

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE CITY OF HAWTHORNE
AND THE
HAWTHORNE MUNICIPAL EMPLOYEES' ASSOCIATION
(PART-TIME EMPLOYEES)
EFFECTIVE
JULY 1, 2011 THROUGH JUNE 30, 2012

ARTICLE 1 - INTRODUCTION

It is the understanding of the undersigned representatives of the Hawthorne Municipal Employees' Association and representatives of the City of Hawthorne that:

This Memorandum of Understanding (MOU) incorporates any previous Memorandum of Understanding governing the wages, hours, terms and conditions of employment for the employees described in this bargaining unit. The wages, hours, terms and conditions of employment as contained in this agreement shall be recommended to the Hawthorne City Council and, subject to City Council approval, shall be implemented by the appropriate ordinance, resolution or other official action. Unless otherwise indicated, all provisions of this MOU are to be effective July 1, 2011 – June 30, 2012.

ARTICLE 2 - RECOGNITION

The City of Hawthorne recognizes the Hawthorne Municipal Employees' Association as the sole and exclusive bargaining agent for the purposes of establishing salaries, wages, hours, and other conditions of employment for those employees assigned to classifications included in this MOU.

ARTICLE 2.1 - UNIT MEMBERSHIP UNIT

Within thirty (30) days from the effective date of this MOU, the City will provide the Association with an alphabetized list of employees subject to this MOU, which will include each employee's name, employee number, class title and location by department and division, where such information is available. Home addresses shall be provided within sixty (60) days from the effective date of this MOU. Every ninety (90) days thereafter, the City shall provide to the Association an alphabetized list of employees subject to this MOU, grouped by department and indicating each employee's name, employee number, class code, class title, membership status, and location, as applicable. This information will be provided either in the form of an electronic file or in a printed report as requested by the Association.

ARTICLE 2.2- USE OF CITY FACILITIES

The Association shall be permitted to use City facilities on prior approval for the purpose of holding meetings to the extent that such use of the facility will not interfere with normal departmental operations. Participating employees will attend said meetings on their own time.

ARTICLE 2.3- AGENCY SHOP

The following Agency Shop provisions shall continue during the term of this MOU.

A. DUES/FEES

1. Each permanent employee in this unit (who is not on a leave of absence) shall, as a condition of continued employment, become a member of the certified representative of this unit, or pay the Association a service fee in an amount not to exceed periodic dues and general assessments of the association for the term of this MOU, or a period of three (3) years from the operative date of this article, whichever comes first. Such amounts shall be determined by the Association and implemented by the City in the first payroll period which starts 30 days after written notice of the applicable rate(s) of Association dues and/or representation fees is received by the City. Under no circumstances shall dues or fees be collected from employee's paychecks on a retroactive basis.
2. The City and the Association shall jointly notify all members of the representation unit that they are required to pay dues or a service fee as a condition of continued employment and that such amounts will be automatically deducted from their paychecks. The religious exclusion will also be explained.

B. RELIGIOUS EXCLUSION

Any employee who is a member of a bonafide religion, body, or sect which has historically held conscientious objections to joining or financially supporting public employee organizations shall not be required to join or financially support the Association. Such employee shall, in lieu of periodic dues or agency shop fees, pay sums equal to said amounts to a non-religious, non-labor charitable fund exempt from taxation under section 501(c)(3) of the Internal Revenue Code, which has been selected by the employee from a list of such funds designated by the City and the Association in a separate agreement. Such payments shall be made by payroll deduction as a condition of continued exemption from the requirements of financial support to the Association and as a condition of continued employment.

C. MANAGEMENT RESPONSIBILITIES

1. The City shall cause the amount of the dues or service fees to be deducted from twenty-six (26) biweekly payroll checks of each employee in this unit as specified by the Association under the terms contained herein. "Dues," as distinct from "service fee," shall be the result of voluntary consent in the form of a payroll deduction card signed by the individual employees.
 - a) Remittance of the aggregate amount of all dues, fees and other proper deductions made from the salaries of employees hereunder shall be made to the Association by the City within thirty (30) working days after the conclusion of the month in which said dues, fees and/or deductions were deducted.
2. The City shall also apply this provision to every permanent employee who,

following the operative date of this Article becomes a member of this representation unit, within sixty (60) calendar days of such employment. Such deduction shall be a condition of continued employment.

3. The City will provide the Association with the name, home address, and employee number of each permanent employee.
4. The City shall provide the organization, at least monthly, a status report showing all changes in the employment status of employees in this unit which affect the applicability of the provisions of this Article to those employees.
5. Information detailed above shall be provided either in the form of a computer file or in a printed report as requested by the Association.

D. ASSOCIATION RESPONSIBILITIES

1. The Association shall keep an adequate itemized record of its financial transactions and shall make available annually to the City, and to all unit employees, within sixty (60) calendar days after the end of the Association's fiscal year, a detailed written financial report thereof in the form of a balance sheet and an operating statement, certified as to its accuracy by its president and the treasurer or corresponding principal officer, or by a certified public accountant.
2. The Association certifies to the City that it has adopted, implemented and will maintain constitutionally accepted procedures to enable non-member agency shop service fee payers to meaningfully challenge the propriety of the uses to which service funds are put; and that those procedures are in accordance with the decision of the United States Supreme Court in *Chicago Teachers Union, Local No. 1, AFT, AFL-CIO, et al. V. Hudson*, 106 S. CT, 1066 (1986).
3. The Association agrees to indemnify and hold the City harmless for any loss or damage arising from the operation of this Article. It is also agreed that neither any employee nor the Association shall have any claim against the City for any deductions made or not made, as the case may be, unless a claim of error is made in writing to the City within thirty (30) calendar days after the date such deductions were or should have been made.

E. The agency shop provisions herein may be rescinded in accordance with the procedures adopted by the California Public Employees Relations Board.

In the event that this Article is overturned by the employees in this representation unit, all other articles of the MOU shall remain in full force and the prior agreement, rules, regulations and past practices relating to organizational dues deductions authorizations shall be reinstated under

a successor MOU or amendment shall have been approved.

ARTICLE 3 - TIME OFF FOR ASSOCIATION REPRESENTATIVES

Association authorized representatives shall be allowed reasonable time off without loss of pay to prepare for and attend negotiation sessions, to attend Association meetings and to prepare and participate in grievance and disciplinary action appeal hearings, etc.

ARTICLE 4 - NO DISCRIMINATION, NO HARASSMENT

Both parties to this MOU agree not to discriminate against any employee or applicant because of age, sex, race, national origin, religion, color, ancestry, marital status, sexual orientation, physical or mental disability, medical condition, and/or union membership and activity. Additionally, the City expects and requires all employees to treat one another with dignity and respect. Harassment of fellow employees is a violation of law. No employment decision may be made based upon an employee's submission to or rejection of such conduct. Any employee who believes that they are the victim of such harassment, whether sexual, racial, ethnic or religious, is required to immediately report the conduct to the City Manager, or designee. Any employee who engages in such conduct is subject to disciplinary action, including immediate discharge.

ARTICLE 5 - COMPENSATION: PART-TIME EMPLOYEES

Section 5.1 Salary Schedule.

Hourly employees shall be paid in accordance with the following hourly wage rate schedules.

Aquatic Director	18.90
Administrative Intern	14.80
Arts & Crafts Specialist	10.78
Attorney I (civil litigation)	15.00
Attorney II (civil litigation)	20.00
Attorney III (civil litigation)	30.00
Attorney I (land use)	35.00
Attorney II (land use)	50.00
Background Investigator II	35.00
Crossing Guard	11.44
Deputy City Attorney (Part-Time)	48.23
Engineering Trainee	19.09
Emergency Preparedness Coordinator	28.37
Employment Development Administrative Clerk	17.38
Employment Development Administrative Intern (Hourly)	14.81
Employment Development Program Services Clerk I	23.49

Employment Development	28.90
Program Services Clerk II	
Employment Development	13.73
Typist Clerk (Hourly)	
Facility Cashier	11.25
File Clerk	10.00
Graffiti Worker	10.96
Graffiti Lead Worker	15.30
Graffiti Senior Lead	20.93
Worker	
Graphic Artist/Editor	22.24
Helicopter Pilot	35.00
HR Specialist	32.50
Life Guard	14.22
Park Maintenance Aide	15.91
Street Maintenance Aide	15.91
Maintenance Worker I	20.64
Management Analyst	28.37
Mechanic	22.23
Office Clerk I	13.43
Office Clerk II	21.81
Parking Enforcement	20.13
Officer	
Police Records Aide	20.31
Police Reserve - Level I	18.42
Police Reserve - Level II	12.90
Producer	18.32
Production Assistant	9.16
Production Assistant I	11.25
Production Assistant II	12.61
Prosecutor I	15.00
Prosecutor II	20.00
Prosecutor III	30.00
Prosecutor IV	40.00
Prosecutor V	47.50
Public Relations Officer	38.00
Recreation Leader I	9.01
Recreation Leader II	11.25
Recreation Leader III	13.59
Recreation Leader IV	15.95
Senior Center Specialist I	11.25
Senior Center Specialist II	12.83
Senior Life Guard	16.66
Survey Technician	26.83
Swimming Pool Aide	9.01
Video Specialist I	12.42
Video Specialist II	15.70

Section 5.2 Initial Salary.

The initial compensation to be paid any employee covered under this MOU shall be the above

hourly compensation as relates to that employee's classification. Provided, however, that the City Manager may, with the approval of the City Council and notice to HMEA, recruit and appoint personnel at a higher hourly rate.

Section 5.3 Definition of "Work Week" and "Hourly Rate."

There shall be no guarantee of a regularly scheduled recurring work week of forty (40) hours, unless the City Council shall determine otherwise, by motion, resolution, or ordinance. All employees covered under this Agreement shall be notified, on no less than ten (10) business days' notice, of their weekly work schedules.

Section 5.4 Payroll Date.

All employees covered under this MOU shall be paid bi-weekly.

Section 5.5 Promotions.

Any employee promoting to a civil service position on a permanent basis must, as a condition of such permanent promotion, take and successfully pass any and all tests applicable to the position as determined by the Civil Service Commission.

ARTICLE 6 - INSURANCE BENEFITS

Section 6.1 Pension

All part time employees who work more than 1,000 hours in a fiscal year must be enrolled as a member of PERS. This enrollment is provided by contractual agreement between the City and PERS. Once enrolled, the employee will stay a member regardless of the number of hours worked per pay period. The employee shall pay to PERS an amount equal to the entire amount of his/her contribution based upon the portion of the employee's salary subject to PERS contribution.

Section 6.2 Health Insurance

Any employee covered by this Agreement who is entitled to PERS enrollment shall also be entitled to receive \$150.00 per month towards a PERS health insurance plan through the City for the employee and his/her dependents. An employee who elects not to enroll in a health insurance plan under this provision shall not be entitled to the additional monetary amount. Eligibility for this benefit shall continue only for as long as the employee continues to be regularly scheduled to work a minimum of 30 hours per week, excluding sick and vacation leave.

ARTICLE 7 – BENEFITS RELATED TO TIME AND HOURS OF WORK

Section 7.1 Safety Shoes &/or Uniforms.

The City shall provide safety shoes and/or uniforms, of a type to be determined by the City Manager, to employees in all applicable job classifications within this MOU that require safety shoes to perform the essential functions of their job.

Section 7.2 Floating Holidays and Vacation Pay.

A. Bargaining unit employees in the following classifications shall be entitled to eighty percent (80%) of the floating holiday and vacation pay provided in the HMEA Full-Time MOU, at Article 7, Sections 7.2 and 7.4 thereof:

Senior Citizen Specialist I and II
Parking Enforcement Officer

Section 7.3 Sick Leave.

A. Accrual.

Employees in the positions of Senior Citizen Specialist I & II and Parking Enforcement Officer shall accrue sick leave at the rate of 2.95 hours for each bi-weekly pay period in which the employee actually worked, OR was on paid leave for a minimum of forty (40) hours. Effective January 1, 2012, all other employees covered by this MOU who have worked a minimum of 1040 hours over the last 12 months (i.e., January 1, 2011 – December 31, 2011) shall be credited with three (3) days of sick time per calendar year. The credited amount of time will be reflected in hours and will be calculated based on an employee's average number of hours worked per week. In the event such three (3) days are not used by the employee, they shall not carry over into the next calendar year and the employee shall have no right or entitlement to have such unused sick days cashed out.

B. Usage.

1. Those Bargaining Unit employees identified in Section 7.5(A), above, may not take paid sick leave before the completion of six (6) months of employment from date of hire.
2. An employee eligible for paid sick leave shall be granted such leave for the following reasons:

- a. Illness or injury that has resulted in the employee's inability to perform normal duties. An employee who is unable to report to work due to illness or injury, shall notify the appropriate party, as soon as reasonably possible, of that fact and give that party a telephone number and/or address at which the employee can be reached. In addition, an employee shall notify the appropriate party of their status at least every other scheduled shift.
- b. Health and dental appointments during scheduled working hours. Use of sick leave for scheduled health and dental appointments shall require prior approval of the employee's supervisor or designee, in accordance with the City's best interests.
- c. Disability caused by pregnancy or childbirth.
- d. Eligible employees may use up to forty-eight (48) hours of accrued sick leave during each calendar year as follows:
 - 1. Scheduled leave must be approved by the employee's supervisor at least forty-eight (48) hours prior to the beginning of the shift.
 - 2. Unscheduled leave shall be granted under this provision in the event of death of a friend or relative not covered by bereavement leave; or the injury or illness of a spouse or dependent where the employee's presence is necessary.
 - 3. Additional paid leave may be granted, under special circumstances, when the employee's presence is necessary during convalescence of a spouse or dependent. Such leave must be approved by the employee's Department Head, or designee, and the Director of Administrative Services, or designee. Verification of reasons for sick leave usage may be required by the employee's supervisor or designee.

C. Payment of Sick Leave.

- 1. Any eligible employee who has accumulated between 360 and 720 hours of sick leave has the option of "cashing out" up to 48 hours of accumulated sick leave. The amount of the entitled "cash out" shall be calculated by subtracting the number of hours used during the preceding twelve months from the annual accrual amount of 96 hours and dividing the balance in half. The maximum cash payment shall be equivalent to forty-eight (48) hours of the employee's current compensation, and the employee's total accrual shall not fall below 360 hours.

2. Any eligible employee who has accumulated between 720 and 960 hours of sick leave has the option of "cashing out" up to 96 hours of accumulated sick leave. The amount of the entitled "cash out" shall be calculated by subtracting the number of hours used during the preceding twelve months from the annual accrual amount of 96 hours. The maximum cash payment shall be equivalent to ninety-six (96) hours of the employee's current compensation
3. Any eligible employee who has accumulated 960 hours of sick leave, will be paid for any accumulated sick leave in excess of 960 hours in current compensation. However, in no event, will an employee be allowed to cash out more than ninety-six (96) hours in any one year.
4. Payment dates for sick leave under the above subsections shall be made during the month of December, prior to Christmas Day.
5. Voluntary Quit - Sick Leave Payment.

Any employee who voluntarily resigns from the City after having completed seven (7) years of such service, shall receive fifty percent (50%) of the value of said employee's accumulated sick leave.
6. Retirement.

Upon retirement, those employees eligible for paid sick-leave accrual under this Agreement shall receive 100% payoff of unused sick leave.
7. Sick Leave Related to Industrial Injury or Illness.

Any employees eligible for paid sick-leave accrual under this agreement who is involved in an industrial accident resulting in absenteeism, shall receive full pay for the first ten (10) working days without loss of accumulated sick leave.

Section 7.4 - Voluntary Assignment Of Sick Leave Between Employees

In the event an employee has accumulated sick leave which has been carried over from a previous year or years, he/she may assign up to forty-eight (48) hours of such sick leave to another bargaining unit employee who has exhausted his/her sick leave bank. With regard to such assignments of sick leave between employees, the following guidelines shall apply:

- A. The sick leave to be assigned has not been the subject of a request for cashing out by the assigning employee.

- B. The employee to whom the sick leave is to be assigned has exhausted his/her sick leave bank and is suffering from a serious health condition which would otherwise entitle that employee to family medical and care leave under the provisions of California Government Code §12945.2.
- C. Any employee may make one (1) such assignment of sick leave per year.
- D. Any employee may receive up to four hundred and eighty (480) hours in assigned sick leave from other employees.
- E. Any sick leave assigned under the provisions of this section must be utilized as paid leave and shall not be subject to the cash out provisions of this Agreement.

The donating employee shall have deducted from his/her sick leave bank the amount donated. This amount shall be considered as "used" sick leave for the purposes of subsections 8.6(C)(1) & (2).

- F. Any application for the assignment of sick leave under this section shall be in writing and (i) identify the employee making and the employee accepting the assignment; (ii) be signed by both the employee making and the employee accepting the assignment; (iii) specify the number of sick leave hours to be assigned, (iv) state the reason underlying the necessity of the assignment (i.e. serious personal illness requiring a substantial period of convalescence, etc.), and; (v) state that the employee receiving the assignment has exhausted his/her sick leave bank.
- G. The City shall not unreasonably withhold its approval as to any assignment of sick leave submitted to it pursuant to this section;
- H. The City shall prepare and make available to the bargaining unit appropriate forms with regard to applications for the assignment of sick leave under this section.

ARTICLE 8 - LONGEVITY PAY

Longevity pay at a rate of \$340 per month will be available to any employee whose continuous service began prior to June 30, 1976.

ARTICLE 9 - BEREAVEMENT LEAVE

- A. In the event of death of a member of the immediate family – defined as spouse, child, step-child, mother, mother-in-law, stepmother, father, father-in-law, stepfather, grandparent, sister, brother, or registered domestic partner with the State of California – a bargaining unit employee may be absent, for the purpose of arranging for and attending the funeral of an

immediate family member, no more than three (3) consecutive working days without loss of pay, and, if applicable, without charge to that employee's accumulated sick leave.

B. If the circumstances require a Bargaining Unit employee, who is eligible for paid bereavement leave, to travel in excess of 500 miles, one way, to arrange for and attend said funeral, two (2) additional days without loss of pay or charged to sick leave, shall be granted.

ARTICLE 10 - SPECIAL PAY PROVISIONS

Section 10.1 Educational Reimbursement.

It shall be the policy of the City to encourage all employees to improve their skills, ability and knowledge through enrollment in courses in outside educational institutions. Accordingly, all employees covered under this MOU shall be limited to a maximum of \$100.00 per unit for the cost of tuition and regular application fee. In addition, each employee shall also be eligible for reimbursement for books purchased as required for reimbursable course work. This benefit is subject to the following conditions:

- A. The reimbursement request shall be submitted to and approved by the City Manager prior to enrollment.
- B. A minimum semester/quarter grade of:
 - 1. "C" on an A,B,C,D, & F scale, or
 - 2. 70% on a 100% scale; or
 - 3. 2.0 on a 4.0 scale; or
 - 4. Pass on a pass/fail scale; or
 - 5. Equivalent to one of the above.
- C. Receipts for reimbursable items must be submitted.
- D. This program is designed to reimburse employees for school expenses which are not funded or partially funded from other external sources, including but not limited to G.I. educational benefits. Thus, the City shall not reimburse expenses which, in its sole judgment, are adequately provided for through other benefits available to the employee.
- E. The educational reimbursement plan shall continue as heretofore with the following modifications:
 - 1. Educational reimbursement may be disapproved and not allowed if the Director of Administrative Services, or designee, determines that the course or courses sought to be taken are (A) not from a generally recognized school of university, or (B) do not constitute generally recognized academic courses for generally recognized academic

credits or contribute to the development of skills which might reasonably be of potential benefit to the City.

2. The educational reimbursement benefit shall only be available to those part-time employees who have been actively employed (with no break in service) for a minimum of five (5) continuous years with the City of Hawthorne.

Section 10.2 Call Back Pay.

- A. Priority for all call back work opportunities will be given to full-time employees.
- B. When an employee is called back to work after he/she has left the work site, he/she shall be entitled to a minimum of two (2) hours pay at one and one half (1-1/2) times his/her normal rate of pay.
- C. Full-time employees shall have preference for all call-backs to work and part-time employees shall be called back only where (i) no full-time employee accepts or responds to the call-back or (ii) the needs of the City dictate that additional employees, in excess of all full-time employees accepting the call back, be subject to a call-back.

Section 10.3 Overtime.

- A. All overtime work shall be compensated at the rate of one and one-half (1-1/2) times the employee's hourly base rate. Overtime compensation shall only be paid for hours worked over forty (40) in a seven day work week as defined by the City of Hawthorne and under the provisions of the Fair Labor Standards Act (FLSA).
- B. For overtime worked, employees may receive payment or compensatory time off, at the employee's option, but may not accrue more than 240 hours of compensatory time.

Section 10.4 Acting Assignment

At the discretion of a Department Head or Manager, an existing vacancy may be temporarily filled by a qualified subordinate employee upon the approval of the City Manager. Such employee shall receive "acting pay" equal to the amount of the first step of the higher position's regular salary range or the lowest step of that range which represents a four and one half percent (4-1/2) increase in the moved-up employee's base salary. No such acting assignment shall last for more than twelve months. Upon conclusion of the acting assignment, an employee shall be returned to the appropriate salary range and at the step that he/she is entitled to based on their City service. In the event a bargaining unit employee fills such a vacancy and that position is covered by the HMEA Full-Time MOU, such employee shall be – for the duration of the time s/he is assigned to a position covered by the HMEA Full-Time MOU – shall have his/her wages, terms and conditions of employment covered by the HMEA Full-Time MOU. Provided,

however, that no part-time employee shall be posted to an acting assignment where a full-time employee is also available to and capable of performing such acting assignment.

Section 10.5 Service Credit Points for Full-Time Examination

After two (2) years of continuous service with the City, a bargaining unit employee covered by this MOU shall be eligible to test for any open full-time position for which he/she possesses the skills and qualifications as stated in the applicable civil service notice of job opening/testing. In connection with such testing processes, the employee shall be awarded additional consideration for the prior satisfactory performance of the duties encompassed in the notice of job opening/testing, as follows:

- I. 2 years of service with City: 1 additional point;
- II. 2 years and 6 months of service with City: 2 additional points;
- III. 2 years and 9 months of service with City: 3 additional points;
- IV. 3 years service with City: 4 additional points;
- V. 4 years service with City: 5 additional points.

ARTICLE 11 - DEFERRED COMPENSATION

The City will continue to offer a deferred compensation plan to employees covered under this agreement. Any employee covered by this MOU may participate through payroll deduction. However, the combined deposits of the employee's payroll deduction amount may not exceed the amount allowed by law.

ARTICLE 12 - GRIEVANCE PROCEDURE

It is hereby agreed and understood that the following procedures shall be utilized by the HMEA, the City, and any officers who are represented by the HMEA as the method by which applicable disputes are resolved.

A. Definition

A grievance is a complaint by one or more employees or the HMEA concerning the applications or interpretation of ordinances, rules, policies, practices or procedures affecting employees wages, hours and working conditions. Disciplinary measures are expressly excluded from the scope of grievances subject to these procedures.

B. Scope and Limitations

- I. This procedure shall be used to resolve grievances for which no other methods of solutions are required by law; provided, however, that it shall not include a complaint arising from disciplinary action.

2. Disputes over matters subject to review by the Civil Service Commission are not grievable.
3. Disputes over matters which are subject to state or federal law and which are reviewable by state or federal administration agencies are not grievable. For example, Equal Employment Opportunity matters.
4. The grievant may be represented by an attorney, the Association or both, at the final stages of the grievance procedure.
5. Failure by the City to meet any time limit shall result in the grievance being automatically brought into the next level at the end of the time period. The grievant will then be required to file all appropriate grievance or appeal documents within the applicable time period.
6. Failure of the grievant to meet any time periods may, at the option of the person who is deciding the grievance, result in the grievance being denied or not considered.
7. Any level or time period may be waived by mutual written consent of both the grievant and the City.

C. Procedure

1. First Step: Informal Procedure

- a. Within fifteen (15) days of the grievable event, the grievant shall discuss the grievance with the grievant's lowest level supervisor who shall attempt to resolve the grievance.
- b. This supervisor shall respond either orally or in writing within ten (10) days of discussion.
- c. A grievance which affects a significant number of employees represented by the Association shall be commenced by informal or formal communication of said grievance to the appropriate Department Head. The Department Head or designee shall respond within ten (10) days following receipt of such communication. A grievance not resolved at this level may proceed directly to the third step within the time limits set forth in paragraph (a) thereof.

2. Second Step: Formal Procedure

- a. Except as provided in paragraph © of Step One, a grievance unresolved by Step One may be continued if submitted by the grievant, in writing, to the supervisor who responded in step One within ten(10) days of the receipt of the response. If no response was communicated within the time period set forth in Section C, 1, b, the grievance may be continued as provided above, within ten (10) days after the expiration of the time period set forth in Section C, 1, b. The written grievance shall be submitted on a completed form provided by the City.
- b. The formal grievance shall be processed through the Department and a written decision from the Department Head or designate thereof forwarded to the grievant within twenty-one (21) days of submitting the written grievance.

3. Third Step: Administrative Appeal

- a. A grievance unresolved by the Second Step may be continued if appealed to the Director of Administrative Services, or designee, within fourteen (14) days of receipt of the final decision of the Department Head or designate thereof. If no decision was forwarded within the time period set forth in Section C, 2, b, the grievance may be so appealed within fourteen (14) days after the expiration of the time period set forth in Section C, 2, b. The appeal shall be submitted to the Director of Administrative Services, or designee, in writing, state the reasons in support and have attached all forms, decision and notices submitted and received in the Second Step.
- b. The Director of Administrative Services, or designee, or delegate thereof, shall process the appeal. The person processing the appeal may conduct a hearing at his option. A copy of the decision shall be forwarded to the grievant, Department Head and City Manager within twenty-one (21) days from the time the grievance was appealed to the Director of Administrative Services, or designee, as provided in paragraph (a) of the third step.

4. Fourth Step: Hearing Officer (Binding Arbitration)

- a. A grievance unresolved by the third step may be continued to the fourth step if appealed to the City Manager within fourteen (14) days of delivery of the final decision. If no decision was forwarded within the time period set forth in Section C, 3, b, the decision may be so appealed within fourteen (14) days after the expiration of the time period set forth in Section C, 3, b.

- b. Upon receipt of such appeal, the City Manager shall set a time and place for a hearing officer to hear the grievance.
- c. If the City Manager and the grievant cannot agree upon a hearing officer or cannot agree to submit the matter to the California Office of Administrative Hearings, the parties shall procure a list of seven (7) qualified individuals from the State Conciliation Service. Each party shall alternately strike one name from that list until only one person remains which person shall be the hearing officer. The party who strikes the first name shall be determined by the flip of a coin or other similar devise.
- d. The hearing shall be conducted according to the rules and provisions of the Administrative Procedure Act (California Government Code Section 11513) and any other rules and procedures mutually agreed upon.
- e. All costs, fees and transcription expenses shall be borne equally by the grievant and City.
- f. The hearing officer's decision shall be binding. The City Manager shall notify the grievant within fourteen (14) days following receipt of the decision.

D. Appeal of Written Reprimand.

A Written reprimand, the lowest form of discipline, is a report, memorandum or letter placed in the employee's permanent personnel file stating the dissatisfaction of a manager or supervisor with the performance of an employee or reciting a transgression or rule violation by the employee. A written reprimand may be appealed as follows: if an employee believes that the written reprimand is inaccurate or unfair, he or she can schedule a meeting with the department head to review the reprimand. The decision of the department head or his or her designee shall be final.

This meeting shall not be a formal hearing. The employee may present information and may provide his or her position statement as to the reasons that he or she believes the reprimand is inaccurate or unfair. Nothing in this appeal procedure shall preclude the employee from attaching a comment to the reprimand stating the reasons that he or she believes the reprimand is inaccurate or unfair.

ARTICLE 13 - SEVERABILITY

This MOU is subject to all current federal, state, and local laws and all future federal and state laws. If any Article, Section, or part of this MOU is in conflict with or inconsistent with

applicable provisions of federal, state, or local laws, or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, said Article, Section, or part shall be suspended and superseded by such applicable law and the remainder of the MOU shall not be affected thereby.

ARTICLE 14 - OTHER TERMS

All other terms and conditions of employment as contained in ordinances, resolutions or other official actions not in conflict with the provisions of this agreement shall remain in full force and effect during the entire term of the agreement.

ARTICLE 15 - CITY RIGHTS

Section 15.1 The City reserves, retains, and is vested with, solely and exclusively, all rights of management which have not been expressly abridged by specific provision of this MOU or by law to manage the City, as such rights existed prior to the execution of this MOU. The City may exercise its management rights unilaterally without the obligation to meet and confer on the decision to exercise such rights. However the City shall meet and confer on the impact thereof pursuant to Section 2 of this Article. The sole and exclusive rights of management, as they are not abridged by this MOU or by law shall include, but not be limited to, the following rights:

- A. To manage the City generally and to determine the issues of policy;
- B. To determine the existence or nonexistence of facts which are the basis of the management decision;
- C. To determine the necessity of organization of any service or activity conducted by the City and expand or diminish services;
- D. To determine the nature, manner, means and technology and extent of services to be provided to the public;
- E. Methods of financing;
- F. Types of equipment or technology to be used;
- G. To determine and/or change the facilities, methods, technological means, and size of the work force by which the City operations are to be conducted;
- H. To determine and change the number of locations, relocations and type of operations, processes and materials to be used in carrying out all City functions including, but not limited to, the right to contract or subcontract any work or operation of the City;

- I. To assign work to and schedule employees in accordance with requirements as determined by the City and to establish and change work schedules and assignments upon reasonable notice;
- J. To establish and modify productivity and performance program and standards;
- K. To relieve employees from duties for lack of work, or funds, or similar non-disciplinary reasons;
- L. To discharge, suspend, demote, or otherwise discipline classified non at will employees for proper cause;
- M. To determine job classification and to reclassify employees;
- N. To hire, transfer, promote and demote employees for non-disciplinary reasons;
- O. To determine and administer policies, procedures and standards for selection, training, and promotion of employees;
- P. To establish employee performance standards including, but not limited to, qualification and quantity standards and to require compliance therewith;
- Q. To maintain order and efficiency in its facilities and operations;
- R. To establish and promulgate and/or modify Rules and Regulations to maintain order and safety in the City which are not in contravention with this MOU;
- S. To take any and all necessary action to carry out the mission of the City in emergencies.

Section 15.2 Except in emergencies, or where the City is required to make changes in its operations because of the requirements by law, whenever the exercise of management's rights shall impact on employees of the association, the City agrees to meet and confer with representatives of the association regarding the impact of the exercise of such rights, unless the matter of the exercise of such rights is provided for in this MOU or in the Personnel Rules and Regulations, Safety Resolutions and Municipal Code which are incorporated herein by reference in this MOU. By agreeing to meet and confer with the association as to the impact of the exercise of any of the foregoing City rights, management's discretion in the exercise of these rights shall not be diminished,

ARTICLE 16 - SOLE AND ENTIRE MEMORANDUM OF UNDERSTANDING

Section 16.1 It is the intent of the parties hereto that the provisions of this MOU shall supersede all prior agreements and memorandums of agreement or memorandums of

understanding, or contrary salary and/or personnel resolutions, oral or written, expressed or implied, between the parties, and shall govern the entire relationship and shall be the SOLE source of any and all rights which may be asserted hereunder. This MOU is not intended to conflict with federal or state law.

Section 16.2 The parties acknowledge that the City Council will adopt this agreement by resolution and that said Resolution shall remain in full force and effect during the life of this MOU.

ARTICLE 17 - NO STRIKE - NO LOCKOUT

Section 17.1 The Association, its officers, agents, representatives, and/or members agree that during the term of this MOU they will not cause or condone any strike, walkout, slowdown, sickout or any other job action by withholding or refusing to perform services.

Section 17.2 The City agrees that it shall not lockout its employees during the term of this MOU. The term "lockout" is hereby defined so as not to include the discharge, suspension, termination, layoff, failure to recall or failure to return to work of employees of the City in the exercise of its rights as set forth in any of the provisions of this MOU or applicable ordinance or law.

Section 17.3 Any employee who participates in any conduct prohibited in Section 19.1 above may subject to disciplinary action up to and including discharge.

Section 17.4 In the event that any one or more officers, agents, representatives, or members of the Association engage in any of the conduct prohibited in Section 19.1 above, the Association shall immediately instruct any persons engaging in such conduct that their conduct is in violation of this MOU and is unlawful and they must immediately cease engaging in conduct prohibited in Section 1 above, and return to work."

ARTICLE 18 - EMERGENCY WAIVER

In the event of circumstances beyond the control of the City, such as acts of God, fire, flood, insurrection, civil disorder, national emergency, or similar circumstances, if the City Manager or his designee so declares, any provisions of this MOU or the Personnel Rules or Resolutions of the City, which restrict the City's ability to respond to these emergencies, shall be suspended of the duration of such emergency. After the emergency is declared over, the Association shall have the right to meet and confer with the City regarding the impact on employees of the suspension of these provisions in the MOU and any personnel rules and policies.

ARTICLE 19 - WAIVER

Section 19.1 The parties mutually agree that neither party shall seek to negotiate or bargain with reference to wages, hours, or terms and conditions of employment, regardless of whether

covered by this MOU or in the negotiations leading thereto and irrespective of whether or not such matters were discussed or were even within the contemplation of the parties hereto during the negotiations leading to this MOU. Regardless of the waiver contained in this Article, the parties may, by mutual agreement, in writing, agree to meet and confer about any matter during the term of this MOU.

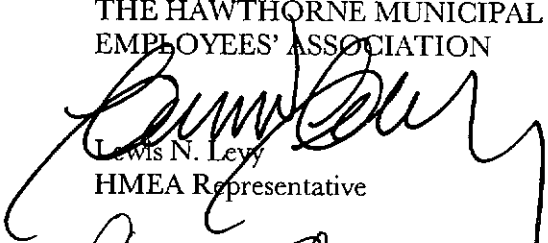
Section 19.2 The parties shall reopen any provision of this MOU for purpose of complying with any final order of a federal or state agency or court of competent jurisdiction requiring a modification or change in any provision or provisions of this MOU in order to comply with state or federal laws.

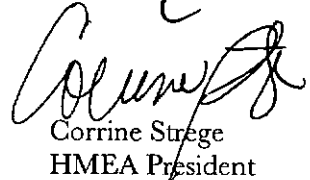
ARTICLE 20 - TERM OF THE AGREEMENT

This MOU shall be in full force and effect from the 1st day of July 2011, up to and including the 30th day of June, 2012. The parties reserve the right, upon mutual agreement, to meet and confer, in good faith, with respect to any subject or matters within the scope of representation, during the term of this Memorandum. The parties jointly agree to recommend the provisions of this MOU to the City Council for its adoption, and, if adopted, to abide by its provisions for the term hereof.

Representing:

THE HAWTHORNE MUNICIPAL
EMPLOYEES' ASSOCIATION



Lewis N. Levy
HMEA Representative

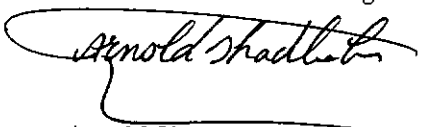

Corrine Strege
HMEA President

Representing:

THE CITY OF HAWTHORNE


Jeffrey C. Freedman
City Representative


Robert O'Brien
Human Resources Manager


Arnold Shabehr
Interim City Manager

