



**RESOLUTION NO. 2016-22**

**MEMORANDUM OF UNDERSTANDING  
CITY OF WINTERS  
CONFIDENTIAL EMPLOYEES ASSOCIATION**

**Effective  
October 2015**

**CITY OF WINTERS  
MID-MANAGEMENT EMPLOYEES ASSOCIATION**

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**\*\*PREAMBLE\*\***

This Memorandum of Understanding (MOU) is entered into October, 2015 through September 30, 2017 between the City of Winters (hereinafter referred to as City) and the City of Winters Mid-Management Employee's Association (hereinafter referred to as Association) pursuant to Government Code Section 3500 to 3510.

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**ARTICLE 1 - RECOGNITION**

The City recognizes the Association as the exclusive representative for the City employees in the following job classifications hereinafter referred to as "Employee(s)":

Management Analyst

The City reserves the right to alter or amend these classifications.

**ARTICLE 2 - ASSOCIATION AND CITY COUNCIL APPROVAL**

Upon approval by the Association, this MOU will be submitted to the City Council and is of no force or effect until ratified and is adopted by the City Council.

**ARTICLE 3 - MANAGEMENT RIGHTS**

All management rights and functions except those which are clearly and expressly limited in this MOU shall remain vested exclusively in the City; however, if any modification occurs that effects wages, hours or working conditions, the City shall notify the Association and meet and confer in good faith regarding the impact of such modifications. It is expressly recognized merely by way of illustration and not by way of limitation that such rights and functions include, but are not limited to:

- A. Manage the City and determine services to be provided.
- B. Determine the necessity and amount of overtime required, and seasonally establish, modify, or change work schedules.
- C. Direct the work force and hire, promote, demote, transfer, suspend, discipline, or discharge any employee and determine the administration of discipline.
- D. Determine the location of any new facilities, buildings, departments, divisions, or subdivisions thereof, and the relocations, sale, leasing, or closing of facilities, departments, divisions, or subdivisions thereof.

- E. Determine the layout of buildings and equipment and determine control and use of City property, materials, and equipment.
- F. Determine processes, techniques, methods, and means of performing work and institute changes in procedures.
- G. Determine the size, character and use of inventories and accounting procedures.
- H. Determine the financial policy, including accounting procedures.
- I. Determine the administrative organization of the City, the size and character of the work force, and allocate or assign work to employees and determine duties to be included in any job classification.
- J. Determine how new employees are selected.
- K. Establish and judge quality and quantity standards.
- L. Determine the methods and means by which operations are to be conducted including placing or contracting work with outside firms.

The exercise of the foregoing powers, rights, authority, duties and responsibilities by the City, the adoption of rules, regulations and practices in furtherance thereof, and the use of judgement and discretion in connection therewith, shall be limited only by the specific and express terms of this contract, and then only to the extent such specific and express terms are in conformance with law.

#### **ARTICLE 4 - ASSOCIATION RIGHTS**

Pursuant to Article 2, the Association retains the right to engage in the meet and confer process and employer/employee relations including, but not limited to, wages, hours, and other terms and conditions of employment.

#### **ARTICLE 5 - ASSOCIATION DUES AND SECURITY**

The City shall deduct dues and other premiums from the first and second paychecks of each employee and remit to the Association for the duration of this MOU the amount that an employee authorizes in writing the city to deduct. The Association agrees to hold harmless and indemnify the City against any claims, causes of action, or lawsuits arising from such deductions or transmittal of such deductions to the Association.

- A. Every employee covered by this MOU shall, within sixty (60) calendar days of employment: (1) Become a member of the Association and maintain membership in good standing in accordance with its Constitution and Bylaws; or (2) shall pay an agency fee in an amount equal to the amount of the monthly dues pursuant to section G of this article.

- B. Any employee appointed to any classification out of the bargaining unit covered by this MOU may withdraw from Association membership and the employee's obligation to pay dues or fees shall be terminated.
- C. The City shall deduct from employee wages the regular membership dues of Association employees, or agency fees of other employees as provided in Section A, which an employee voluntarily authorizes the City to deduct in writing in accordance with the provisions of Section 1157.3 of the California Government Code.
- D. Membership dues or agency fee deductions shall be made in equal amounts each payroll period, and a check for the total deductions shall be submitted to the City of Winters Mid-Management Employees Association, at the end of each month.
- E. The City shall notify the Association of changes in bargaining unit membership in a form of check-off authorization, as approved by both the City and the Association.
- F. Upon written request from the Association, the City shall within thirty (30) calendar days, terminate the employment of an employee who fails to comply with the requirements of this article.
- G. An employee with lawfully established valid objections to membership or financial support of an Association shall be permitted to make in lieu payments to the Association or to other organizations as established by law, in accordance with the provisions of Section 3502.5 of the California Government Code.

## **ARTICLE 6 - NO STRIKE/NO LOCKOUT**

The City and Association agree that it is mutually beneficial to resolve differences through negotiation. During the term of this MOU, the City agrees that it will not cause lockout of employees and the Association agrees that it will not sanction or cause a strike, slowdown, and stoppage of work or other job action. Compliance with the request of other labor organizations is included within this prohibition.

## **ARTICLE 7 - LAYOFF PROCEDURES**

If the City finds it necessary to reduce the work force due to lack of funds and/or work, the City may lay-off employees as follows:

- A. The City shall notify the Association ninety (90) days prior to any actual lay-off in order to meet and confer to explore alternatives to laying off employees.

- B. Employees shall be laid off in seniority order, with an employee with the least seniority in a classification affected by lay-off to be laid off first. Employees noticed for lay-off will receive (1) month base pay if they are actually laid off.
- C. Within seventy-two (72) hours of lay-off notice, an employee may exercise bump down rights by bumping into any lower rated classification covered in this MOU for which the employee is qualified. Employees bumped by higher seniority employees may themselves have the option of bumping down.
- D. The name of every employee laid off or bumped down, pursuant to this article, shall be placed on a reemployment list which shall be kept for a period of twelve (12) months. Such employees shall have precedent over any other individual applying for a position. Any reinstatement shall be made in the reverse order of lay-off, or bump down.
- E. Employees actually laid off must exercise reinstatement with twenty (20) days after the City deposits written notice of recall from lay-off in the United States mail addressed to the employee's last know address by certified mail return receipt requested. An employee who fails to respond will be removed from the reemployment list noted in Section D of this article.

#### **ARTICLE 8 - BASE WAGES AND STEPS, BENEFITS, AND WAGE PLAN ADMINISTRATION**

- A. **Base Wages and Steps:** Addendum A provides a wage range with five (5) steps, also known as base wage steps, for each classification. The CPI-W will be the base for COLA Increases for all positions within this Association and will be reviewed annually. Compensation and Classification surveys will be conducted at a minimum of every three (3) years. Effective July 2014 all classifications will be receive a merit increase if eligible on anniversary date.
- B. **Benefits:** The City provides the following benefits pursuant to the terms and conditions noted. Monthly benefits shall be prorated for any partially worked month.
- C. **Fair Labor Standards Act provisions** shall be used to determine which benefits are required to be used in calculating overtime pay.
  - 1, Uniform allowance - The City shall provide the Wastewater Facilities Manager with uniform service and two pairs of OSHA approved safety shoes every year.
  - 2. Bilingual Incentive - An employee who has completed original probation and uses both English and another language, written and/or spoken on the job, and the use of such skill is required

by the job description to carry out job duties, shall receive \$200.00 per month, based upon successful completion of a qualified testing firm. Bilingual incentive is applicable to any classification and wage step noted in Addendum A only as long as bilingual skills are required by the job description and Department Head and approved by the City Manager prior to recruitment. The City will retain Cooperative Personnel Services to do the testing. This will apply to all employees eligible for the incentive

3. Insurance - Employees receive up to \$2,406 per month (depending on size of family and choice of plan) to purchase various health, dental, and other insurance to which the City may subscribe. Money left over after an employee has purchased the insurance coverage desired will be paid to the employee in taxable wages. The City agrees to pick up the increase in dental and health premiums when they go into effect. The City shall pay the cost of Long Term Disability Insurance and the cost of a \$30,000 Life Insurance Policy for each employee in this Association. The City of Winters will pay for the vision plan for all employees. Dependent cost must be paid for by employee.
4. Public Employee's Retirement System (PERS) - Employees shall join the PERS system as a condition of employment.

#### Tier One Retirement Formula

Miscellaneous employees hired before December 31, 2012 will receive a 2% @ 55, with a single highest year, retirement formula.

#### Tier Two Retirement Formula

Miscellaneous employees hired on or after January 1, 2013 and who are not considered new member as defined by California Government Code Section 7522.04(f) will receive a 2% @ 55.

#### Tier Three Retirement Formula

Miscellaneous employees hired after January 1, 2013 and who qualify as "new members" as defined by California Government Code Section 7522.04(f) will receive a 2% @ 62, with a three year average, retirement formula.

The City shall pay the employer rate and the employee shall pay the employee rate of 7%.

5. **Social Security (FICA) - Employees are required to join the Federal Social Security System as a condition of employment. The City shall pay the employer costs. The employee shall pay the employee contributions prescribed by Federal rules and regulations.**
6. **State Unemployment Insurance (SUI) - The City shall pay all State Unemployment Insurance costs.**
7. **Deferred Compensation - The City of Winters contributes 4% of employee individual salary in to a deferred compensation contribution plan. Only plans approved by the City in its deferred compensation program will be eligible for City contribution. At the time of this contract ratification, the City offers four deferred compensation providers from which employees may select. An employee who has increased their personal contribution into a Deferred Compensation plan the City will contribute \$500 annually. (Employer contribution is frozen at this time.)**
8. **Longevity Incentive - An employee who has completed five (5) consecutive years employment is eligible to receive a lump sum amount equal to one-half (1/2) month's base wage payable at the beginning of the sixth (6th) year and each year thereafter until the employee leaves City employment.**
9. **CALGOVEBA- All employees covered under this Memorandum of Understanding agree to participate in the California Government VEBA (CALGOVEBA), a Individual health reimbursement account, pursuant to IRS Tax-exempt code 501 (c)(9). Employer agrees to pay the monthly administrative fee for each employee.**

**Salary reduction - Contribution:**

<b>Employee Category</b>	<b>Mandatory Contribution</b>
Management Analyst	\$300.00 per pay period

**Terminal/Annual Leave Contribution:**

<b>Employee Category</b>	<b>Mandatory Contribution</b>
0-20 Years of Service	75% value of leaves

### C. Wage Plan Administration

1. Employees shall be paid according to a bi-weekly payroll plan which has twenty-six (26) pay periods in a calendar year.
2. Employees shall normally be paid by twelve noon (12:00 p.m.) on or before every other Wednesday.
3. When the normal pay day falls during an employee's annual vacation leave, the employee may receive a vacation advance on the last working day prior to beginning vacation leave, provided a written request is submitted to the Finance Office at least five (5) working days in advance and the amount requested is less than the employee's regular paycheck based on straight time hours.
4. Work performance evaluations shall be completed by the employee's supervisor within ten (10) working days prior to the employee's anniversary date. At this time consideration may be given for a step advance. The evaluation shall include the following elements:
  - a. A written record to be reviewed and acknowledged in writing by the employee. No change will be made after this review without the acknowledgment of both the supervisor and employee.
  - b. A discussion between the supervisor and employee on the content of the performance evaluation.
  - c. A provision whereby an employee may submit a written response to any statement made on the evaluation which must be filed with the evaluation and forwarded to the supervisor. Such responses, and any written acknowledgment by a reviewing official, all become part of the evaluation.

If the evaluation is satisfactory or better, the employee may be granted a step increase. If the evaluation is less than satisfactory a step increase will not be granted, provided however that inadequate work performance has been previously documented. A withheld step increase may be granted following any subsequent review period of satisfactory work performance by the employee. The review period shall be less than ninety (90) days. A step increase granted after this review

shall not be retroactive back to the anniversary date.

## **ARTICLE 9 - PROBATION, NEW CLASSIFICATION, RECLASSIFICATION, ACTING APPOINTMENTS, PROMOTION, DEMOTION**

All employees shall be provided with a copy of Government Code Section 3100-3109 and sign and Oath of Allegiance and Declaration of Permission to Work as part of their new employee orientation.

- A. Probation: The probation period is a time to obtain the best fit for an employee in a new job or classification and for terminating the employment relation if work performance or adjustment to the work relation if it does not meet the expectations of the City.
  - 1. All original or promotional appointments shall be tentative and subject to a probation period of six (6) months.
  - 2. The probation period may be extended up to six (6) months by the City as a result of an employee's unfavorable performance evaluation.
  - 3. During the probation period, an employee will be evaluated at the end of two (2), four (4), and six (6) months.
  - 4. During the probation period, a newly hired employee may be discharged without right of appeal if the City deems the employee/employer relationship and/or the employee's performance does not warrant formal appointment to the position.
  - 5. During the probation period a promoted employee may be returned to the job previously held if the City deems that formal appointment is not warranted. An employee may appeal such decision pursuant to all rules and regulations dealing with discipline.
- B. New Classifications: The City may establish new job classifications. Employees desiring to compete for such positions will be evaluated in the same manner as any candidate aspiring to receive appointment.
- C. Reclassification is a change to an existing job class as a result of changes in the function, duties, and/or responsibilities as determined by the City.
  - 1. The City may reclassify any job within the City service to

accommodate changed job duties not anticipated in the original classification.

2. Reclassification shall not be used to avoid restrictions surrounding promotions or demotions, or to assume new duties and responsibilities not originally assigned to the position.
3. An employee whose job is reclassified shall receive the wage step in the reclassified position's range that is higher but closest to the wage step currently held, but in no case shall a wage be paid which is higher than the wage range.

D. **Action Appointments:** The City may appoint an employee to an acting capacity in a higher job classification. The employee shall receive two hundred dollars (\$200.00) per month for each full month of service while in the acting capacity.

1. Service in an acting capacity shall not continue beyond six (6) months except upon mutual agreement of the City and employee.
2. An employee having served in an acting capacity and subsequently appointed to the position shall establish a new anniversary date retroactive to the beginning of the acting appointment. If the employee does not meet the minimum requirements for the position, then the anniversary date will not be set until the minimum requirements are met.

E. **Promotion:** The City may advance an employee to a job classification having a higher base wage range.

1. A promoted employee shall receive an increase to the next higher step at least five (5) percent above that currently held provided that it does not exceed the wage range established for the new classification.
1. A promoted employee shall be subject to a six (6) month probationary period. An employee rejected during the probationary period shall be reinstated to the job classification previously held at the same wage step the employee had prior to the promotion. A rejection pursuant to this section shall not be considered a demotion as defined in Section F.
2. Nothing in this section shall be construed as limiting the City's right to advertise a promotional position to any candidate

desiring to apply. Any qualified employee may apply and will be evaluated in the same manner as any candidate aspiring to receive appointment to the position.

- F. Demotion: The City may, with cause, demote an employee to a lower job classification.
1. A demoted employee shall receive a minimum decrease in wage equivalent to one (1) wage step in the employee's current job classification, provided however, that no employee shall receive a salary that exceeds the maximum salary established for the lower job classification.
  2. A new anniversary date shall be established as of the day on which the employee is formally demoted to the lower job classification.
  3. Employees being demoted shall not lose any years of service credit or seniority.

#### **ARTICLE 10 - PERSONNEL RECORDS**

Personnel records, except payroll records, are deemed confidential. Access to personnel records of an employee shall be limited to the City Manager, Administrative Services Director, and the Director of the Department to which an employee is assigned. An employee and/or their representatives, designated by the employee in writing, shall be allowed to review the employee's personnel records during regular business hours. An employee shall receive, upon written request, a copy of any document placed in the employee's personnel file.

#### **ARTICLE 11 - HOURS OF WORK – 9/80 ALTERNATIVE WORK SCHEDULE**

The Alternative Work Schedule provides for eligible employees to work their 40-hour work week in less than 5 days per week, thereby allowing employees to have one day off every other week, to the extent the practice does not negatively impact business operations or service to the community, or would otherwise materially increase the costs of providing services to the community. This policy is considered the standard work schedule for eligible City employees. Certain positions may be exempted from this policy due to business reasons.

This Alternative Work Schedule applies only to full-time, regular City employees who are not sworn public safety employees or employees who are public safety employees serving in administrative capacities.

The standard work schedule is referred to as a 9/80 work schedule. This provides that employees work nine (9) hour days per week, plus one eight (8) hour day once every two

weeks. The employee is allowed to take one day off every other week. Friday will be deemed as the day employees are eligible to take off, and will be the one (8) hour day per week. Depending on department coverage, a different day of the week may need to be taken as the day off.

All 9/80 work shifts must cover the regular City Hall business hours of 8:00 a.m. to 5:00 p.m. Monday through Friday.

Management reserves the right to schedule personnel on or off the 9/80 work schedule as necessary.

- A. Employees shall receive one (1) rest period of not more than thirty (30) minutes, or two (2) rest periods of fifteen (15) minutes each during a work shift. Pursuant to Department of Labor guidelines the department shall determine the time and manner in which rest periods shall be taken. Rest periods are paid time and shall be taken at the work site.
- B. Employees shall receive one (1) sixty (60) minute lunch break during a work shift. Lunch breaks shall be scheduled by the department with due consideration to the desires of an employee. Lunch breaks are not paid time and may be taken away from the work site.
- C. Lunch breaks and rest periods are not cumulative and shall not be used to arrive late or leave work early.

## **ARTICLE 12 - OVERTIME**

Although all classifications listed in this Memorandum of Understanding are part of the Association bargaining unit, for purposes of the Fair Labor Standards Act (FLSA), the City may designate certain positions exempt per Department of Labor guidelines. The City will inform said employees in writing and place a copy of said notice in the employee's personnel file.

- A. **Work Period:** The work period for all employees within the bargaining group shall be seven (7) days in length commencing at 12:00 midnight Saturday.
- B. All employees, except those deemed exempt, required to work hours in excess of the standard work period of forty (40) hours in a seven (7) day cycle, shall receive overtime pay at the rate of time and one-half the regular rate of pay.
- C. Except in emergency situations, all overtime must have written authorization of a supervisor prior to starting overtime work. Where prior written authorization is not feasible, explicit verbal authorization must be obtained and followed up by written authorization as soon as practical. Dispatched calls necessitating overtime work before or beyond a regular shift are considered authorized. An employee's failure to obtain prior written approval

will result in denial of the overtime request.

- D. Employees may be provided with a locker for personal convenience. Employees may or may not utilize the locker for storage and clothes changing purposes at their own discretion. Employees are expected to change clothes during normal shift hours and time spent in changing clothes before or after a shift, or during lunch, are not considered hours worked and are not compensable in any manner whatsoever.
- E. Compensatory time off may be requested by an employee in lieu of overtime pay, and if approved by the City, shall be provided at time and one-half for all hours worked over forty (40) hours in a week. Employees may accrue up to forty (40) hours of compensatory time. Unused time on the books as of the first pay period in December shall be paid to an employee. Unused compensatory time on the books shall be paid at termination of employment.
- F. In the event an employee is not permitted to have an uninterrupted meal period, such employee shall be paid for actual interrupted time at the overtime rate if the employee works a full shift that day.

### **ARTICLE 13 - SICK LEAVE**

- A. Represented full-time employees earn and accumulate sick leave at the rate of one (1) day (8 hours/9 hours for employees working a 9/80 alternative work schedule) per month for each calendar month of service. An employee continues to earn sick leave while on any paid leave. There shall be no limit to the amount of sick leave credit and employee may accrue.
- B. Each employee has one (1) hour deducted from the employee's accrued sick leave time for each hour of sick leave taken.
- C. Employees granted a leave of absence or absent from duty for one (1) or more days when not authorized by the City shall not accrue sick leave for the pay period in which the absence occurred. Sick leave shall not be accrued by an employee absent from duty after separation from City service. Sick leave balances at separation shall be forfeited.
- D. If an employee is absent from work for more than three (3) consecutive days, evidence, in the form of a physician's certificate or otherwise, may be required to determine the adequacy of reasons for an employee's sick leave absence.
- E. An employee may take five (5) days off of Sick Leave for bereavement which shall not be counted as part of the fifty-four (54) hours Incentive Sick Leave Bonus, but will be subtracted from accrued sick leave. Bereavement may be

granted for death involving members of the immediate family (for this purpose, members of the immediate family shall be defined as: spouse, mother, father, sister, brother, children, grandparents, mother-in-law, or father-in-law).

- F. The City shall institute a Sick Leave Incentive Program for all Bargaining Unit employees. The Sick Leave Incentive shall be one percent (1%) of an employee's base annual salary. The Sick Leave Incentive shall be paid during the first week of December.

For employee's to be eligible for the Sick Leave Incentive, they must not have used more than fifty-four (54) hours of sick leave between December 1 and November 30. Sick Leave used for work related injuries or illnesses shall not be counted as part of the fifty-four (54) hours Incentive Sick Leave Bonus, but will be subtracted from accrued sick leave. The effective date for determination of work related injuries or illnesses shall be based upon a medical report.

- G. Employees in service 20 or more years will receive up to 500 hours cashed out. The remaining hours after the 500 hours cashed out will go toward PERS Service Credit for eligible employees.

#### **ARTICLE 14 – CATASTROPHIC ILLNESS OR INJURY**

- A. Full-time employees may donate portions of their vacation or CTO accumulations to other employees who have suffered catastrophic illness or injury. Employees receiving donations of time must first exhaust all available vacation, compensatory time, and sick leave.

#### **ARTICLE 15 - HOLIDAYS**

- A. Employees shall receive the following holidays:
  - 1. New Year's Day
  - 2. Martin Luther King's Birthday
  - 3. President's Day
  - 4. Half Day - Good Friday
  - 5. Cesar Chavez Day (Recognized Only – Monday through Friday)  
(No additional day off if falls on Saturday or Sunday)
  - 6. Memorial Day
  - 7. Independence Day
  - 8. Labor Day
  - 9. Veteran's Day
  - 10. Thanksgiving Day
  - 11. Day After Thanksgiving Day
  - 12. December 24th

13. December 25th

- B. Every employee shall receive two (2) floating holidays per year. If an employee fails to take their floating holidays off, one between January 1st - June 30th and the other between July 1st - December 31st, the employee will forfeit their floating holiday credit.
- C. If any holiday falls on a Sunday, the Monday following will be observed as the holiday. If it falls on a Saturday, the Friday preceding will be observed.
- D. In the event that a holiday falls on an employee's regularly scheduled work day and the employee is required to work, the employee shall be paid for actual hours worked and may elect to receive an additional eight/nine (8/9) hours paid at straight time rate or eight (8/9) hours added to the employee's vacation accrual.

**ARTICLE 16 - VACATIONS**

- A. Employees shall earn paid vacation leave on a monthly basis at each pay period during the month. Vacation time shall be prorated in any partially worked month and the accrual rate shall be effective on the first day beginning the new benchmark year.

<u>YEARS</u>	<u>DAYS</u>
0 - 3	12 days
4 - 6	15 days
7 - 9	17 days
10 - 12	20 days
13 - 16	22 days
17 - 22	25 days
23 - PLUS	27 days

- B. Scheduling of employee vacation leave shall be at the employee's discretion with the Department Head's approval. Any scheduling conflicts shall be resolved with employee's seniority with City employment. If there is a tie then the tie will be resolved according to Departmental Seniority.
- C. Vacation leave granted by the City and used by an employee shall be deducted from the employee's accrued vacation leave. Vacation leave shall not be granted to an employee after separation from City service.
- D. Vacation Leave Accrual will be capped at 500 hours. Accrual during a fiscal year that has exceeded the 500 hour cap will be reset to the 500 cap effective on the following June 30<sup>th</sup> of each fiscal year if not used. All employees shall take at least one (1) week {5 straight working days} away from the job each year.

- E. Employees granted a leave of absence or absent from duty for one (1) or more days when not authorized by the City shall not earn vacation leave for the pay period in which the absence occurred.
- F. Employees may cash in up to sixty-four (64) hours of vacation leave per year providing the employee takes at least one week off as specified in Article 16-D with the approval of the City Manager.
- G. In the event that a holiday recognized in this MOU occurs during an employee's scheduled vacation leave, that holiday shall not be considered as vacation leave.
- H. An employee separated from City service shall be compensated for vacation hours on the books.

#### **ARTICLE 17 - TRAINING SCHOOL FEES**

When, as a condition for continued employment, the City requires attendance at a school or training establishment and where fees are charged, such fees shall be paid by the City. An employee required to attend such school shall suffer no loss of wages or benefits. This article does not apply to employees who do not meet the minimum schooling, license, or certification requirements of their classification. For such employees the City reserves the right to work out a separate agreement to assist the employee in achieving minimum requirements in a reasonable time.

Non-mandatory attendance at training schools/facilities which improves the performance of regular job duties and/or prepares for job advancement are not compensable as hours in excess of an employee's normal work shift. Any time spent in excess of the normal work shift will not be counted as working time and is not compensable in any manner whatsoever. Time spent in studying and other personal pursuits are not compensable hours of work under any conditions. This includes travel time to and from training facility, non-mandatory training, outside of an employee's work shift.

#### **ARTICLE 18 - TIME OFF TO EMPLOYEE REPRESENTATIVES**

The City shall allow two (2) City employee representatives time off from normal duties without loss of wages or benefits when formally meeting and conferring with representatives of the City in matters within the scope of representation. In no case shall overtime be paid for such meeting and conferring. Association meetings during which association business is discussed may occur during normal work hours provided Department Heads are notified at least one (1) week prior to the meeting and those meetings are of a reasonable duration and frequency.

## **ARTICLE 19 - WORKER'S COMPENSATION INSURANCE**

Worker's compensation Benefits shall be provided in accordance with State law, Yolo County Public Agency Risk Management Insurance Authority and any other applicable rules and regulations.

- A. Industrial Injuries and Accidents.
  - 1. Employees shall report any work related injury or illness which requires medical treatment to the appropriate department supervisor as soon as physically possible. Supervisors must complete, by law, an OSHA Form 301 incident report and turn it in to the Administrative Services Department.
  - 2. Employees shall report any work related injury or illness which does not require medical treatment to the appropriate department supervisor as soon as possible, in any event by the end of the employee's shift during which the injury or illness occurred. Supervisors must complete, by law, an OSHA Form 301 incident report and turn it in to the Administrative Services Department.
- B. Accident Reporting. Employees shall report any accident which results in any injury or property damage to other parties to the appropriate department supervisor as soon as physically possible.
- C. Medical Treatment. Any employee suffering from any work related injury or illness which requires emergency medical treatment shall immediately seek such treatment from a City designated physician or medical facility. Employees can seek treatment from their own physician or facility also.
- D. Leave of Absence for Industrial Disability Qualification. An employee suffering a work related injury or illness which disables that employee from the performance of regular job duties, may request a leave of absence for industrial disability. Such a request may be submitted in the form of a worker's compensation claim. Any dispute regarding such claim shall be resolved in the appropriate jurisdiction as defined by statute or policy.
- E. Compensation for any employee on a leave of absence pursuant to the worker's compensation sections of the California Labor code may have accumulated sick leave, vacation, and compensatory hours prorated to supplement temporary disability compensation payments provided that the total amount does not exceed the employee's base monthly salary.
- F. Temporary light duty. The City may make jobs available for the employee who can perform light duty assignments approved by the employee's physician and the City.

## **ARTICLE 20 - LEAVE OF ABSENCE**

Any employee who has successfully completed the original probationary period may request a leave of absence for a period not to exceed one (1) year.

- A. The City shall have sole discretion in approving or disapproving any employee request for a leave of absence or in granting any pay or benefits. Any leave of absence exceeding thirty (30) days must be approved by the City Council.
- B. Military leave shall be granted in accordance with the provisions of State Law.

## **ARTICLE 21 - DISCIPLINE**

Full authority for administering discipline for just cause, up to and including discharge, is retained by the City.

- A. Improper employee conduct may be cause for disciplinary action. Improper conduct includes, but is not limited to, the following:
  - 1. Fraud in securing appointment.
  - 2. Incompetency.
  - 3. Inefficiency.
  - 4. Insubordination.
  - 5. Dishonesty.
  - 6. Drunkenness on duty.
  - 7. Addiction to the use of controlled substances.
  - 8. Inexcusable absence without leave.
  - 9. Immorality.
  - 10. Discourteous treatment of the public or other employees.
  - 11. Improper political activity while on duty.
  - 12. Willful disobedience.
  - 13. Misuse of City property.
  - 14. Unlawful discrimination, including harassment, on the basis of race, religious creed, color, national origin, ancestry, physical handicap, marital status, sex, or age, against the public or other employees while acting in the capacity of a City employee.
  - 15. Unlawful retaliation against any other City officer or employee or member of the public who in good faith reports, discloses, divulges, or otherwise brings to the attention of the City or any other appropriate authority any facts or information relative to actual or suspected violation of any law of this state or the United States occurring on the job or directly related thereto.

**B. Disciplinary Action.**

The purpose of the disciplinary action is to correct deficiencies in employee performance and to assure improvement to meet job standards. Whenever any of the above actions are to be taken, the Department Head shall notify the City Manager. The City Manager shall be responsible for determining that the process is outlined in this Section.

**1. Oral or Written Reprimand.**

When the Department Head or immediate supervisor determines more severe action is not immediately necessary, an oral or written reprimand can be prepared detailing the deficiency or problem observed. If the reprimand is put in writing, a copy is to be filed in the employee's personnel file after being signed by and a copy given to the employee. Refusal to sign shall be noted before filing. Failure to correct deficiencies and improve to meet standards may result in further discipline including suspension, reduction in pay, demotion and discharge.

**2. Suspension.**

The Department Head may suspend an employee for cause and without pay, upon approval of the City Manager, for up to thirty (30) calendar days after the appropriate disciplinary proceedings. The City Manager may authorize immediate suspensions in an emergency situation or when the seriousness of a matter warrants. The disciplinary proceedings shall determine whether the immediate suspension shall be with or without pay. No employee shall be suspended without pay for more than thirty (30) calendar days in any calendar year.

**3. Reduction-in-Pay**

The Department Head, upon approval of the City Manager, may reduce an employee's pay for cause to a lower step or range as a disciplinary action.

**4. Demotion.**

The Department Head, upon approval of the City Manager, may demote an employee for cause as a disciplinary action.

**5. Discharge:** An employee may be discharged by the Department Head for cause upon approval of the City Manager. Permanent employees shall be discharged only after appropriate disciplinary proceedings.

The Appointing Authority may suspend the employee with pay immediately, as provided in 2 of this Section, pending the proper disciplinary process. Prompt disciplinary processing shall follow.

C. Notice of Proposed Disciplinary Action.

Except in cases of emergency or when immediate action is required, notice shall be given by the Department Head to the affected employee in accordance with procedures established by the City Manager. Such procedures shall be developed in accordance with State law. In cases of emergency or when immediate action is required, the affected employee shall be verbally informed of the reasons for the immediate action and shall be served with a notice of proposed disciplinary action as soon as possible thereafter.

D. Disciplinary Hearing.

The disciplinary hearing is an informal meeting at which the employee has an opportunity to rebut the charges against him/her or to state any mitigating circumstances. The City Manager or his/her designee shall hear and consider the employee's response.

E. Notice of Decision.

Following receipt and consideration of the written response or facts stated at the disciplinary hearing, or following no response by the required date, the Department Head shall prepare a notice of the action to be taken and effective date. The notice shall be delivered to the employee and a copy filed with the City Manager preferably before the effective date, or as soon thereafter as possible.

F. Appeal of Decision.

In the event that an affected employee is not satisfied with the decision after the hearing, the decision may be appealed in writing to the City Council within thirty (30) calendar days from the date of filing, the City Council shall hear the matter. After due consideration, the City Council shall give its written recommendation for dispensation of the appeal to the Appointing Authority and to the employee within ten (10) calendar days.

G. Employees may, if they choose to, have an association or other representative present at all stages of the disciplinary process provided that the representative is not a party to the action involved.

H. Retribution for Appeal.

No employee shall be penalized in any way for availing himself/herself of, or participating in the appeal process.

## **ARTICLE 22 - GRIEVANCE PROCEDURES**

A grievance is an alleged violation of a specific clause of this MOU. The Association may grieve an action or inaction pursuant to the procedures herein specified.

- A. **Informal Grievance Procedure.** The first attempt to settle a grievance will be through discussion with the immediate supervisor. Every effort should be made to find a solution by informal means at the lowest level of supervision. If the matter is not settled, the employee shall then have the right to file a formal appeal in writing to the department head.
  
- B. **Formal Grievance Procedure.** An employee filing a formal appeal shall do so in accordance with the following:
  - 1. **Department Review.** The appeal shall be presented in writing to the employee's department head who shall render a decision in writing within fifteen (15) work days after receiving the appeal. If the employee determines that further appeal is necessary, or if no answer has been received within the time period, the employee may present a written appeal to the City Manager. Should the employee fail to take action within fifteen (15) work days after receiving a decision, or non-decision from the department head, the appeal shall be deemed to have been abandoned and terminated.
  
  - 2. **City Manager Review.** The City Manager or a designated representative shall discuss the grievance with the employee. The City Manager may designate a fact finding committee for advice concerning the appeal. The City Manager shall render a decision in writing to the employee within fifteen (15) working days of the appeal.  
  
If the employee determines that further appeal is necessary, or if no answer has been received within the time period, the employee may present a written appeal to the City Council. Should the employee fail to take action within fifteen (15) work days after receiving a decision, or non-decision from the City Manager, the appeal shall be deemed to have been abandoned and terminated.
  
  - 3. **Appeal to the City Council.** On receipt of an appeal, the City Council may make such investigations as it deems necessary. The City Council will decide whether or not to hear the appeal or appoint a hearing officer or body. The employee may request that the appeal be considered at a public or closed meeting. The City shall notify the employee requesting the hearing of the date, time, and place of the

meeting. Unless incapacitated, the employee making the appeal shall appear personally at the hearing.

After conducting any investigation or hearing, the City Council shall cause its findings to be prepared in writing and shall certify the findings. Such findings shall be countersigned and filed as a permanent record by the City Manager. Any member of the City Council may submit a minority or supplemental report which shall be part of the permanent record.

If due to the absence from the City, or illness or disability of a majority of the City Council, an employee would be deprived of a right of a hearing, and in the event the employee were demoted, reduced in pay, or dismissed from City employment, the City Manager shall defer action until the Council is able to function, unless the case is deemed an emergency, in which event, the City Manager may suspend the employee with pay until the Council is able to function.

**D. Conduct of Grievance Procedure.**

1. The time limits specified in this Article may be extended to a definite date by mutual agreement of the employee and the appellate person or body.
2. The employee may be represented by a person of their choosing in preparing and presenting the grievance at any level of review.
3. The employee shall be assured freedom from reprisal for using the grievance procedures

**ARTICLE 23 - JURY DUTY**

Employees receiving a jury summons will be provided paid release time up to eighty (80) hours per calendar year when required to serve jury duty. Employees must inform their supervisor immediately to accommodate work schedule changes. Employees who are on jury service will have their work schedule changed to the day shift for each day they are on jury service and are scheduled to work. Employees dismissed from jury service in time to arrive at work at least two (2) hours prior to the completion of the shift, must report back to work.

**ARTICLE 24 - INSPECTION PRIVILEGES/POSTING OF NOTICES**

- A. With City approval, authorized agents of the Association shall have access to City premises during work hours (8:00 a.m. to 5:00 p.m.), Monday through Friday for purposes of adjusting disputes, investigating working conditions

and such other matters as may be needed. Access shall be conducted so as not to interfere with the conduct of City services and safety or security standards.

- B. City bulletin boards may be used for transmitting notices of Association meetings, elections, results of elections, and other matters pertaining to Association business. Notices must be signed by an authorized Association representative and a copy provided to the City Manager.

## **ARTICLE 25 - SAFETY AND HEALTH**

The City will provide protective devices, safety apparel, equipment and facilities pursuant to applicable regulations or laws. Employees shall utilize such protective devices, safety apparel, equipment and facilities when needed or required and failure to do so may be cause for disciplinary action.

## **ARTICLE 26 - WORK BY MANAGEMENT PERSONNEL**

It is agreed that management personnel will not perform work which is normally performed by employees covered in this MOU. Management and/or supervisory personnel may perform any work required or directed in the event of an emergency or to assure that a department is meeting its service goals.

## **ARTICLE 27 - NON-DISCRIMINATION**

Neither the City nor the Association shall discriminate against any employee or applicant for employment because of race, color, creed, age, sex, national origin, disability, or Association or non-Association activities.

## **ARTICLE 28 - SAVINGS PROVISION**

If any provision(s) of this Memorandum of Understanding are held contrary to law, such provision(s) shall be deemed invalid except to the extent permitted by law, but all other provisions will continue in full force and effect. On occurrence of such an event, the parties shall meet and confer in good faith as soon as practical to renegotiate only the invalidated provision(s).

## **ARTICLE 29 - TERM OF MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding shall remain in full force and effect from October \_\_, 2015 through September 30, 2017 and from year to year thereafter unless one party serves notice on the other.

**ARTICLE 30 - CONCLUSIVENESS OF MEMORANDUM OF UNDERSTANDING**

The parties acknowledge that during the negotiations which resulted in this MOU, each had the right and opportunity to make demands and proposals with respect to subjects within the scope of representation. The understandings set forth in this MOU constitute the complete and total contract between the City and the Association with respect to wages, hours, and terms and conditions of employment and shall remain in full force and effect for the term of this MOU, provided, however, that the parties may, upon mutual agreement, renegotiate any part or provision of this MOU, during its term.

Any prior or existing Memorandum of Understanding between the parties, past practices or conflicting rules and regulation regarding matters within the scope of representation are hereby superseded and terminated in their entirety.

Approved by the City of Winters Confidential Employee Association on the 1st day of JUNE, 2016.

BY: Judy S. Jensen  
Association Representative

Accepted for submittal to the City Council on the 1st day of JUNE, 2016.

BY: John W. Donlevy, Jr.  
John W. Donlevy, Jr., City Manager

APPROVED, RATIFIED, AND ORDERED IMPLEMENTED by the Winters City Council on the 7th day of JUNE, 2016.

Cecilia Aguiar-Curry  
Cecilia Aguiar-Curry, Mayor

ATTEST:

Nanci G. Mills  
Nanci G. Mills, City Clerk

**ADDENDUM A**

**Confidential Salary Schedule  
October 2015  
1.5% COLA**

<b>Position</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Management Analyst	4,392	4,611	4,842	5,084	5,338

**Confidential Salary Schedule  
October 2016  
2.5% COLA**

<b>Position</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>
Management Analyst	4,502	4,727	4,963	5,211	5,472