	4
80	Shahan, David	2
81	Sigman, John	1
82	Stiffler, Richard	2
83	Temme, Ross	1
84	Tener, Jon	1
85	Tucker, Frank	1
86	Ung, Sean	4
87	Valentine, Kenneth	2
88	Vargas, Richard	2
89	Villarruel, Richard	4
90	Walker, Mark	1
91	Watkins, Thomas	2
92	Whetstone, Jerry	1
93	Whittsitt, Roland	2
94	Wise, Don	1
95	Woolley, Eric	4
96	Zanutto, Thomas	3

Retirement Categories

1 - Retired for CalPERS
2 - PERS - Did Not Cash-Out
3 - PERS - Did Cash-Out
4 - No Prior PERS - Hired by OMI

Appendix B – Exhibit B Employees

No.	Name	Retirement Category
1	Alejo, Paul	2
2	Bauman, Richard	2
3	Bernsdorff, Vic	2
4	Callas, David	1
5	Campoy, Kenneth	2
6	Campoy, Steve	1
7	Carter, Quincy	2
8	Castro, Richard	1
9	Cook, Lance	2
10	Daclan, Felix	1
11	De Anda, Michael	2
12	Flagg, Keary	2
13	Flores, Raymond	1
14	Freeman, Jason	2
15	Gallego, Bruce	1
16	Garcia, Fermin	2
17	Gini, Robert	1
18	Gomez, Ray	3
19	Grant, Russell	1
20	Gruber, Joseph	2
21	Guardado, Victor	1
22	Handel, Ralph (Ron)	2
23	Harrison, Randy	1
24	Hensley, Debra	2
25	Hernandez, Ricardo	2
26	Hilinski, James	3
27	Hill, Dale	1
28	Hinkle, Terry	2
29	Hinsz, Tory	2
30	Horn, Timothy	2
31	Howe, Larry	1
32	Jones, Anthony M.	1
33	King, Mike	2
34	Lobosco, Orlando	1
35	Lopez, Paul Jr.	1
36	Lucas, Raymond	1
37	Marquez, Ramiro	1
38	Matteson, Gary	1
39	Medina, Nikkie	3
40	Miller, Delbert	2
41	Newell, Debbie	1
42	Newell, William	1
43	Palacio, Manuel	2
44	Palacio, Robert	2
45	Pederson, Michael	2
46	Perez, Julian	2
47	Perry, Dwayne	2
48	Piper, Darren	3
49	Price, Michelle	2
50	Quinones, Rudy	2
51	Ramsey, Harvey	1
52	Retzius, Tom	1
53	Richards, David	1
54	Rivas, Richard	1
55	Saha, Richard	1
56	Saunders, James	3
57	Shahan, David	2

Appendix B – Exhibit B Employees

OPERATIONS AND MAINTENANCE UNIT SUCCESSOR MOU
TERM: JULY 1, 2014 - JUNE 30, 2016

No.	Name	Retirement Category
58	Sigman, John	1
59	Stiffler, Richard	2
60	Temme, Ross	1
61	Tener, Jon	1
62	Tucker, Frank	1
63	Valentine, Kenneth	2
64	Vargas, Richard	2
65	Walker, Mark	1
66	Watkins, Thomas	2
67	Whetstone, Jerry	1
68	Whittsitt, Roland	2
69	Wise, Don	1
70	Zanutto, Thomas	3

Retirement Categories

1 - Retired for CalPERS
2 - PERS - Did Not Cash-Out
3 - PERS - Did Cash-Out
4 - No Prior PERS - Hired by OMI

Appendix C. Side Letter of Agreement
Longevity Incentive

1. The provisions of this APPENDIX C Side Letter of Agreement only to Employees identified in the corresponding attachment marked as APPENDIX C and cannot be amended, changed, or deleted unilaterally by either party. However, nothing contained herein prohibits the parties from mutually agreeing to changes, but neither party can be compelled to negotiate and/or agree to any changes to this Side Letter of Agreement.

2. Effective March 1, 2008, employees identified in APPENDIX C shall be entitled to receive the amounts noted for each year of service up to a maximum of 5 years. The total amounts shown are intended to be paid on a monthly basis by the date shown (e.g., for amounts totaling $15,000, $1,250.00 shall be paid monthly, so the total amount noted shall have been paid out by 3/1/2009).

3. Employees listed in APPENDIX C shall be entitled only to the amount earned (in paid status) for that month. If an employee terminates employment or is in an unpaid status for a period less than one month, the amount noted shall be prorated for the days in paid status, including paid sick and annual leave. Employees shall not be entitled to payment not earned (unpaid leaves of absences, termination).

4. The amounts noted herein shall not be subject to cost-of-living increases, promotions or other increases to base pay that said employees may earn during the term of this Agreement. Employees who sever their employment relationship with the City and are subsequently reinstated or re-employed, shall not be eligible for any payment herein upon reinstatement or re-employment, except as may be awarded by a court of law or arbitrator.

5. The Longevity Incentive shall be reported to PERS as “PERSable” income by the City.

OPERATIONS AND MAINTENANCE UNIT SUCCESSOR MOU
TERM: JULY 1, 2014 - JUNE 30, 2016

Appendix C Longevity Incentive, Maximum Annual Payments

					Payable:				
25+ years City service as of 8/			DOH prior to 8/1/1978		3/1/2009	3/1/2010	3/1/2011	3/1/2012	3/1/2013
1		8/19/1974	Tucker, Frank	Env. Contr. Officer	$15,000	$17,500	$20,000	$20,000	$20,000
2	R	9/18/1974	Flores, Raymond	Sr. Water Systems Operator	$15,000	$17,500	$20,000	$20,000	$20,000
3		11/18/1974	Howe, Larry	Heavy Eq. Operator	$15,000	$17,500	$20,000	$20,000	$20,000
4		1/27/1975	Miller, Delbert	Plant Maint Mech	$15,000	$17,500	$20,000	$20,000	$20,000
5		8/02/1976	Rivas, Richard	Heavy Eq. Operator	$15,000	$17,500	$20,000	$20,000	$20,000
6		1/17/1977	Lobosco, Orlando	Sr Plant Maint Mech	$15,000	$17,500	$20,000	$20,000	$20,000
7	R	3/28/1977	Campoy, Steve	Electrical Technican II	$15,000	$17,500	$20,000	$20,000	$20,000
8		4/20/1977	Gallego, Bruce	Sr Plant Maint Mech	$15,000	$17,500	$20,000	$20,000	$20,000
9		6/20/1977	Newell, William	Sr. Coll. Sys. Oper.	$15,000	$17,500	$20,000	$20,000	$20,000
10	R	6/30/1977	Daclan, Felix	Plant Maint Mech	$15,000	$17,500	$20,000	$20,000	$20,000
11		8/24/1977	Richards, David	Microbiologist	$15,000	$17,500	$20,000	$20,000	$20,000
12		9/14/1977	Marquez, Ramiro	Coll. Sys. Oper. II	$15,000	$17,500	$20,000	$20,000	$20,000
13		4/25/1978	Grant, Russell	Sr. Plant Operator	$15,000	$17,500	$20,000	$20,000	$20,000
14		4/27/1978	Perez, Julian	Plant Operator II	$15,000	$17,500	$20,000	$20,000	$20,000
15		5/01/1978	Temme, Ross	Water Systems Operator II	$15,000	$17,500	$20,000	$20,000	$20,000
20-25 years of City service as			DOH between 8/1/1978 and 8/1/1983						
16		9/01/1978	Saha, Richard	Sr Plant Maint Mech	$12,500	$15,000	$17,500	$17,500	$17,500
17		3/06/1979	Lopez, Paul Jr	Coll. Sys. Oper. II	$12,500	$15,000	$17,500	$17,500	$17,500
18		3/16/1979	Harrison, Randy	Sr. Water Systems Operator	$12,500	$15,000	$17,500	$17,500	$17,500
19		7/11/1979	Ramsey, Harvey	Plant Maint Mech	$12,500	$15,000	$17,500	$17,500	$17,500
20		12/01/1979	Hinkle, Terrie	Chemist	$12,500	$15,000	$17,500	$17,500	$17,500
21		7/22/1982	Walker, Mark	Sr Plant Maint Mech	$12,500	$15,000	$17,500	$17,500	$17,500
22		9/20/1982	Stiffler, Richard	Sr. Env. Contr. Officer	$12,500	$15,000	$17,500	$17,500	$17,500
23		10/01/1982	Watkins, Thomas	Sr. Coll. Sys. Oper.	$12,500	$15,000	$17,500	$17,500	$17,500
24		10/18/1982	Wise, Don	Sr. Plant Operator	$12,500	$15,000	$17,500	$17,500	$17,500
25		6/1/1983	Gini, Robert	Coll. Sys. Oper. II	$12,500	$15,000	$17,500	$17,500	$17,500
15 - 20 years of City service as			DOH between 8/1/1983 and 8/1/1988						
26		2/01/1985	Hensley, Debra	Electrical Technican II	$10,000	$12,500	$15,000	$15,000	$15,000
27		3/18/1985	Gruber, Joseph	Sr. Plant Operator	$10,000	$12,500	$15,000	$15,000	$15,000
28		10/16/1985	Guardado, Victor	Laboratory Tech	$10,000	$12,500	$15,000	$15,000	$15,000
29		1/21/1986	Jones, Anthony	Coll. Sys. Oper. II	$10,000	$12,500	$15,000	$15,000	$15,000
30		4/21/1986	Matteson, Gary	Sr. Plant Operator	$10,000	$12,500	$15,000	$15,000	$15,000
31		7/28/1986	Bauman, Richard	Water Systems Operator II	$10,000	$12,500	$15,000	$15,000	$15,000
32		9/01/1987	Lucas, Raymond	Water Systems Operator I	$10,000	$12,500	$15,000	$15,000	$15,000
33		3/07/1988	Cook, Lance	Sr. Water Systems Operator	$10,000	$12,500	$15,000	$15,000	$15,000
34		4/01/1988	Newell, Debbie	Water Systems Operator II	$10,000	$12,500	$15,000	$15,000	$15,000

Appendix C Longevity Incentive, Maximum Annual Payments

6 - 15 years of City service as			DOH between 8/1/1988 and 8/1/1997		3/1/2009	3/1/2010	3/1/2011	3/1/2012	3/1/2013
35		6/3/1991	Alejo, Paul	Sr. Water Systems Operator	$5,000	$7,500	$10,000	$10,000	$10,000
36	R	7/17/1989	Callas, David	Chemist	$5,000	$7,500	$10,000	$10,000	$10,000
37		5/18/1992	Campoy, Kenneth	Electrical Technician II	$5,000	$7,500	$10,000	$10,000	$10,000
38	R	8/01/1989	Castro, Richard	Water Systems Operator I	$5,000	$7,500	$10,000	$10,000	$10,000
39		11/01/1995	Gomez, Ray	Water Systems Operator II	$5,000	$7,500	$10,000	$10,000	$10,000
40		9/01/1989	Hill, Dale	Water Systems Operator II	$5,000	$7,500	$10,000	$10,000	$10,000
41		7/16/1997	Hinsz, Tory	Coll. Sys. Oper. I	$5,000	$7,500	$10,000	$10,000	$10,000
42		5/16/1991	King, Mike	Water Systems Operator	$5,000	$7,500	$10,000	$10,000	$10,000
43		8/01/1991	Palacio, Robert	Sr. Coll. Sys. Oper.	$5,000	$7,500	$10,000	$10,000	$10,000
44		5/18/1992	Perry, Dwayne	Maint. Mechanic	$5,000	$7,500	$10,000	$10,000	$10,000
45		4/16/1992	Price, Michelle	Environmental Control	$5,000	$7,500	$10,000	$10,000	$10,000
46		5/1/1991	Quinones, Rudy	Water Systems Operator	$5,000	$7,500	$10,000	$10,000	$10,000
47		6/01/1990	Retzius, Tom	Water Systems Operator II	$5,000	$7,500	$10,000	$10,000	$10,000
48		8/01/1991	Sigman, John	Plant Maint Mech	$5,000	$7,500	$10,000	$10,000	$10,000
49		8/01/1994	Tener, Jon	Plant Maint Mech	$5,000	$7,500	$10,000	$10,000	$10,000
50		6/1/1992	Valentine, Kenneth	Maint. Mechanic	$5,000	$7,500	$10,000	$10,000	$10,000
51		8/16/1994	Whetstone, Jerry	Water Systems Operator II	$5,000	$7,500	$10,000	$10,000	$10,000
52		5/3/1993	Zanutto, Thomas	Coll. Sys. Oper. II	$5,000	$7,500	$10,000	$10,000	$10,000