

**CITY OF LIVINGSTON  
MANAGEMENT AND CONFIDENTIAL EMPLOYEES  
ASSOCIATION**

**JULY 1, 2021 – JUNE 30, 2024**

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## **SECTION 1. RECOGNITION**

### **1.1 Employee Recognition**

It is recognized that within the various departments of the City, there are employees that are classified as Confidential and Management employees. It is further recognized that due to the diversity of the job descriptions within the Confidential and Management classifications, the employees who are presently labeled as Confidential and Management, need further descriptive terminology, so that they shall be classified appropriately.

The classification of the Confidential and Management employees shall include the following:

Management: Accountant  
Commander  
Community Development Director  
Public Works Superintendent  
Public Works Technician  
Recreation Superintendent  
Street Supervisor  
Water Supervisor

Confidential: Communications / Records Manager  
Administrative Services Manager  
Executive Assistant/Deputy City Clerk  
Senior Accountant  
Human Resources Coordinator

### **1.2 Association Recognition**

It is understood that within the Management and Confidential classifications there are employees who have the intent of forming a recognized Employee Association pursuant to the City's Personnel Rules and Regulations. It is further understood that said employees shall not be started until mutual agreement is established on the terms of this contract and both the City and the Management and Confidential Employees, or their representative, have signed this document.

### **1.3 Dues Deduction**

The Association may have the regular dues of its members within the representation unit deducted from the employees' paychecks under procedures prescribed by the City for such deductions. Dues deducted shall be made only upon signed authorization from the employee.

In the event that some form of Association security other than that provided above shall become permissive for public employees under competent enabling legislation, the parties shall then meet and confer with respect to the provisions of this subsection.

## **SECTION 2. CITY RIGHTS**

It is understood and agreed that the City retains its powers and authority to direct, manage and control all affairs of the City to the full extent of the law.

It is agreed that this Memorandum of Understanding is not in force or effect until ratified and approved by resolution adopted by the City Council of the City of Livingston.

## **SECTION 3. EMPLOYEE RESPONSIBILITIES**

The employer-employee relationship created mutual responsibilities. Reasonable rules and regulations are necessary to the proper functioning of any city. Observance of all rules, regulations and this Memorandum is essential.

## **SECTION 4. EMPLOYEE RIGHTS/OFFICIAL REPRESENTATION**

### **4.1 No Discrimination**

The City agrees not to discriminate against any employee because of membership in the Association. The Association agrees not to discriminate against any employee for non-membership in the Association. Association activities shall not interfere with the normal operation of the City. See Section 4.1 of Personnel Rules and Regulations.

### **4.2 Access to Personnel Files**

An employee or an employee's representative both upon written authorization from the employee shall have access to the employee's personnel file. Nothing shall be placed in an employee's personnel file until he/she has seen it.

### **4.3 Communication with Employees**

The Association shall be provided suitable space on bulletin boards at each work location for posting notices concerning official Association business.

### **4.4 Official Representation**

The Association shall be entitled to two representatives for the employees, who shall restrict their activities to the handling of grievances, and shall be allowed a reasonable amount of time for this purpose. The City Manager will be notified in writing of the names of the persons so designated.

#### **4.5 Advance Notice**

The Association shall be given reasonable advance written notice of any ordinance, resolution, rule or regulation directly relating to matters within the scope of representation proposed to be adopted by the City and shall be given the opportunity to meet and confer with the City manager prior to adoption.

#### **4.6 Employee Classification Inclusion/Exclusion**

It is recognized that the employees that are within the Management and Confidential categories have different job classification and functions. It is further recognized that each employee in his/her classification must comply with his/her assigned department rules, regulations and needs and, therefore, all items regulatory as well as beneficiary, do not and should not affect all employees the same. Because of the diversity, whenever there is a need to show separation of classification for proper and fair employee rights, the section in question shall show the classification inclusion or exclusion within the section.

### **SECTION 5. CONFLICT OF MEMORANDUM AND RESOLUTION**

It is understood and agreed that there exists within the City, Personnel Rules and Regulations.

### **SECTION 6. SALARY PLAN**

#### **6.1 Increases During Term of this Memorandum of Understanding**

During the term of this agreement, both the City and the bargaining unit agree to an opener for COLA's as follows: To use the Merced County CPI to determine any COLA's. Future COLA's will be subject to the meet and confer process annually only after the State of California has adopted its budget.

#### **6.2 Salary Plan Administration**

See Section 3 of Personnel Rules and Regulations.

#### **6.3 Salary Plan Administration, Advancement Within Salary Range**

See Section 3 of Personnel Rules and Regulations.

#### **6.4 Salary Plan Administration, Salary Step After Promotion/Demotion**

See Section 3 of Personnel Rules and Regulations.



## **6.5 Temporary Upgrading**

An employee assigned by the City Manager or his/her designee to perform the duties of a higher-paid classification shall receive an increase of five percent (5%) starting on the first day of such assignment. The rate paid shall not exceed the top step of the assigned classification and not be less than the first step of the classification.

## **6.6 Salary Plan, Pay Periods**

See Section 3.3 of Personnel Rules and Regulations.

## **6.7 Increases During Term of this Memorandum of Understanding**

For those employees within the bargaining unit, the Livingston Management and Confidential Employees Association shall receive a base salary adjustment on such dates as listed below.

Effective July 1, 2021, 3% base salary adjustment.

Effective July 1, 2022, 3% base salary adjustment.

Effective July 1, 2023, 3% base salary adjustment.

All salary adjustments are retroactive to July 1, 2021.

**American Rescue Plan (ARP) Funds:** City shall issue each eligible member of the Management and Confidential unit a stipend totaling \$6,000 as allowed per the ARP Guidelines for hazard pay during the COVID-19 pandemic. The stipend will be issued in two \$3,000 payments. The first \$3,000 stipend will be paid on the first pay period of December 2021 and the second \$3,000 stipend will be issued on the first pay period following the receipt of the ARP allocation.

## **SECTION 7. PROBATION PERIOD**

See Section 5.5 of Personnel Rules and Regulations.

## **SECTION 8. SENIORITY**

See Section 6.3 of Personnel Rules and Regulations.

## **SECTION 9. TRANSFER AND PROMOTION LISTS**

### **9.1 Transfer**

See Section 3.10 of Personnel Rules and Regulations.

### **9.2 Promotion**

See Sections 5.3 and 5.4 of Personnel Rules and Regulations.

### **9.3 Time Off for Examination**

Promotional examinations scheduled by the City during an employee's regular working hours may be taken without any loss in compensation.

## **SECTION 10. EVALUATION AND JOB DESCRIPTIONS**

### **10.1 Evaluations**

See Section 8.1 of Personnel Rules and Regulations.

### **10.2 Job Descriptions**

The City will meet and confer with the Unit in order to develop job descriptions to the classifications in this Unit if there are significant changes.

## **SECTION 11. LAYOFFS AND OUTSIDE EMPLOYMENT**

### **11.1 Layoff**

When it becomes necessary to reduce the City's work force, employees shall be "laid off" on the basis of their seniority within the classification. See Section 6.1 of Personnel Rules and Regulations.

### **11.2 Order of Layoff**

See Section 6.1 of Personnel Rules and Regulations.

### **11.3 Notice of Layoff**

Before an employee is laid off, the employee and the Association shall be notified in writing of such contemplated layoff at least thirty (30) working days prior to the effective date of the layoff.

### **11.4 Recall**

See Section 6.2 of Personnel Rules and Regulations.

## **11.5 Outside Employment**

See Section 14.1 of Personnel Rules and Regulations.

Off-duty employment will be approved subject to:

- A. An absence of interference with the full and efficient performance of duty at all times.
- B. The absence of a demonstrative conflict of interest between outside employment and City employment.
- C. Outside employment must be covered under State Workers' Compensation Insurance or a comparable insurance policy covering industrial accidents and injuries, said coverage to be approved by the City Manager.
- D. Outside employment will not create any liability against the City of Livingston.

## **11.6 Resignation**

See Section 7.1 of Personnel Rules and Regulations.

## **11.7 Reinstatement**

A permanent employee who has resigned in good standing will be considered for reinstatement to a vacant position of the same classification as the previous position within a period of two (2) years from the effective date of resignation. Reinstatement shall be made at the salary step last received by the returning employee.

## **SECTION 12. HOURS OF WORK, OVERTIME, PREMIUM PAY**

### **12.1 Hours of Work**

Hours of work shall be determined by the employee's Department Head according to the work load and the requirements of the employee's assigned department. All employees shall be scheduled to work on a regular work day and each work day shall have a regular starting and quitting time. The work week shall consist of 40 hours in any seven (7) day period, unless the employee's classification within his/her department necessitates the employee working a special shift.

## 12.2 Administrative Leave/Overtime/C.T.O.

All employees represented in this bargaining group shall receive Administrative Leave days in lieu of compensatory time to reward them for their hours of service in excess of forty hours per week as follows:

<b>POSITION</b>	<b>HOURS (PER FISCAL YEAR)</b>
Management & Confidential	64
Department Heads & Executive Assistant/Deputy City Clerk	110

Accrued Administrative Leave must be used within the fiscal year earned.

## 12.3 Breaks

Employees are entitled to two fifteen (15) minute breaks per work day. The breaks may be taken during the first four hours and second four hours of the work day. In addition, each employee is entitled to one (1) hour lunch break during his/her work day.

## 12.4 Attendance

Employees shall be required to contact their Department Head or his/her designee sixty (60) minutes in advance of being late and explain the reason for the tardiness and what time he/she expects to arrive. If an employee is to absent, he/she must call or discuss the reason beforehand with the Department Head. The employee is responsible for being ready for his/her assigned duty at the start of his/her shift and continue through the shift to the quitting time of the shift in the same state.

## 12.5 Mileage Allowance

An employee who is required to provide transportation for the performance of his/her job shall be compensated at a rate set by the City Council for all City employees.

An exception to this would be if an employee attended a work oriented function that was reimbursable at a higher rate under another authority. An example of the above would be POST reimbursable conferences and training schools. Mileage allowance would not be reimbursable at any rate unless prior approval was given to the employee by his/her Department Head.

## **12.6 Clothing Allowance**

The Police Chief and Commander shall receive \$800.00 per year, paid \$200 quarterly, for the maintenance and purchase of uniforms.

## **SECTION 13. INCENTIVE PAY**

Full-time Management and Confidential employees are urged to continue their in service formal education. The City Manager may authorize reimbursement of 50% of the cost of such education. Cost of such education shall only include tuition, books and supplies, not to exceed \$500 expense to the City per year per employee.

### **13.1 Deferred Compensation**

Effective January 1, 1998, City will pay up to \$100.00 per month per employee in deferred compensation matching an equal amount contributed by the employee. The City's match to deferred compensation is limited to a one year period beginning January 1 of the effective year. Employees must have five (5) years continued service, effective December 31, 1997, to qualify for this benefit. Members not currently eligible to receive this benefit shall do so upon their fifth anniversary and enjoy the City match for a one year period effective January 1 following their anniversary date.

### **13.2 Computer Purchase Program**

The City will implement an interest free loan to assist Association members with the purchase of personal computers and software as approved by the City.

### **13.3 Bilingual Pay**

Based on Department's needs and at Department Head or designee's approval, all individuals, who after having passed a verbal and/or written test, are determined to be bilingual will receive a monthly stipend of \$50. An additional monthly stipend of \$50 will be paid for biliterate skills.

## **SECTION 14. HOLIDAYS**

### **14.1 Holiday Pay**

Regular full-time employees shall be entitled to observe all authorized holidays at full pay, not to exceed eight (8) hours for any one (1) day.

## **14.2 Recognized Holidays**

If a holiday falls on a Sunday, the following Monday shall be observed and when a holiday falls on a Saturday, the preceding Friday shall be observed.

- A. Day Before New Year's Day
- B. New Year's Day – January 1<sup>st</sup>
- C. Martin Luther King's Birthday
- D. Washington's Birthday – Third Monday in February
- E. Memorial Day – Last Monday in May
- F. Independence Day – July 4<sup>th</sup>
- G. Labor Day – First Monday in September
- H. Veteran's Day – November 11<sup>th</sup>
- I. Thanksgiving Day – Fourth Thursday in November
- J. Day After Thanksgiving
- K. Day Before Christmas Day
- L. Christmas Day – December 25<sup>th</sup>
- M. Floating Holiday – (2)

## **14.3 Work Performed on a Holiday**

Any regular full-time non-management employee who is required to work on any of the holidays specified in Subsection 14.2, shall receive regular pay for holidays plus one and one-half (1 ½) times regular pay for hours worked on a holiday.

## **14.4 Holidays During Vacation**

In the event any of the holidays specified in Subsection 14.2 occur while an employee is on vacation, the holiday shall not be charged to vacation.

## **SECTION 15. VACATION**

### **15.1 Vacation Leave**

Annual vacation leave is to enable each eligible employee to return to his/her job mentally refreshed. The purpose of vacation is to insure the employee's continued efficiency by allowing periods of rest and relaxation. Therefore, vacation shall be taken in units of one week or more except that the Department Head may allow an employee to take vacation in units of less than one (1) week when he deems it to be in the best interest of the City. Vacation shall only be allowed in increments of one (1) or more whole days. Only one week of an employee's vacation may be split.

**15.2 Vacation Allowance**

Vacation shall vest upon the first day of employment. Thereafter, in accordance with the following schedule:

<u>Length of Service</u>	<u>Vacation Earned</u>
1-2 years	10 days
3-4 years	15 days
5-14 years	20 days
After 15 years	25 days

Employee will have the option to sell back up to 80 hours total of unused vacation either in December or June annually.

**15.3 Pay Upon Termination**

An employee shall be paid for any unused vacation time on the termination of his/her employment. The employee shall be paid at the rate of pay in effect at the time of his/her termination.

**15.4 Accrual**

Employees may accrue a maximum of 300 hours of vacation allowance, with the exception of the Commander this position may accrue a maximum vacation allowance of 400 hours. Employees will not receive any compensation for vacation hours in excess of 300 hours unless employee has requested and has been refused a vacation 30 day prior to exceeding 300 hours accumulated vacation. If the employee has been refused a vacation, he/she must schedule a vacation as soon as working conditions will allow. The same applies to the Commander position with vacation hours in excess of 400 hours.

**15.5 Longevity Incentive**

Employees shall be eligible for additional weeks of vacation based on longevity. The time shown shall be for one additional week in each of the mentioned years only: Completion of employee's 10<sup>th</sup>, 20<sup>th</sup>, 25<sup>th</sup> and 30<sup>th</sup> year.

### **15.5.1 Career Service Pay**

Upon reaching such career milestones with the City of Livingston members of the Management and Confidential Employees Unit will receive a one-time payment of as listed below at the end of such completed year of service.

5 years	\$100.00
10 years	\$200.00
15 years	\$300.00
20 years	\$400.00
25 years	\$500.00

### **15.6 Seniority**

In the selection of vacation time, preference shall be given to senior employees where vacation requests of employees conflict.

## **SECTION 16. LEAVE PROVISIONS**

### **16.1 Sick Leave**

Sick leave accumulation shall commence the first day of employment at a rate of one day per month. The taking of sick leave shall commence upon the completion of one month of employment. Sick leave may be accumulated without limit. Upon retirement each employee shall receive 100% of unused sick leave in cash.

When absence is for more than three (3) working days, the employee shall file a physician's certificate or personal affidavit with the immediate supervisor stating the cause and reason for the absence. The City may request a physician's verification of illness before paying any sick leave.

Unused sick leave shall be accumulated at the rate of ninety-six (96) hours a year.

An employee shall be able to use sick leave with pay when illness of a member of the employee's immediate household necessitates such absence. Some verification of personal sick leave is required. If an employee is absent on paid sick leave and a holiday occurs during such absence, the employee shall receive holiday pay for such holiday and such pay shall not be charged against the employee's sick leave credit.

In the event an employee terminates employment with the City, fifty percent (50%) of unused sick leave shall be paid upon termination of employment.



Sick leave shall be accumulated to a limit of 1560 hours for cash out purposes only. Sick leave accumulated in excess of 1560 hours may be utilized for retirement credit. Any employee whose accumulated sick leave total exceeded 1560 hours as of July 1, 1992, shall be exempt from the cash out limitation.

In the event that Workers' Compensation payments cover all or part of the period during which sick leave is paid, the sum of the two shall not exceed the sick leave benefit payable for said period, and the unused portion of accumulated sick leave will continue to be credited to the employee.

## **16.2 Industrial Disability Leave**

Any permanent employee of the City who has suffered any disability arising out of and in the course of employment, as defined by the Workers' Compensation Laws of the State of California, shall be entitled to disability leave while so disabled without a loss of compensation for the period of such disability to a maximum of sixty (60) days. Such disability leave with pay shall be renewable in sixty (60) day increments by the City Manager for a period of one (1) year, subject to examination confirmation of the continuing disability by a physician selected by the City every sixty (60) days.

During the period the employee is paid by the City, the employee shall assign or endorse to the City any benefits received as a result of Workers' Compensation Insurance coverage. The City reserves the right to withhold payment of any disability benefits until such time as it is determined whether or not the illness or injury is covered by Workers' Compensation.

The benefits of Sick Leave and Disability Leave shall be mutually exclusive at any one time, and no Disability Leave may be used for the purposes specified under Subsection 16.1, Sick Leave, and no sick leave benefits may be used for the purposes specified under this Subsection 16.2, Disability Leave.

Employees shall accrue vacation credit during an Industrial Disability Leave which does not exceed thirty (30) days of absence. Employees shall not accrue vacation credit after they have been on Industrial Disability Leave for a total of thirty (30) days in one (1) year, unless the disability is incurred pursuant to the employee's job performance.

## **16.3 Limited Duty**

Upon the advice of his/her physician, an employee may request and may be granted transfer to less strenuous or hazardous duties within their classification which the employee is qualified to perform for a period not to exceed one (1) year for non-work related injuries or illnesses, or in the case of work related injuries or illnesses, for the full recover or rehabilitation period.

#### **16.4 Funeral Leave**

Employee shall be allowed a leave of absence with full pay for up to 40 hours (5) work days due to the death of a member of employee's immediate family. For purposes of this provision, immediate family shall include spouse, domestic partner, child (including legally adopted child), parent, grandparent, grandchild, step-parent, stepchild, sibling, step-sibling, father-in-law, mother-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law of the eligible employee. Requests for bereavement leave for persons not listed above may be granted at the discretion of the City Manager or his/her designee. Time off for funeral or bereavement leave must be taken within time of service of the immediate family member.

#### **16.5 Leave of Absence**

The City Manager may grant a permanent employee a leave of absence without pay or benefits not to exceed one (1) year. Request for such leave shall be in writing and may be approved by the City Manager in writing.

#### **16.6 Maternity Leave**

A pregnant employee holding a permanent position shall be entitled to a leave of absence for up to one hundred twenty (120) days. This leave shall commence upon certification from the employee's attending physician that she is no longer capable of performing the duties of her position.

Upon the advice of her physician, the employee may request a temporary transfer to a less strenuous or hazardous position carrying the same or lower salary which she is qualified to perform. However, nothing herein shall result in the displacement or transfer of other employees in permanent positions or the performance of unnecessary work.

Where it is the opinion of the Department Head that the employee should be placed on leave sooner than prescribed by her physician due to her inability to effectively or safely perform the duties of her regular position or of one to which she has been, or could otherwise be, temporarily transferred, the employee may be required to undergo examination by a second physician. The cost of this examination shall be paid by the City and shall not be ordered without prior approval of the City Manager.

During the first six (6) weeks of any such leave, the employee shall be entitled to utilize accrued sick leave benefits on the same basis as other employees who are temporarily disabled due to a non-industrial illness or injury.

After the first six (6) weeks of such leave, the employee shall be entitled to utilize accrued vacation. While the pregnant employee is on a paid leave status, service credits shall continue to accrue and the City shall continue payments toward group insurance and retirement coverage.

Upon expiration of the approved leave, the employee shall be reinstated to her former position. Prior to the employee being reinstated, the Department Head may require a statement from the attending physician that the employee is physically capable of resuming the regular duties of her position.

An employee may, based upon medical factors, request that her leave be extended beyond one hundred twenty (120) days and shall submit a supporting statement from her physician. The Department Head, with the approval of the appointing authority, may extend the leave for up to an additional thirty (30) days.

#### **16.7 Military Leave**

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

#### **16.8 State Disability Insurance**

Employee shall pay full premium for State Disability Insurance.

### **SECTION 17. HEALTH AND WELFARE PLANS**

#### **17.1 Medical-Dental-Vision-Long Term Disability and Life Insurance**

Effective February 1, 2006, for those employees known as the Livingston Management and Confidential Employees Association, the City of Livingston will pay all premiums associated with the cost of providing medical, dental, vision, long term disability and life insurance for full-time employees and their eligible dependents.

Also effective February 1, 2006, the City of Livingston will assume full control over the benefit plans offered to the employees, including the selection and retention of any and all agencies involved in providing and maintaining medical, dental, vision, long term disability and life insurance benefits. The City agrees to continue to provide comparable or better benefit plans for the employees as long as the financial condition of the City is such that it can afford to cover the cost of providing the benefits.

Effective upon ratification of the MOU and through the term of the agreement, medical premiums will be split 80% employer-paid and 20% employee-paid.

Bargaining unit members who opt out of participating in the group medical plans sponsored by the City, and who provide proof of their medical coverage in a group plan, will receive \$500 per month, and allow payment in cash paid monthly or which part must be used in a deferred compensation plan of the employee's choice. This benefit will be effective upon final ratification by both parties (unit and City) for those that qualify. Any Federal/State laws/policies/guidelines conflicting with this incentive program should supersede this section of the MOU and incentive may be subject to termination.

## **17.2 Medical Examinations**

The City, at its option, may require a physical examination of each employee upon his/her entry into employment and of each employee at least once a year during the term of this agreement. Annual physical examinations shall be normally held on the anniversary date of an employee's entry into employment. Standards of each examination shall be the same for all employees. Any expense in connection with the physical examination will be borne by the City. However, this is not to be considered as meaning that the City will pay for the treatment of any physical ailments which may be discovered by such examination. Examinations must be conducted at a location chosen by the City.

## **17.3 Retirement - Classic Members**

The benefit contract in effect between the City of Livingston and Public Employees' Retirement System (PERS) in behalf of eligible permanent full-time employees of this Unit as of July 1, 1989, shall be continued during the term of this Memorandum of Understanding.

The City will contribute the employees' seven percent (7%) payment to PERS. The payment made by the City on behalf of the employee will remain in the employees' account and may be withdrawn by the employee at such time as the employee terminates from participation in PERS or retires. However, money contributed by the City on behalf of the employees will be considered taxable income during the year in which it is withdrawn. The City will furnish all employees an annual statement of the monies deposited in PERS on their behalf.

The City of Livingston shall amend the City's contract with the Public Employees' Retirement System (PERS) to provide the following additional benefit as provided by Section 20042 of the Government Code for the Local Miscellaneous Employees Group only:

The period for determining the average monthly pay rate when calculating retirement benefits will change from the 36 highest paid consecutive months to the 12 highest paid consecutive months. (Applicable only to

members retiring or whose death occurs after the effective date of the contract amendment.)

### **17.3.1 Retirement – Classic Members**

Effective upon execution of this agreement, Management and Confidential Employees Association, Classic members will pay one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2019, Management and Confidential Employees Association, Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

Effective July 1, 2020, Management and Confidential Employees Association, Classic members will pay an additional one percent (1%) of the Employee contribution to PERS.

### **17.3.2 Retirement – New Members**

All employees hired on or after January 1, 2013, who are considered “new members” under the Public Employees Pension Reform Act (PEPRA) will be provided a CalPERS benefit formula of 2% at 62 for Miscellaneous and 2% at 57 for Safety.

In addition, “new members” shall be subject to the contribution requirements in Section 7522.30(a) and (c) of the PEPRA, and the City shall not pay any of the required employee contribution for “new members.”

### **17.4 Post Retirement Benefits**

For all employees employed by the City as of July 1, 1989 only who retire from the City’s employment under the Public Employees’ Retirement System currently in effect other than disability retirement, the City will continue to pay the premiums for health and dental care coverage in an amount equal to the amount paid if the employee was still employed by the City.

In disability cases, dependent medical and dental coverage will continue until death of the retired employee or until dependents no longer are qualified as dependents under the current medical and dental plan.

### **17.5 False Arrest Insurance/Police Management**

The City will provide the Chief of Police with False Arrest Insurance in conjunction with the City’s General Liability policies.

## **17.6 Long-Term Disability**

City will provide each employee covered under this Memorandum of Understanding with Long-Term Disability coverage at the City's expense.

## **17.7 American with Disabilities Act**

Because the ADA required accommodations for individuals protected under the Act, and because these accommodations must be determined on an individual, case by case basis, the parties agree that the provisions of the Agreement may be disregarded in order for the City to avoid discrimination relative to hiring, promotion, granting permanency, transfer, layoff, reassignment, termination, rehire, rates of pay, job and duty classification, seniority, leaves, fringe benefits, training opportunities, hours of work or other terms and privileges of employment.

The Association recognizes that the City has the legal obligation to meet with the individual employee to be accommodated before any adjustment is made in working conditions. The Association will be notified of these proposed accommodations prior to implementation by the City.

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance/arbitration procedure.

Prior to disregarding any provision of this Agreement in order to undertake required accommodations for an individual protected by the Act, the City will provide the Association with written notice of its intent to disregard the provision, and will allow the Association the opportunity to discuss options to disregarding the Agreement. However, as the City has a legal obligation to undertake required accommodations such action shall not be subject to bargaining with the Association.

## **SECTION 18. SAFETY**

### **18.1 Observance of Safety Rules and Regulations/Public Service Employees**

Both the City and the Association shall expend every effort to ensure that work is performed with a maximum degree of safety consistent with the requirement to conduct efficient operations.

Each employee covered by this Memorandum agrees to comply with all safety rules and regulations in effect and any subsequent rules and regulations that may be adopted. Employees further agree that they will report all accidents and safety hazards to the appropriate management official immediately. Any employee

having knowledge of, or who is a witness to an accident shall, if requested, give full and truthful testimony as to same.

An employee may refuse a dangerous work assignment if one or all of the following conditions exist and he/she immediately notifies his/her supervisor of the condition(s):

1. He/she has a reasonable belief, based on what he/she knows at the time, at the time, that there is a real imminent danger of death or serious physical injury. If he/she has good reasons that other reasonable people would recognize, he/she may refuse the task even if it is later found that there was no imminent danger.
2. If he/she has asked his/her employer to eliminate the danger and the employer has failed to do so.
3. The danger is so imminent that it cannot be eliminated quickly enough through normal OSHA enforcement procedures.

## **18.2 Safety Program**

The Management-Confidential Safety Committee shall consist of three (3) representatives of the Management-Confidential Unit.

## **18.3 Safety Equipment**

Protective clothing or any type of protective device required in employee's work will be furnished to the employee by the City at not cost to the employee. All employees shall use City supplied safety equipment only for the purpose and use specified under applicable safety rules and regulations.

The City agrees to purchase one (1) pair of Red Wing work boots with steel shanks through a purchase order not to exceed \$170.00 once a year for the Public Works Superintendent. The city will provide one (1) new jacket for the Public Works Superintendent during the term of this agreement.

## **SECTION 19. DISCIPLINE AND DISCHARGE**

See Section 9 of Personnel Rules and Regulations.

## **SECTION 20. GRIEVANCE PROCEDURE**

See Section 10 of Personnel Rules and Regulations.

**SECTION 21. MODIFICATION OF AGREEMENT**

No changes in this Memorandum of Understanding or interpretations thereof will be recognized, unless agreed to by the City Manager and the Association unless a financial disaster results in a significant loss of revenue to the City which shall allow the City to open the contract unilaterally.

**SECTION 22. NEW WORK**

In the event the City introduces new work which the Association believes does not fall within any of the existing classifications, the City and the Association shall, upon written request, meet and confer with respect to the assignment or classification of such work.

**SECTION 23. PAST PRACTICES AND EXISTING MEMORANDA OF UNDERSTANDING**

This Memorandum of Understanding shall supersede all existing and prior Memoranda of Understanding between the City and the Association, resolutions and ordinances which are in conflict with this agreement.

**SECTION 24. RESOLUTION OF IMPASSE**

See Section 11.6 of Personnel Rules and Regulations.

**SECTION 25. SEPARABILITY OF PROVISIONS**

Should any section, clause or provision of the Memorandum of Understanding be declared illegal and unenforceable by a final judgment of a Court of competent jurisdiction, such invalidation of such section, clause or provision shall not invalidate the remaining portions hereof, and such remaining portions shall remain in full force and effect for the duration of this Memorandum of Understanding. In the event of such invalidation, the parties agree to meet and confer immediately concerning substitute provisions for the provisions rendered, or declared illegal.



**SECTION 26. TERM OF MEMORANDUM**

This Memorandum of Understanding entered into on the 1<sup>st</sup> day of July, 2021 shall, upon approval of the City Council, remain in effect for those employees in the classifications which comprise the Association Bargaining Unit for the period from July 1, 2021 to and including June 30, 2024. The City may unilaterally open this agreement in the event a financial disaster results in a significant loss to the City.

Ninety (90) days prior to the termination of this Memorandum of Understanding, the Association will notify the City if it wishes to modify the agreement. In the event that such notice is given, negotiations shall begin as soon as possible after the notice. This agreement shall remain in full force and be effective during the periods of negotiations and until Notice of Termination of this agreement is provided to the other party.

**Management and Confidential  
Employees Association**

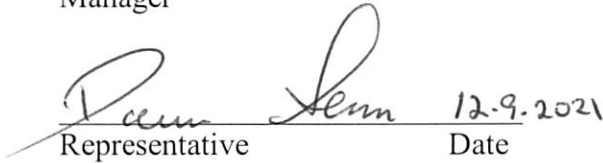
**City of Livingston**



Representative Date  
Manager



Vanessa L. Portillo, Interim City



Representative Date

12-09-2021  
Date