

**MEMORANDUM
OF
UNDERSTANDING
BETWEEN
THE CITY OF TURLOCK
AND
TURLOCK CITY EMPLOYEES ASSOCIATION**

November 1, 2017-June 30, 2018

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**MEMORANDUM OF UNDERSTANDING
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AND
TURLOCK CITY EMPLOYEES ASSOCIATION**

PREAMBLE

The authorized representatives of the City Council of the City of Turlock, hereafter referred to as the "City", and the authorized representatives of the Turlock City Employees Association hereafter referred to as "TCEA" do jointly accept and agree to all the terms and conditions of employment set forth in this Comprehensive Memorandum of Understanding.

The terms and conditions of employment set forth in this Memorandum of Understanding have been discussed in good faith by the authorized representatives of the City and the authorized representatives of TCEA. The authorized representatives of TCEA agree to recommend acceptance by the employees of all terms and conditions set forth herein. Following said acceptance by the employees, authorized representatives of the City agree to recommend to the Turlock City Council that all terms and conditions set forth herein be approved by resolution. Upon adoption of said resolution, all terms and conditions so incorporated shall become effective without further action by either party.

1:00 TERM OF AGREEMENT

This Memorandum of Understanding ("MOU") shall commence at 12:01 a.m. on November 1, 2017 and terminate at midnight on June 30, 2018. Any time after April 1, 2018, either City or the Association may deliver written notice to the other party of its intent to modify the terms of this MOU.

2:00 MANAGEMENT RIGHTS

2:01 General Terms

The City continues to possess exclusively the rights listed below plus all other rights to which, by law, the City is entitled. These rights may not be abridged or modified in any way, except by formal legislative action by the City Council (i.e.- resolution or ordinance):

- a. To determine the mission of all constituent departments, commissions and boards.
- b. To set standards of service.
- c. To determine the appropriate levels of City services, except where defined in the

MOU.

- d. To take disciplinary action for just cause.
- e. To organize and reorganize its departments and affairs, and to otherwise exercise complete control and discretion over its organization and technology.
- f. To employ any appropriate means or method to maintain the efficiency of governmental operations and administration.
- g. To determine the methods, means and personnel by which government operations are to be conducted.
- h. To determine the procedure and standards for selection for employment and determine the content of job classifications.
- i. To determine when an emergency exists and to take all necessary action to carry out its mission in emergencies, including recalling and deploying off-duty personnel and requiring employees work overtime.
- j. To direct employees, make assignments and determine need for overtime work.
- k. To transfer or reassign employees, as outlined in the MOU.
- l. To lay off employees by position as result of: elimination of positions through City Council resolution, lack of work; budgetary considerations (including, without limitation, lack of funds or other appropriate related reasons), reorganization; or other related reasons.
- 1. Any agreement between the City and TCEA evidenced by a Memorandum of Understanding pursuant to Government Code Section 3500 *et. seq.* shall take precedence over any of the above enumerated employee and management rights; and that such a Memorandum of Understanding shall be honored in good faith during the life of this contract.
- 2. Prior to any resolution, ordinance or statement of policy affecting employee rights, wages or working conditions of employment, the City shall provide ten days' notice to TCEA. TCEA shall have the right to express its opinion upon the matter to the City Manager, Mayor and City Council and maintains the right to meet and confer regarding such proposed changes when applicable.

2:02 MEDICAL EXAMINATIONS

- 1. **When Required.** The City Manager may require, upon cause, an employee to have a medical examination by a physician or physicians designated by the City Manager to evaluate the capacity of the employee to perform the work of his or her

position. Medical examination shall mean examination by physicians, psychiatrists, psychologists, and other appropriate practitioners to determine the employee's physical, mental or emotional condition as any such condition relates to employment by the City.

2. **Costs.** Fees for the examination and for the service of medical specialists or technicians, if required by the City, shall be paid by the City. The employee may provide medical or other evidence to the examining physician or to the City. The examining physician shall make a written report of the examination to the City.

The City Manager shall provide a copy of the physician's written report to the employee.

3. **Transfer.** When the City Manager, after considering the conclusions of the medical examination and other pertinent information, concludes that the employee is unable to perform the work of his or her present position, but is able to perform the work of another vacant position, the appointing power may transfer the employee to such a position. The employee transferred pursuant to this section shall receive the maximum of the salary range of the class to which he or she is transferred, provided that such salary is not greater than the salary he or she received at the time of his or her transfer. Transfer, for the purposes of this section, shall mean to change an employee from one position to another regardless of the new salary or wage scale involved.
4. **Termination.** When the City Manager, after considering the conclusions of the medical examination provided for by this section or medical reports from the employee's physician, and other pertinent information, concludes that the employee is unable to perform the work of his or her present position, or any other position in the City, and cannot be reasonably accommodated as defined in the Americans with Disabilities Act which became effective July 26, 1992, and the employee is not eligible or waives the right to retire for disability and elects to withdraw his or her retirement contributions or to permit his or her contributions to remain in the retirement fund with rights to service retirement, the City Manager may terminate the employment of the employee.
5. **Reinstatement.** Upon the request of the City Manager or the petition of the employee who was terminated or transferred in accordance with this section, the employee may be reinstated to an appropriate vacant position, if it is determined by the Department Director that the employee is no longer incapacitated for duty. In approving or ordering such reinstatement, the City Manager may require the satisfactory completion of a new probationary period only if the employee is placed in a different position. When the City Manager finds the employee who was terminated or transferred is no longer incapacitated for duty and there is no vacant position to which he or she appropriately can be appointed, the name of the employee shall be placed on a re-employment list.

3:00 ASSOCIATION BARGAINING

3:01 Representative Time Off

1. Four (4) TCEA representatives shall be granted reasonable paid release time for meet and confer. Necessary release time shall be granted to the applicable steward for grievance meetings and investigations.
2. The City will allow two (2) TCEA representatives to attend P.E.R.S. training or meetings not to exceed eight hours per year. Travel and meal expenses will be borne by the representatives. Attendance at such meetings must be approved through the normal trip authorization process.

4:00 AGENCY SHOP

4:01 Representative Fee for Non Association Members

It is understood that TCEA may charge non-members a reasonable fee when the non-member requires or desires representation services for grievances and discipline, and it is agreed that such fee shall not be a violation of this section or the M.O.U.

4:02 Association Membership

1. Pursuant to California Government Code §3502.5, TCEA caused an “agency shop” arrangement to be placed into effect by a secret ballot election that concluded on June 7, 2004. With the establishment of the agency shop arrangement, all employees in the represented classifications must, as a condition of employment either join the Association or pay the Association a service fee.
2. The City has agreed to provide all new represented employees on the date of their initial employment an information packet explaining the agency shop arrangement, association membership, agency fee payer, religious conscientious objector and the agency fee appeals procedure. The City agrees to continue providing the packet to all new represented employees during the term of this MOU. The packet and all enclosed information shall be provided to the City by TCEA and shall be produced at the sole expense of TCEA. TCEA acknowledges the requirements of Government Code § 3502.5(f) regarding financial reports.
3. Pursuant to Government Code § 3502.5, any employee who is a member of a bona fide religion, body or sect that has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support the Association but shall, in lieu of dues or agency shop fees, pay a sum equal to the agency shop fee to one of the following non-religious, non-labor charitable organizations: Earthshare of California, United Way, or the American Red Cross.

4. All regular full-time employees who are members of TCEA on the effective date of this MOU shall maintain such membership in good standing during the term of the MOU; subject, however, to the right to resign from membership during the thirty (30) days prior to the expiration of this MOU.
5. All regular full-time employees hired after the effective date of this MOU, and who choose to become members of TCEA, shall maintain such membership in good standing during the remaining term of this MOU.
6. Pursuant to Government Code § 3502.5(b), TCEA shall indemnify the City and hold it harmless against any and all claims, demands, suits, or other forms of liability that may arise out of, or by reason of, any action taken by City for the purpose of complying with this Section.

4:03 Payroll Deductions for Non Association Members

The City will deduct, each month, monthly dues in the amount certified by TCEA from the pay of those employee members of TCEA who individually request, in writing, that such deduction be made and from agency fee payers as authorized by the agency shop arrangement.

5:00 CITY POLICIES

5:01 Establishing Work Rules and Policies

The City agrees to meet and confer on changes in existing work rules or the establishment of new work rules with the Association as required by Government Code §3500 *et. seq.*

5:02 Revising Work Rules and Policies

Proposed or modifications of existing work rules shall not become effective until the City and Association have met and conferred on them in accordance with Government Code §3500 *et. seq.* Work rules will become effective as to each employee after receipt and acknowledgement.

5:03 Enforcing Work Rules and Policies

Employees shall comply with all existing reasonable rules that are not in conflict with the terms of this Agreement provided the rules are uniformly applied and enforced.

Any unresolved complaint by the Association as to the reasonableness of any new or existing rule, or any complaint by the Association involving discrimination in the application of new or existing rules shall be resolved through the grievance procedure.

6:00 PERSONNEL RULES

The parties agree that issues concerning the administration of wages and benefits which are not specifically referenced herein are covered through language contained in either the PERSONNEL RESOLUTION or PERSONNEL ORDINANCE.

7:00 BUDGET REPORTS

The City will provide to the Association a quarterly, mid-year and annual budget report.

8:00 SCHEDULE CHANGES

Work schedules may be changed with a minimum of 30 calendar days advance notice. In the event of an emergency or unforeseen circumstance, the City may temporarily change schedules to address the emergency or unforeseen circumstance.

9:00 EMPLOYMENT

9:01 Probation – New Employees

The probation period shall be twelve (12) months from the date of hire. Probationary employees are eligible to receive a merit increase to the next highest step in the salary range of their classification upon completion of their probationary period and achieving a minimum overall rating of “Meets Standard” on their performance evaluation. Failure to achieve a minimum overall rating of “Meets Standard” shall cause the probationary employee to be terminated for failing to meet the standards of their position.

9:02 Promotional Employees

Employees who are promoted and do not perform at an acceptable level in their new position for which they are serving a new one-year probationary period will return to a former position in which they held regular status in their department.

9:03 Personnel Files

Employees may review their personnel files at any reasonably arranged time.

9:04 Evaluations

Each employee shall have a written performance evaluation each year, which shall be placed in the employee’s personnel file. Employees serving a probationary period will receive semi-annual evaluations.

9:05 New Positions And Job Openings

New positions or vacancies may be created by departmental promotion, attrition,

resignation, termination, City promotion or transfers. The City reserves the right to determine if the positions shall be filled from within the City services or by open competition. In order to make the aforementioned determination, the City Manager shall meet with the Department Director and make a decision that the City Manager considers to be in the best interest of the City.

9:06 Classification Descriptions

The City shall offer to meet and consult on newly developed or modified job descriptions for all classifications represented by the Association.

10:00 SALARIES / SPECIAL PAY / OVERTIME / STANDBY / CALL BACK / COMPENSATORY TIME OFF

10:01 Salaries

The City agrees to provide bargaining unit members with a one percent (1%) increase to base salary effective November 1, 2017.

10:02 Bilingual Pay

1. The City agrees to pay a premium of 2.5% of base rate of pay to employees with bilingual skills in positions the City has determined the use of bilingual skills are necessary or desired to serve the Turlock community. Currently stipends are offered for Spanish and Portuguese. Additional languages may be offered at the discretion of the City Manager.
2. Bilingual assignments shall be recommended by the Department Director and approved by the City Manager. In order to receive bilingual assignments, the employee must undergo and pass testing to be certified as bilingual. In addition, the individual must have provided needed translation on a routine basis.
3. The Department Director with the approval of the City Manager shall have the authority to terminate bilingual assignments when either: (1) the need no longer exists or (2) the number of employees who certified as bilingual is more than is needed for any department.
4. Members of TCEA who possess bilingual skills agree to continue rendering needed interpretation services whether or not they receive bilingual pay. Use of bilingual skills which are incidental to primary job assignments will not warrant bilingual pay.
5. Individuals not selected to earn bilingual pay may submit documented translation service records covering a period of time not less than three (3) months to request a verbal bilingual certification exam and bilingual pay. Such request will be evaluated on the service operation needs of the effected department. The final decision regarding any department's need for a translator is made by the City

Manager. The City Manager's decision is final and binding and not subject to the grievance procedure.

6. Bilingual pay is not considered part of the base pay for the calculation of overtime.
7. Bilingual pay is not available to employees while they are serving their initial twelve (12) month probation period.
8. Bilingual pay will begin the pay period following the completion and passing of bilingual exam.

10:03 Associate Degree Incentive Pay

Employees who possess an Associate's Degree from an accredited college or university shall receive an additional \$50.00 per month as long as the degree or its equivalency is not listed as a minimum qualification for their job description. Employees will be required to submit proof of their degree. Employees shall not be eligible for the incentive pay during their initial twelve (12) month probation period. Employees are not allowed to use the Associate Degree Incentive Plan in conjunction with the Bachelor Degree Incentive Plan or vice versa. Associate's Degree Pay will begin the pay period following the submission of proof of degree.

10:04 Bachelor Degree Incentive Pay

Employees who possess a Bachelor's Degree from an accredited college or university shall receive \$100 per month as long as possession of, or equivalency to the degree is not listed as a minimum qualification for their job description. Employees will be required to submit proof of their degree. Employees shall not be eligible for the incentive pay during their initial twelve (12) month probation period. Employees are not allowed to use the Associate Degree Incentive Plan in conjunction with the Bachelor Degree Incentive Plan or vice versa. Bachelor's Degree Pay will begin the pay period following the submission of proof of degree.

10:05 Masters Degree Incentive Pay

Employees who possess a Master's Degree from an accredited college or university shall receive an additional \$150.00 per month, as long as possession of, or equivalency to the degree is not listed as a minimum qualification for their job description. Employees will be required to submit proof of their degree. Employees shall not be eligible for the incentive pay during their initial twelve (12) month probation period. Employees are not allowed to use the Bachelor's Degree Incentive Pay in conjunction with the Master's Degree Incentive Pay or vice versa. Master's Degree Pay will begin the pay period following the submission of proof of degree.

10:06 Out of Class Pay

1. The City agrees that upon specific written assignment by the Department Director an employee may be required to assume the duties, responsibilities, authority and accountability of a higher classification.
2. Employees assigned to perform the duties of a higher class for at least forty (40) consecutive hours shall be compensated at the base rate of the higher classification if the rate is higher than that to which the employee is regularly assigned beginning on the forty-first (41) hour. The compensation amount received by the “acting” employee shall not exceed an additional five percent (5%) over their salary. An employee seeking additional training in another class may waive his/her right to out-of-class pay in order to pursue desired training.

10:07 Flexible Staffing

Effective February 2, 2010, the flexible staffing program was terminated.

10:08 Definition of Hours Worked

Hours worked is defined as hours worked including, vacation, sick and comp time used.

10:09 Overtime Defined

Overtime is defined as all-time worked over forty (40) hours in a work week including vacation, sick, and comp time used.

10:10 Compensatory Time Off for Overtime Worked

Upon prior authorization of the Department Director or due to emergencies, overtime may be approved and paid at time-and-one-half **of** the base wage as determined by the salary schedule, or by compensatory time off at time-and-one-half, in units of not less than one-half hour, as designated by the employee. All overtime authorized shall be recorded.

10:11 Compensatory Time Off

Compensatory time off shall be taken at a time mutually agreeable to both the employee and Department Director. An employee may accumulate no more than sixty (60) hours of compensatory time off. Employees in the Utility Maintenance Worker classification may accumulate a maximum of eighty (80) hours. By June 30th of each year, all employees will receive payment for any compensatory time-off hours over forty eight (48) hours and have their level of accrual reduced to forty eight (48) hours.

10:12 Flexible Time Off

Prior to overtime being worked, a supervisor may arrange for and inform an employee to

take such time off at straight time during the same week that the overtime is worked to insure that the employee's actual time worked does not exceed forty (40) hours within a given workweek.

10:13 Holiday Overtime

An employee who is scheduled or called back in accordance with section 10:16 to work on a scheduled holiday shall receive double time pay or compensatory time off for each one hour worked on that holiday, except as provided in section 10:14.

10:14 Standby

Employees, including supervisors who volunteer or are scheduled for standby duty, shall be paid sixteen (16) hours of their base rate of pay for every seven, twenty-four (24) hour shifts on standby, starting at the end of the shift on Friday and ending Friday at the end of the shift the following week. Employees shall receive one and one half (1½) times of their base rate of pay or one and one-half compensatory time for call-outs (minimum of one and one half (1½) hour increments). Individuals scheduled to work standby wishing to switch with another employee shall obtain their supervisor's approval at least one week in advance of the scheduled standby week. Standby lists will be posted in December of each year for the next twelve- (12) month period (January - December). Individuals on standby will be allowed to take a City vehicle home. City vehicles shall be utilized in accordance with the City Vehicle Policy. In the event that the standby duty begins on a Friday that is also a Holiday, both the employee ending standby duty and the employee assuming the standby duty shall receive four (4) hours of standby pay.

10:15 Holiday Standby

All personnel scheduled to work on a holiday shall be scheduled from the beginning of the holiday at midnight to the next midnight. An employee who is required to be on standby duty on a scheduled holiday shall be paid, in addition to the normal standby pay, an additional four hours at their base rate of pay for the twenty-four (24) hour holiday period.

10:16 Work on Holiday Standby

Employees who are on scheduled holiday standby shall be paid at double their base rate of pay for actual hours worked on a call back assignment on that holiday but no less than 1½ hours.

1. Holidays, for the purpose of this section shall be the actual calendar date from 12 a.m. to 12 p.m. on which the holiday falls and which are delineated as holidays in section 27:00 of this Memorandum of Understanding.

10:17 Call Back

Definition: Call back assignments are unscheduled/ unplanned employer requests for

employees to return to work to address work demands, as determined by City.

Employees who are called back to work will receive a minimum of two (2) hours of compensation (pay or time) at time-and-one-half. Actual hours worked in excess of two (2) hours will be compensated (pay or time) at time-and-one-half. Pay under this section shall be based on base rate of pay.

10:18 Base Salary and Regular Rate of Pay

“Base Salary” is the hourly rate or monthly salary rate identified on the Salary Schedule which includes salary ranges for each job classification, as defined by the City of Turlock’s adopted Compensation Plan. Base Salary does not include any other forms of compensation.

All employee cashouts will be paid at “Base Salary” except for cashout of FLSA CTO which will be paid at the “Regular Rate of Pay” as these payouts are for actual hours worked.

“Regular Rate of Pay” is defined by the FLSA and includes base pay plus all incentive, certificate, and assignment pays earned during said pay period. Uniform allowances are exempt from inclusion in the regular rate of pay calculation.

10:19 Reducing Employee Concessions

City employees have been providing concessions to the City since March 16, 2009.

The Employee concessions will be reduced as follows:

Effective July 1, 2014, employees will receive a 2.32% base salary increase.
Effective July 1, 2015, employees will receive a 2.11% base salary increase.
Effective July 1, 2016, employees will receive a 2.19% base salary increase.
Effective August 1, 2017, employees will receive a 2.38% base salary increase.

Attachment F, Salary Schedule.

11:00 RETIREMENT BENEFITS

11:01 Retirement Program

Employees covered by this Agreement participate in the Public Employees Retirement System (PERS) 2.7% at 55 for full and modified formula for all active local miscellaneous members only. The City pays the employee’s 8% PERS contribution as well as the Employer’s contribution.

Employee will pay the employee’s 8% PERS contribution.

In addition, the employee will pay 1% of the Employers PERS contribution designated as normal cost (NC) and attributable to the amendment to the PERS contract dated January 1, 2008 on the attached valuation dated April 6, 2011. (See Attachment B). The total 9% PERS contribution shall be deducted as a pretax employee pension expense.

1. Retirement benefits will be based on the highest one-year of service. Conversion of sick leave accrual towards service credit will be allowed in lieu of sick leave cash out provisions.
2. The PERS 1959 Survivor Benefit is covered at level three (3).
3. The City agrees to amend the contract with CalPERS to provide the employee option to purchase Military Service Credits.
4. New employees, as defined by AB 340, hired on or after January 1, 2013, will participate in the Public Employee Retirement System (PERS) 2% at 62 defined benefit formula. New employees shall have an initial contribution rate of at least fifty percent (50%) of the total normal cost rate for the defined benefit plan or the current contribution rate of similarly situated employees, which is currently a 9% PERS contribution, whichever is greater. All employees shall be subject to the mandatory provisions of AB 340.

11:02 Retiree Health

1. The City agrees to offer retirees group health, dental, and vision coverage contracted by the City. The retired employee is responsible to pay the premium costs of elected coverage.
2. Premiums will be reviewed for rate adjustments once every twelve (12) months with the plan renewal effective July 1st of each year. Retirees will receive a 15 day notice of premium rate changes.

11:03 Retiree Health Savings RHS Vantage Care - Funding

1. The City agrees to contribute to each TCEA represented employee two percent (2%) of the employee's base payroll to be deposited in each individual's RHS Vantage Care account.

11:04 Retiree Health - Eligibility

Retirees who wish to participate in the City's offered plan after retirement must elect to continue with such coverage within 30 calendar days of retirement. Thereafter, retirees are ineligible to participate in the City's offered plan. Eligibility for Retiree Health Insurance Coverage is set forth in Attachment A.

11:05 Conversion of Sick Leave To RHS Vantage Care Plan

Employees retiring from City service may convert sick leave at a rate of fifty percent (50%) of its value based upon the base salary rate of the retiring employee at the time of retirement into their individual Retiree Health Savings Vantage Care plan.

11:06 Deferred Compensation

The City agrees to match the employee's contribution to the City's deferred compensation program up to one half percent (1/2 %) of the employee's base salary for each pay period in which the employee contributes to the program. Employees with over fifteen (15) years of service will be matched up to one percent (1%) of the employee's base salary for each pay period in which the employee contributes to the program. The increase in the City's match shall be effective the 1st day of the month following the employee's 15th anniversary.

12:00 RETIREE HEALTH SAVINGS VANTAGE CARE PLAN

Effective March 1, 2006, the Retiree Health Savings Vantage Care Plan was made available to the Association. Effective June 1, 2007 the Retiree Health Savings Vantage Care Plan became a mandatory savings plan requiring participation by all members as required by the IRS. The general description of this program is included as Attachment A to this MOU.

The City and Association agreed that the City would terminate contributions to the Retiree Health Fund and instead, contribute two percent (2%) of each employee's base payroll into each employee's Retiree Health Savings Vantage Care Plan. This change in contribution from the Retiree Health Fund to each employee's Retiree Health Savings Vantage Care Plan became effective May 1, 2012.

13:00 INSURANCE

13:01 Health, Dental & Vision Benefits

1. The City agrees to establish and maintain a health, prescription, vision and dental plan for employees and their dependents through a self-funded plan or a stand-alone insurance plan.
2. The City agrees to pay the full premium for each covered employee and their dependents for health, dental and vision insurance.
3. The City reserves the right to provide health benefits through a self-funded plan or stand-alone insurance plan. The City reserves the right to discontinue a plan under any of the following circumstances:
 - a. The plan imposes exorbitant costs upon the City.

- b. The health care carrier refuses to provide services to the City.
 - c. The health care provider no longer offers the services; or
 - d. The health plan is discontinued.
4. Employees who are covered by an alternate health insurance provider through spousal coverage acceptable to the City shall have the option to participate in the City's deferred compensation program as established and administered under the adopted rules of the City. Upon proof of alternate health insurance, the City agrees to contribute fifty percent (50%) of the premium cost to the employee's deferred compensation account for those employees not electing City health insurance.

13:02 Collaborative Health Care Bargaining

TCEA and the City recognize the need to implement a new health care system and that the goal is to design a less expensive health care plan by July 1, 2019 and 100% of the savings, as determined during the collaborative bargaining process, will be given back to the employees in a manner determined during the collaborative bargaining process.

Following implementation of a new health care system, and upon the commencement of successor MOU negotiations thereafter, the City and TCEA agree to further consider and discuss the Citywide Total Compensation Study from Cooperative Personnel Services (CPS) HR Consulting.

14:00 LIFE INSURANCE

The City agrees to furnish term life insurance for each full time regular employee. The amount of the insurance will be an amount equal to one and one-half (1-1/2) times the annual base salary rate rounded to the next higher \$1,000, if not already a multiple thereof, plus \$5,000. The maximum benefit under this provision is \$500,000.

15:00 DONATION OF ACCRUED TIME

- 1. The City agrees to allow employees to donate their vacation and/or sick leave to fellow employees who have incurred catastrophic, (i.e. life threatening) illnesses or injuries and do not have sufficient time on the books to carry them through the waiting period to qualify for long term disability payments. Such cases must be approved by the City Manager. The decision of the City Manager shall be final and binding and not subject to the grievance procedure.
- 2. The City agrees to allow employees to donate their vacation and/or sick time to fellow employees who must care for an immediate family member who has incurred catastrophic (i.e. life threatening) illnesses or injuries. Such cases must be approved by the City Manager. The decision of the City Manager shall be final and

binding and not subject to the grievance procedure.

3. Employees who donate sick leave must do so at a conversion rate of 2 to 1; (i.e., four (4) hours credited for every eight (8) hours of sick leave donated – such donations will not count towards utilization of sick leave sell-back in December). A maximum of eight (8) hours sick leave may be donated.
4. Employee's immediate family is defined in Section 26:06.

16:00 LONG TERM DISABILITY

Long Term Disability insurance will be provided to all full-time employees. Employees will be first eligible for coverage the first of the month following 30 days of continuous employment with the City of Turlock. The waiting period for benefits shall be sixty (60) days. Employees may augment long term disability coverage with accrued leave to a limit not to exceed 80% of their current monthly salary.

17:00 UNIFORMS

The City agrees to continue to provide a uniform to those classifications currently provided one. The City agrees to continue to provide uniform cleaning service for those bargaining unit members who receive it currently.

18:00 SAFETY FOOTWEAR REIMBURSEMENT ALLOWANCE

Annually, between June 1 to June 30, designated employees are encouraged to purchase new safety footwear for the next fiscal year. The City shall provide designated employees reimbursement for the purchase of safety footwear up to one hundred and fifty dollars (\$150) on August 5. The reimbursement is contingent upon the following:

1. Employees whose job classification requires that they work in the field shall be reimbursed on an annual basis.
2. Employees whose job classification requires that they work in the field a nominal amount (e.g., at least fifty percent (50%)) shall be reimbursed on a bi-annual basis (every other year).
3. Employees whose job classification requires that they work in the field a de minimis amount shall be provided reimbursement every three years.
4. The employee must be identified by classification or individually based on assignments by the City in order to be reimbursed for safety footwear.
5. The safety footwear purchased must meet standards established by the City (i.e., steel toe, etc.) and an original receipt must be presented in order to receive reimbursement. No inspection of the footwear is required prior to submitting for reimbursement. But upon inspection, the footwear must meet the standards

established by the City and OSHA guidelines.

6. Employees may request a reimbursement prior to the times listed above due to excessive wear and tear of their safety boot. The City's decision regarding reimbursement is final and binding and not subject to the grievance procedure.
7. Employees may purchase as many pairs of footwear that is covered in whole or in part by \$150 and may use any portion of the \$150 for repair of footwear.

19:00 EDUCATIONAL REIMBURSEMENT PROGRAM

19:01 Educational Reimbursement

A TCEA employee wishing to receive reimbursement for tuition and book fees for coursework related to the advancement of knowledge and skills of their classification, must request approval by the department director and the City Manager prior to enrollment in a course.

Upon approval of coursework by the City Manager and successful completion witnessed by a certificate or passing grade, the employee will receive reimbursement for fees as outlined below:

1. The maximum individual reimbursement is \$500 per fiscal year.
2. An amount of no more than \$4,500 per fiscal year for employees in the miscellaneous bargaining unit may be used for this purpose.
3. Participants in this program are required to have and maintain a minimum overall performance rating of average or above.
4. Probationary employees are not eligible for this program.
5. A copy of the class schedule must be attached to the proposal form.

Note: Participation in this program is contingent upon the availability of funds.

19:02 Certification Exams

If a certification examination day falls on a day when an employee being examined is scheduled to be off work, the employee will be granted one-half (5 hours for 10-hour day) day compensatory time off.

Out-of-Pocket Expenses: Reimbursement is provided for expenses incurred to satisfy certification requirements as specified in job descriptions. Expenses to be reimbursed include pre-approved study materials and examination fees once tests have been passed and proof has been provided to the Department Manager.

20:00 COMPUTER LOAN PROGRAM

20:01 Computer Loan Program

The City agrees to offer regular employees the opportunity for a one time, no-interest loan up to \$2500 for the purchase of a personal computer. The purchase may also include computer accessories such as monitors and printers. A two-year payback, guaranteed through payroll deduction is required. The program is subject to available funding. Employees who leave employment with the City will be required to pay the balance of the loan in full prior to termination. Employees are not limited to one use of the computer loan program, and have the ability to re-apply after five years from the beginning of the initial loan.

20:02 Regular Employee Defined

“Regular” employees are represented employees who have completed their initial probation. Included in this description are promotional and re-assigned probationary employees

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22:00 JURY DUTY

The City shall pay employees called to jury duty until such employees are dismissed by the court. Upon court dismissal, the employee shall return to work if there are at least two (2) hours remaining in his or her work day. A shift employee will receive equivalent time off with pay when actually serving on jury duty on a day scheduled for shift work. Any payment, except travel pay, received by the employee shall be deposited with the City. If placed on-call by the Jury Commissioner’s office, employees are to report to work and call the Jury Commissioner as directed for further instruction.

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25:00 VACATION ACCRUAL, ACCUMULATION AND USE

25:01 Vacation Accrual

The vacation accrual shall be as follows:

<u>Years Completed</u>	<u>Vacation Days</u>	<u>Hours Per Month</u>
0	10	6.67
3	15	10.00
5	16	10.67
6	17	11.33

7	18	12.00
8	19	12.67
10	20	13.33
15	21	14.00
20	22	14.67

"Vacation Day" for purpose of vacation eligibility means eight (8) working hours. Employees reaching their twentieth anniversary working for the City of Turlock and subsequent five-year anniversary increments thereafter will receive, on a one time basis, five (5) additional vacation days on that special anniversary. These hours will not be subject to the vacation accrual limit – if taken within six (6) months. It is the City's policy to encourage vacation usage.

25:02 Maximum Vacation Accrued

<u>Years of Service</u>	<u>Maximum Accumulation</u>
1 - 7 years	350 hours
8+ years	380 hours

The maximum accrued vacation was allowed to be exceeded during the previous M.O.U., however, by December 31, 2012 all employees must be at or below the maximum accrual of 350 hours for 1-7 years of service and 380 hours for 8 + years of service.

A manual override of vacation accrual limitation will be permitted when an employee's approved vacation of forty hours (40) or more was canceled by the City.

Employees will provide a written request for vacation at least two (2) weeks in advance and the City shall respond in writing within five (5) calendar days after the request is submitted. If an employee has no CTO, the employee may make a written request for vacation with less than two (2) weeks' notice. The City agrees that maximum flexibility will be used in granting the vacation use request with consideration of the City's genuine work needs.

25:03 Required Annual Vacation Usage

All employees shall be required to use at least a forty (40) hour consecutive block of vacation time each fiscal year. Employees with more than ten (10) years of service shall be required to use eighty (80) hours of vacation, including the aforementioned forty (40) hour block usage each fiscal year. Probationary employees, during their initial probationary period, shall be exempt from this provision.

25:04 Vacation Sellback

In June of each year, employees who have a minimum of sixty (60) hours of vacation time on the books may opt to cash out up to forty (40) hours of accumulated vacation time for

its then current value, based on the employee's base salary rate. The employee shall receive payment within thirty (30) days of the employee's cash out election date.

26:00 SICK LEAVE ACCUMULATION AND USE

26:01 Sick Leave

Employees shall be granted paid sick leave credits beginning with the date of original employment at the rate of eight (8) hours for each month of service. Employees become eligible to use accrued sick leave upon completion of one (1) full month of continuous service. Sick leave shall be considered as a benefit which an employee may use for actual sickness or disability.

26:02 Notification

An employee, unless incapacitated, absent because of illness or injury shall notify their supervisor, or other departmental manager as may be directed, as soon as known but at least one (1) hour prior to the time set for beginning the work shift. If an employee is absent for more than three (3) consecutive days due to illness, the employee is required to provide a doctor's certificate to the departmental supervisor indicating that employee was medically excused from work (including a date to return to work).

26:03 Medical Release

The Department Director may require a medical release, with prior notice, for absences of less than three (3) consecutive days when employees have exhibited excessive use of sick leave when compared to other departmental employees or have exhibited a pattern of sick leave abuse (e.g. Fridays or Mondays).

26:04 Unused Sick Leave

On November 1 of each year, employees having at least four years continuous employment with the City may, at their option, be paid at their base rate of pay for fifty percent (50%) of unused sick leave earned during the previous twelve- (12) month period. The remaining fifty percent (50%) of accrued but unused sick leave shall be retained in the employee's current accumulated total of unused sick leave. If an employee resigns after four years, retires or dies while in City service, the employee or the employee's beneficiary shall be paid at the base salary rate, for twenty-five percent (25%) of the employee's total accumulated unused sick leave. Employees terminated for cause shall not be eligible to receive payment for accrued sick leave on the books at the time of their termination.

26:05 Family Illness

1. Employees may use a maximum of six (6), eight (8) hour days or forty-eight (48) hours of sick leave per calendar year to care for members of the employee's immediate family.

2. Employees may use a maximum of eight (8) days or sixty-four (64) hours of sick leave per calendar year to care for members of their immediate family who suffer from catastrophic illness which requires the employee's care. The City Manager shall have authority to make the decision when an employee may utilize this benefit. The decision of the City Manager is final and binding and not subject to the grievance procedure. The City Manager may authorize the use of additional sick leave.

26:06 Immediate Family

Immediate family is defined as: spouse; father/mother; son/daughter; mother-in-law/father-in-law; step relations and adopted children. Nothing under this section shall violate the rights of domestic partners under California Law.

27:00 HOLIDAYS

Employees covered under this Agreement shall have the following City-paid holidays for the period of this Agreement.

Holidays

1. Veteran's Day (November 11)
2. Thanksgiving Day
3. Day after Thanksgiving
4. Christmas Day
5. New Year's Day (January 1)
6. Martin Luther King Day (Third Monday in January)
7. President's Day
8. Memorial Day (Last Monday in May)
9. Independence Day (July 4)
10. Labor Day (First Monday in September)
11. Floating Holidays – On July 1 of each year, will be added to the vacation allowance of each employee. The twenty-four (24) hours includes eight (8) hours for Columbus Day. In the event that an employee leaves City service prior to the end of a fiscal year, a pro-rata deduction will be made from any final compensation due the employee.
12. Day before or after Christmas or New Year's Day – Employees may schedule this holiday with their supervisor to insure balanced staffing levels.
13. In the event the holiday falls on a Saturday, the proceeding Friday shall be the holiday instead.
14. In the event the holiday falls on a Sunday, the following Monday shall be the

holiday instead.

15. Any day of mourning or holiday declared by the Governor or President. In such cases, the time observed will be one-time events, not on-going holidays or days of mourning to be reported in subsequent years. Time allotted under this provision will either cause the closing of City offices or will cause an equal amount of hours will be added to the employee's vacation time on the books. Employees will be allowed to utilize holiday time under the above-listed provision only if employees of the State of California and/or the Federal Government are not required to work on the "day of mourning" or "holiday declared by the Governor or President."
16. Shift Personnel at Municipal Services – For employees subject to shift rotation, 9.33 hours of annual holiday leave shall be credited to each employee's holiday time each month in place of scheduled holidays. New employees shall accrue holiday in lieu time from their first full month of employment. Employees covered under this provision may not use holiday time until it is earned. Management shall not unreasonably deny the use of in-lieu holiday time.
 - a. Cash-Out – In-lieu Time: Employees may cash out at straight base wage up to nineteen (19) hours of in lieu time each June for payment on the July 20th payroll.
 - b. Employees must use in lieu holiday hours during the course of the fiscal year. Seven (7) holidays (56 hours) must be used by the end of January.
 - c. Employees will provide a written request for holiday time at least two (2) weeks in advance and the City will respond in writing within five (5) calendar days after the request is submitted.

Holiday time must be used prior to the end of the fiscal year or they will be lost, except as provided in subsection d.
 - d. Employees shall be allowed to carry over into the next fiscal year a maximum of nineteen (19) hours that must be used on or before September 30th. These hours shall not count toward the usage required by subsection (b). All hours not used by September 30th shall be lost.
17. City agrees to add an additional eight (8) hours straight time to CTO accrual for Wastewater Treatment Plant Operator's working at least eight (8) hours on any of the following holidays: Christmas Day, Thanksgiving Day and Independence Day.

The City agrees to provide 40 hours of "in-lieu" time off in 2017. "In lieu" time shall be taken as follows:

November 22, December 27, 28, 29, 2017 and January 2, 2018. The floating holiday designated as the day before or after Christmas or New Year's Day shall be taken on December 26.

For all employees who cannot be excused for a short period of time because it would adversely affect public safety or the operations of the City, as determined by the Department Director, the in lieu time will be credited as follows:

2017 – 40 hours on December 31st to be taken prior to December 31, 2018

Time off in lieu is “use or lose” with no cash value.

28:00 MISCELLANEOUS LEAVES OF ABSENCE

28:01 Absence Without Leave

An employee who is absent without leave due to work stoppage or strike and who fails to return to duty within twenty-four (24) hours after notice to return shall be subject to immediate discharge, and such employee automatically waives all rights under the Personnel Ordinance and this Memorandum of Understanding, except as provided below. The depositing in the United States mail of a First Class letter postage paid, addressed to the employee's last known place of address shall be reasonable notice. The employee shall be responsible for providing the City Manager with a current address.

28:02 Reinstatement After Discharge

If the employee proves to the satisfaction of the City Manager that such absence (as referenced in Section 28:01) was for legitimate reasons, the employee shall be reinstated without pay for such period of absence without leave.

28:03 Injury Leave

1. Any employee incurring a work-related injury or disability shall be entitled to injury leave to the extent provided by the State Workers Compensation Insurance Act. The first twenty-four (24) hours of leave due to an on-the-job injury in any one twelve- (12) month period will not be charged to any accrued time and these do not have to be consecutive hours.

28:04 Light Duty Assignments

1. On occasion employees might incur an injury or illness that precludes them from performing their regular duties. Moreover, such instances may impose a financial hardship upon the employees and/or a hardship upon a department because of reduced personnel resources. Consequently, it will be the policy of the City to consider and evaluate light or modified duty requests on a case-by-case basis and that such assignments shall not be limited to any department.
2. Evaluating criteria - No light or modified duty assignment shall be approved by the City unless the following criteria exists:

- a. Endorsement for assignments must be obtained from the employee's physician in the case of non-job-related injury or illness indicating the ability of the individual to perform the duties assigned by the City. In cases of a job related illness or injury the City shall designate a physician to examine the employee and determine if he/she is capable of working a light or modified duty assignment.
- b. A statement from the physician must estimate as to a specific date of recovery from the illness or injury to the extent the employee can be returned to full time work. Such dates may be adjusted based upon accelerated rehabilitation or recovery or a prolonged period of rehabilitation due to aggravated circumstances.
- c. The duration of the light or modified duty assignments shall be determined on a case-by-case basis. The City maintains complete and sole discretion to determine the length of any light or modified duty assignment. Generally, light duty assignments for non-job related injuries would be limited to two (2) to four (4) weeks.
- d. The City is under no obligation to create or manufacture a position in order to provide light duty or modified duty assignments to any employee.
- e. The City's decision regarding all light duty or modified duty assignments shall be final and binding and not subject to the grievance procedure.

28:05 Military Leave

Military leave shall be granted in accordance with the provisions of State and Federal law. All employees entitled to military leave shall give the City an opportunity, within the limits of military regulations, to determine when such leave shall be taken.

28:06 Special Leave

Special leaves of absence with or without pay, may be approved by the City Manager for up to six (6) months. Such leaves will require the exhaustion of accrued time, including sick leave to the extent that the leave is due to illness or injury. In approving leave requests, the City Manager will consider the Department Director's recommendation related to the ability of the department to continue the provision of service without the employee and the needs of the employee.

28:07 Bereavement Leave

Following the death of a relative defined by this section, paid bereavement leave will be granted upon request of an eligible employee. Bereavement leave shall be contiguous with the arrangement of or attendance at a funeral or memorial service for the deceased.

Employees holding regular (non-probationary) appointments in all departments shall be granted Bereavement Leave to arrange for or attend a funeral or memorial service for the first and second degree of consanguinity (including in-laws and step relations) based upon the location of the funeral or memorial services and the relationship of the deceased to the employee:

If the service is within three hundred (300) miles of the City of Turlock:

Spouse	up to (6) six working days
Mother/Father	up to (4) four working days
Son/Daughter	up to six (6) working days
Grandmother/Grandfather	up to (4) four working days
Granddaughter/Grandson	up to (4) four working days
Sister/Brother	up to (4) four working days

If the service is more than three hundred (300) miles from the City of Turlock:

Spouse	up to (8) eight working days
Mother/Father	up to (6) six working days
Son/Daughter	up to (8) eight working days
Grandmother/Grandfather	up to (6) six working days
Granddaughter/Grandson	up to (6) six working days
Sister/Brother	up to (6) six working days

Working day for the purpose of Bereavement eligibility means eight (8) working hours.

Bereavement leave is not required to be taken on consecutive days.

29:00 ADMINISTRATIVE LEAVE WITH PAY

The Department Director may place an employee on leave with pay pending an internal investigation.

30:00 GRIEVANCE AND COMPLAINT DEFINITIONS

Grievance. A grievance is defined as an employee initiated allegation that a term or condition of employment established by State law, City ordinance, resolution, Memorandum of Understanding or written departmental policy is being violated provided, however, that such term or condition of employment is not subject to the discretion of the City or is not a subject outside of the scope of representation as defined in Section 3500 *et seq.* of the Government Code or the City's Employee Relations Resolution.

Complaint. A complaint is defined as an employee initiated allegation or dispute concerning items that are not defined grievances as defined herein. Complaints shall be directed through the chain of command with the Department Director being the final appeal location unless the Department Director is the subject of the complaint. In such

cases, the complaint shall be forwarded to the City Manager for final resolution.

31:00 GRIEVANCE AND COMPLAINT PROCEDURES

31:01 Representation

At each step of the grievance procedure, the employee(s) may be represented by a representative of his/her choosing.

31:02 Time Limits

The time limits established in the grievance procedure may be extended by mutual agreement of the parties. Failure to meet such time limits by TCEA or the employee shall constitute withdrawal of the grievance. Such failure by the City shall entitle the employee or TCEA to request the next step of the procedure.

31:03 Notification

A grievance shall be submitted in writing and shall include at a minimum:

1. Nature of the grievance.
2. Date when the incident occurred.
3. Description of the incident.
4. Rule violated.
5. Specific remedy sought by the Grievant(s).

31:04 Steps in the Grievance Procedure

1. **First Step - Informal Discussions:** Employees are encouraged to discuss and resolve allegations of a grievance with their immediate supervisor within twenty (20) working days of the occurrence causing the alleged grievance. The immediate supervisor shall inform the employee verbally of his/her decision within five (5) working days of the initial discussion. If the employee is not satisfied with the verbal responses of the immediate supervisor, he/she may proceed to the next step. If the grievance involves the immediate supervisor, this step shall be bypassed.
2. **Second Step – Supervisor:** If the employee remains unsatisfied from the results of the first step, the grievance may be submitted in writing to the employee's supervisor within ten (10) working days of the immediate supervisor's response in the first step. An attempt shall be made to resolve the grievance between the employee and his/her designated representative, if any, and the supervisor. The supervisor shall deliver a written answer within ten (10) working days of the submission of the written grievance. If the grievance involves the supervisor, this

step shall be bypassed.

3. **Third Step - Department Director:** If the employee remains unsatisfied from the results of the second step, the grievance may be submitted in writing to the employee's Department Director within ten (10) working days after the supervisor's answer is received by the employee. The Department Director shall meet with the employee and his/her designated representative, if any, within ten (10) working days after submission of the grievance to the Department Director. The Department Director shall review the grievance and may affirm, reverse, or modify the disposition made at the second step. The Department Director's answer shall be delivered in writing to the employee within ten (10) working days after the aforementioned meeting.
4. **Fourth Step - City Manager:** If the grievance is not satisfactorily resolved in the third step, the employee may appeal the decision of the Department Director to the City Manager. The appeal must be in writing and submitted within ten (10) working days of receiving the Department Director's decision.

31:05 Appeal to City Manager

Within ten (10) working days of submission of the grievance to the City Manager, the City Manager or designee shall meet with the employee and his/her designated representative, if any, and other appropriate persons to assess the grievance. The City Manager may affirm, reverse, or modify the disposition of the grievance. The City Manager shall deliver a written decision to the employee within ten (10) working days after the aforementioned meeting. This decision shall be final and binding on all parties.

32:00 DISCIPLINARY PROCESS

32:01 Causes for Discipline

The City may take disciplinary action against any employee for just cause. The grounds for disciplinary action include but are not limited to the following:

1. Insubordination, which shall constitute a violation of any official regulation or order or failure to obey any proper directions made and given by a supervisor in the course of employment.
2. Incompetence, inability or failure to perform the duties required by the position, as well as willful neglect of official duty.
3. Gross carelessness in the discharge of assigned duties.
4. Substance abuse or consumption of alcoholic beverages during working hours, or reporting for work in a state of intoxication.
5. Misconduct in office or employment.
6. Presentation or use of known false information in any manner to commit or

- attempt to commit fraud, or the falsification or unauthorized alteration of City documents or records.
7. Repeated tardiness, excessive absences, absence without leave, or improper or unauthorized use of leave privileges or benefits.
 8. Improper and unauthorized use of City equipment, property, or funds for private or personal purposes.
 9. Unauthorized discussion or release of confidential informational documents or records.
 10. Failure to abide by any condition of employment stipulated in the Municipal Code; Personnel Rules and Regulations; and City or department policies; or Memorandum of Understanding approved by formal action of the Council;
 11. Use, sale or possession of an illegal narcotic substance.
 12. Refusal or failure to promptly or properly report an injury or disability arising from or in the course of employment.
 13. Engaging in unauthorized or incompatible employment elsewhere or engaging in political activities during work hours.
 14. Dishonesty.
 15. Discourteous treatment of the public or other employees.
 16. Violation of safety procedures, unsafe work activities or acts which could result in injury to self or others.
 17. Failure of good behavior either during or outside of duty hours which is of such a nature that it causes discredit to the City.
 18. Knowingly filing or pursuing a false charge; and/or
 19. Acts of violence towards fellow employees or members of the public in the workplace.

32:02 Types of Disciplinary Action

Disciplinary actions include written reprimands, suspensions, rank and salary demotions, and dismissal as defined below:

1. **Written Reprimands:** A written statement from the Department Director or designee to a subordinate for an action which meets any of the grounds for disciplinary action listed in this MOU and/or any City policies, procedure, rule or regulation. After verbal consultation, an official notification in writing by the Department Director to the employee stating the cause(s) for dissatisfaction with his/her services and that further disciplinary measures may be taken if the cause is not corrected. In this case the employee is provided with a written memorandum which outlines the violations being addressed and the expected actions to be taken by the employee in response to the memorandum. A copy of the written

reprimand shall be placed in the employee's official personnel record. Appeals regarding written reprimands may be made to the Department Director. The Department Director's findings are final.

Four (4) years following the issuance of a written reprimand, if there has been no reoccurrence of the documented conduct and no other formal disciplinary action, upon written request of the employee the written reprimand shall be removed from the employee's personal file and no further reference shall be made regarding the written reprimand.

2. **Suspension**: The temporary separation of the employee from City service without pay for disciplinary purposes, not to exceed ninety (90) calendar days in one (1) calendar year.
3. **Demotion in Rank or Pay**: A change in status resulting in a lower rate of pay. A demotion may involve movement from one salary step or from a position in one class to a position in a lower-paid class. The Department Director may propose a demotion in accordance with defined disciplinary procedures.
4. **Dismissal**: The discharge from City Service of an employee by the City Manager.

32:03 Disciplinary Procedures

When a regular employee is to be suspended, demoted in salary or rank, or dismissed, a written notice of the proposed action is to be prepared, and then delivered to the employee, in person or by certified mail. The written notice shall include:

1. The reasons for the proposed action.
2. The charges being considered.
3. The proposed disciplinary action to be taken.
4. A statement advising that before the proposed disciplinary action takes effect, the employee may request to meet with the Department Director to respond to the proposed disciplinary action. The employee shall have ten (10) working days from the date the proposed disciplinary action is received to request a Skelly meeting with the Department Director.

All charges filed against a regular employee shall be documented in clear and concise language. The employee shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is based and the employee shall be supplied a copy of the documents. The employee is entitled to be represented at any meeting concerned with potential disciplinary action when the employee's presence is required at said meeting.

32:04 Notification of Skelly Meeting Decision

Within ten (10) working days (two (2) weeks) after the employee has had the opportunity to respond in a Skelly meeting to the proposed discipline and present evidence on their behalf, the Department Director shall notify the employee of any disciplinary action to be taken and the effective date.

32:05 Appeal of Decision

The employee may appeal the Skelly officer's decision to the City Manager. The appeal must be in writing and must be submitted to the City Manager no later than ten (10) working days of receiving the Skelly Officer's decision.

1. **City Manager:** The employee and/or representative may appeal the decision to the City Manager. Within ten working (10) days of receiving the written appeal, the City Manager will meet with the employee and/or representative to hear reason(s) why discipline should not be imposed. Within ten working (10) days following the conclusion of the meeting, the City Manager shall make a decision to sustain, revoke or modify the decision of the Department Director and shall provide notice to the employee. The imposition of discipline as determined by the City Manager shall be processed immediately.
2. **Advisory Arbitration to City Manager and City Council:** For suspensions of more than three (3) days, demotions in rank or salary or terminations, an employee may submit an appeal of the City Manager's decision to the City Clerk's office within ten working (10) days of the notice of decision from the City Manager to have the matter reviewed by an arbitrator.
3. **Selection of Arbitrator:** Upon filing of an appeal, the City shall request a list of seven (7) hearing officers from the State Mediation and Conciliation Service. The City and employee shall alternately strike names from the list until only one name remains and the remaining name shall be that of the Hearing Officer. The parties shall toss a coin to determine who will strike first. The cost of the arbitrator shall be borne equally by the employee and the City.
4. **Arbitration Hearing:** The appointed advisory arbitrator shall conduct an evidentiary hearing within a reasonable time after appointment. The usual rules for conducting such a hearing shall apply. The department shall have the burden of proof, the employee is entitled to representation and the opportunity to examine all witnesses and present evidence. All relevant evidence shall be admitted. A record of the proceedings shall be made and transcribed. The arbitrator shall render a written opinion to the City Manager who shall review the administrative record and the opinion of the arbitrator and make a recommendation to the Council to confirm or modify the opinion of the arbitrator. The record of the proceedings shall be transcribed if the City Manager's final decision is appealed to the City Council at the City's expense.
5. **Council Determination:** Within ten working (10) days of receiving the opinion of

the arbitrator and the appeal record, the City Manager shall forward them to the City Council together with a recommendation. The matter shall be placed on the City Council agenda for determination within twenty working (20) days. The City Council shall consider the matter in closed session unless requested to conduct its deliberations in public by the affected employee. No additional evidence or argument may be submitted to the Council. The Council's decision will be announced at the end of the deliberations and a written decision and appropriate finding shall be forwarded to the employee within fifteen working (15) days of the Council's decision. The Council shall not reverse the arbitrator's recommendation, except by unanimous vote.

32:06 Binding Arbitration

1. Employee: The employee may appeal the decision of the pre-disciplinary hearing within ten (10) working days of receiving the notification of disciplinary action. The appeal shall be made directly to the City Manager.
2. City Manager: The City Manager will hold a hearing with the employee within ten (10) working days of receiving the appeal, unless the parties mutually agree to extend such hearing. Within ten (10) working days following the conclusion of the hearing, the City Manager shall make a decision to sustain, revoke, or modify the decision of the Department Head and shall provide notice to the employee.
3. Appeal: As an alternative to Advisory Arbitration identified in Section 16:05(2) of the MOU, TCEA may appeal the disciplinary action to Binding Arbitration for terminations, demotions, suspensions of more than one (1) work day/shift, or reduction-in-pay. Written Reprimands shall not be appealed to arbitration. An employee shall submit an appeal to the City Clerk's office within thirty (30) calendar days of receiving the notice of decision from the City Manager to have the matter reviewed by an arbitrator. Failure of the employee to submit an appeal within thirty (30) calendar days of receipt shall be considered a withdrawal of appeal.
4. Selection of Arbitrator: Upon filing of an appeal, an arbitrator may be selected by mutual agreement between the City and the employee or his/her representative. However, should the parties fail to mutually agree on an arbitrator they shall make a joint request of the State Conciliation Service for a list of seven (7) qualified arbitrators. The arbitrator shall be selected from the list by the parties alternately striking names with the first strike determined by chance, until only one name remains, and that person shall serve as arbitrator.
5. Cost of Arbitrator: The cost of employing the arbitrator shall be borne entirely by the City. All other costs such as, but not limited to, attorney fees, court reporter, and transcripts shall be borne only by the party incurring that cost.
6. Decision of Arbitrator: Unless the parties agree otherwise, the arbitrator shall

render the decision in writing within 60 calendar days following the close of the hearing. A copy of the written decision shall contain findings of fact which may be stated in the language of the pleadings or be referenced thereto. If requested by either party the decision shall be accompanied by findings of fact and conclusions of law.

7. The arbitrator shall determine whether to sustain, reject, or modify the disciplinary action against the employee and shall determine the appropriate remedy or disposition of the case. A copy of the written decision shall be transmitted to both parties. Service by mail to the employee's representative and to the employees last known address shall be sufficient for purposes of this section. A copy of the decision shall be placed in the employees personal history file. The decision of the arbitrator shall be final and binding on both parties.

33:00 LAYOFF PROCEDURES

33:01 Emergency Suspension of City Services

In the event an emergency such as a civil defense disaster or air pollution alert requires the City to suspend City operations, the City will provide and arrange for compensatory time after normal working hours once operations are reinstated, for such employees to work and receive wage benefits lost during the emergency at the same pay rate lost.

33:02 Shortage of Work or Funds

The City Manager may lay off an employee in the Bargaining Unit upon two (2) weeks' written notice because of material change of organization or shortage of work or funds. Prior to such notice being given, the City shall provide formal notice to TCEA regarding the reduction in force and provide TCEA the opportunity to meet and confer regarding the impacts of layoff.

33:03 Seniority Determination

The Personnel Officer shall calculate seniority by classification, time in classification series, division, department and City based upon continuous service.

1. **Computation of Continuous Service:** Only full time (paid status) appointment to an allocated position shall be counted in computing seniority.
2. **Break of Continuous Service:** A break of continuous service is defined as not being employed by the City of Turlock for more than ninety (90) calendar days. Approved leaves of absence in excess of ninety (90) calendar days are not considered a break in continuous services.
3. **Ties in Seniority:** A tie in seniority for a classification designated as being affected by layoff shall be broken by the Department Director. The Department Director shall consider past performance and qualifications, as reflected in official

documentation in the employee's personnel file in determining the most senior employee.

4. If two (2) or more employees in the same job classification in the same division/department are under consideration for layoff, the employee with the shortest length of service in that classification shall be laid off first.

33:04 Bumping Rights

1. In determining bumping rights for a position that has been designated as being affected by layoff, the first criteria shall be the time in classification; the second criteria shall be continuous service time in the Department.
2. Within a classification series, an employee identified for layoff who has seniority may bump to lower level positions in the series in which they formerly held regular status.
3. An employee who has been identified for layoff who holds a job classification which has similar minimum qualifications and job duties to another job classification within the same department/division, may bump to that classification if they are more senior than the incumbent.

33:05 Work in Lieu of Layoff

1. An employee who's service to the City has been satisfactory or above as witnessed by performance evaluations contained in their personnel file, may continue to work for the City in lieu of layoff when the following alternatives are offered by the City: 1) voluntarily demote to a lesser paid position for which they are qualified; 2) compete in recruitments open to City employees for which they are qualified or 3) transfer to a vacant position for which they are qualified.
2. Employees affected by layoff may also bump back to a position where they had attained "regular status" in another department if they possess more seniority than the incumbent(s) and they can demonstrate that they continue to possess the required skills of the position. Employees initiating this option shall be required to serve a new probationary period of six (6) months.

33:06 Re-employment Lists

The names of probationary and regular employees laid off shall be placed on re-employment lists; should such a position or positions involving substantially the same duties be created or filled within one year from date of layoff, the employee or employees laid off shall be called for re-employment. The order of rehire shall be the reverse order of layoff within the class.

33:07 Layoff Rules and Policies

By June 30, 2013, representatives of the City and Association will meet and confer on language to coordinate the provisions of this MOU, City Personnel Rules and Municipal Code relating to layoffs. Agreed upon language may be incorporated into the next MOU between the parties.

34:00 Anti-Drug and Alcohol Misuse Prevention Program

Adoption of a Drug Free Work Place Policy has been agreed to by both parties (See Attachment C).

In compliance with the Federal Highway Administration (FHWA) of the Department of Transportation (DOT) Drug and Alcohol Testing Regulations for drivers of commercial motor vehicles, an Anti-Drug and Alcohol Misuse Prevention Program has been established and became effective January 1, 1996. Adoption of this policy has been agreed to by both parties. (See Attachment D).

35:00 NON-DISCRIMINATION

The employer agrees not to discriminate against any TCEA member for lawful activity on behalf of, or membership in, TCEA. The employer and TCEA agree that there shall be no unlawful discrimination against any employee for any of the following reasons: race, religion, color, creed, physical or mental disability or medical condition, marital status, national origin, sex, age, political affiliation or belief or sexual orientation.

36:00 AGREEMENT VALIDITY

In the event any Article, Section or Portion of this Agreement should be held invalid and unenforceable by a court of competent jurisdiction or PERB, such decision shall apply only to the specific Article, Section, or Portion thereof specifically specified in the court's decision. Upon issuance of such a decision, the employer and TCEA agree to immediately negotiate a substitute for the invalidated Article, Section, or Portion thereof. When conflicting provisions exist between this Agreement and any City personnel resolution, provisions within this Agreement shall prevail.

PROPOSED PAYROLL AND PAYROLL CYCLE CHANGES

The parties agree to change from a 24 pay period schedule to a 26 pay period schedule, with payday's being made on a bi-weekly (every 2 weeks) basis, when administratively feasible.

SIGNATURE PAGE FOLLOWS

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Understanding at Turlock, California, on the dates set forth below.

TURLOCK CITY EMPLOYEES ASSOCIATION

Rob Winters

Date Signed

W. Robert Phibbs, Attorney at Law

Date Signed

TCEA NEGOTIATING TEAM MEMBERS

Katie Quintero

Date Signed

Juan Vargas

Date Signed

CITY OF TURLOCK

Kevin R. Dale, Lead Negotiator

Date Signed

Sarah Eddy, Human Resources Manager

Date Signed

Maryn Pitt, City Negotiator

Date Signed