TO: HONORABLE MAYOR and CITY COUNCIL

FROM: DIANNA R. GARCIA, Director of Human Resources


RECOMMENDATION

Approve and adopt the Memorandum of Understanding (exhibit 1) including Appendices A and B between the City of Stockton and the Operating Engineers’ Local Union No. 3 of the International Union of Operating Engineers’, AFL-CIO, representing the wages, hours, and other terms and conditions of employment for the Water Supervisory Unit of the Municipal Utilities Department, effective March 1, 2008, through December 31, 2008.

SUMMARY

During the period of April 22, 2008, through July 3, 2008, the Director of Human Resources, in her capacity as the Employee Relations Officer, met and conferred in good faith with the officials representing the interests of the Water Supervisory Unit of the Municipal Utilities Department for wages, hours, and other terms and conditions of employment of represented employees. On July 3, 2008, the City of Stockton and the Operating Engineers’ Local Union No. 3 reached a tentative agreement, reduced the agreement to writing, ratified by the members of the Water Supervisory Unit on or about September 5, 2008, and are presenting it to the City Council for its approval and adoption in accordance with the Meyers-Milias-Brown Act (Gov. Code §§ 3500, et seq.).

DISCUSSION

Background

The employees holding positions comprising of the representation unit are supervising employees who, prior to being employed by OMI/Thames Water Stockton, Inc., were exclusively represented by the Mid-Management/Supervisory Level Unit of Management B&C Association. On March 1, 2008, the supervising employees were employed or re-employed by the City of Stockton in previously held or comparable positions, all of which were represented by the Mid-Management/Supervising Level Unit of Management B&C Association. The supervisors petitioned for recognition as a separate representation bargaining unit and interests be exclusively represented by the
Approve and Adopt the Memorandum of Understanding Between The City of Stockton and The Operating Engineers' Local Union No. 3 Representing the Water Supervisory Unit of the Municipal Utilities Department

Operating Engineers' Local Union No. 3. The Mid-Management/Supervisory Level Unit of Management B&C Association notified the Employee Relations Officer that neither it nor its legal counsel opposed the modification of its unit by the formation of a separate unit. In accordance with section 2-215 of the Employer-Employee Relations Ordinance (Stockton Municipal Code §§ 2-200, et seq.) the Employee Relations Officer concurred and determined that the supervisory employees should no longer be represented by the Mid-Management/Supervisory Level Bargaining Unit of Management B&C Association.

On April 15, 2008, the Stockton City Council, Resolution 08-0143, approved the modification of the Mid-Management/Supervisory Level Unit of Management B&C Association by deleting twelve (12) positions and placing them into the new representation unit, and recognized the Water Supervisory Unit of the Municipal Utilities Department as being exclusively represented by the Operating Engineers' Local Union No. 3 in the wages, hours, and other terms and conditions of employment.

From April 22, 2008 through July 3, 2008, the Director of Human Resources/Employee Relations Officer, along with her negotiating team—Assistant Director of Human Resources Di Smith, Deputy Director of Human Resources Ethel Francois, and Senior Human Resources Analyst Sylvia Ramirez met and conferred in good faith on eight (8) separate occasions with representatives of the Water Supervisory Unit of the Municipal Utilities Department, Operating Engineers' Local Union No 3. On July 3, 2008, the parties reached tentative agreement, and the membership of the Water Supervisory Unit of the Municipal Utilities Department, Operating Engineers' Local Union No. 3, ratified the tentative agreement on or about September 5, 2008, by a majority vote of its members.

Present Situation

The Water Supervisory Unit of the Municipal Utilities Department-Operating Engineers' Local Union No. 3, represents eight (8) employees of OMI/Thames Water Stockton, Inc., four (4) of which were former City of Stockton employees who were employed in the Municipal Utilities Department and represented by Mid-Management/Supervisory Level Unit of Management B&C Association at the time of the outsourcing of the water utility in 2003. The Contract Service Agreement with the City of Stockton and the Operating Engineers' Local Union No. 3 dated June 18, 2003, provides that all Designated employees transferred to and employed by OMI/Thames Water Stockton, Inc., at the time of cancellation of the agreement shall have a right to City of Stockton reemployment equal to or better than wages and benefits and comparable retirement benefits provided by OMI/Thames Water Stockton, Inc.

Overall, the labor agreement with the Water Supervisory Unit of the Municipal Utilities Department – Operating Engineers’ Local Union No. 3 resembles a combination of the City’s current labor contract with the Operations and Maintenance Unit of Operating Engineers’ Local Union No. 3 and the Mid-Management/Supervisory Level Unit of Management B&C Association.

The following is a summary of the major provisions which have been tentatively agreed to by the parties and ratified:

1. **Bargaining Unit.** Supervisory Unit – Municipal Utilities Department.

2. **Term of Agreement.** March 1, 2008 through December 31, 2008.

3. **Grievance Processing.** Step 3 of the Grievance Procedures — City Manager Review or State Mediation/Conciliation Services—has been deleted and replaced with Adjustment Board review; the Board shall have two members each from the bargaining unit and the City.

4. **Vacation Allowance.** The vacation plan provides for a flat allowance each fiscal year equal to 15-days, 20-days, and 25-days based on continuous years of City service, and one additional day for each year of continuous City service beyond 25-years.

5. **Vacation Carryover Maximum and Carryover in Excess of Maximum.** A maximum carryover of one (1) previous year’s vacation allowance plus fifteen (15) days as of June 30 of any fiscal year. Any vacation hours in excess of the maximum vacation carryover is automatically credited to the employee’s sick leave balance at the end of the fiscal year.

6. **Vacation Sell-Back Maximum.** Cash payment for up to a maximum of 100 hours of accumulated vacation balance upon commencement of a scheduled vacation of 40-consecutive hours or more, or cash payment for 2-1/2 days of vacation balance for each 1-day scheduled vacation taken. Either option may not exceed 100-hours of cash vacation sell-back per fiscal year.

7. **Family Sick Leave.** Allows for the use of one-half of sick leave credits to be used for family illnesses or injuries, and adds “registered domestic partner” and “legal dependent” to definition of “family” for purposes of Family Sick Leave.

8. **Payment for Unused Sick Leave.** Allows for fifty percent (50%) of the total unused sick leave, at its current value, upon separation of employment by reason
of death, service or disability retirement or resignation and after completion of 10 years or more of continuous City service.

9. **Bereavement Leave.** Allows for the use of up to three (3) days bereavement leave in the event of a death in the immediate family of an employee; adds "domestic partner" to the definition of immediate family for purposes of bereavement leave, and the use of up to three (3) days in the event of a death of a person not immediately related to an employee and charged to the employee's sick leave credits.

10. **Parental/Adoption/Pregnancy Leave.** Family medical leaves shall be in accordance with the Family Medical Leave Act of 1993, the California Family Rights Act, or Pregnancy Disability Leave, and/or other applicable state and federal laws.

11. **Workweek.** The workweek is from Sunday at midnight through the following Saturday at midnight.

12. **Meal and Rest Periods.** One (1) hour or (1/2) one-half hour meal period without pay each day and a fifteen (15) minute paid rest period during the first half of the work day and a second fifteen (15) minute paid rest period the second half of the work day.

13. **Overtime.** Time worked in excess of forty (40) hours in any workweek shall be paid for at time and one-half including employees employed on a per hour basis. Time worked shall include time paid for pre-approved leaves.

14. **Meal Allowance.** Allows for a meal allowance of fifteen dollars ($15.00) for an employee held over and works a minimum of four (4) hours, and allows for meal allowance when an employee is called back to work or called back from a day off with less than two (2) hours notice shall qualify for the fifteen dollars ($15.00) meal allowance when the employee works a minimum of four (4) hours. An extension of the work schedule or call-back must be properly authorized by the employee's supervisor or other designated personnel.

15. **Holidays.** Converts six (6) City holidays to "floating" days, which must be scheduled and used within the calendar year (i.e., Martin Luther King Jr.'s Birthday, Lincoln's Birthday, Washington's Birthday, Cesar Chavez Birthday, Columbus Day, and employee's birthday). In order to receive holiday pay, the employee must work or be on a pre-approved paid status the day before and the
day after the holiday, unless it is the employee’s regularly scheduled day or hours off.

16. Uniforms and Safety Protective Footwear. The City shall provide uniforms to all employees assigned to the unit who request uniforms; employees must wear the uniform once provided. The City shall authorize safety protective footwear reimbursement in the amount of two-hundred dollars ($200.00).

17. Education Incentive Pay. The City shall provide three percent (3.0%) of top step of job classification for employees with degrees/diplomas above and beyond that is required of their position; employees are limited to no more than three percent (3.0%) regardless of the number of degrees/diplomas above that required of the position.

18. Special Driver’s License Pay. For job classifications requiring a Class A and/or Class B Driver’s License or Hazmat Endorsement those employees occupying the positions shall receive special driver’s license pay equal to one and one-half percent (1-1/2%) of top salary step of job classification.

19. Longevity Pay. For each employee who completes twelve (12) continuous years of service with the City, the City shall provide two and one-half percent (2.5%) of top salary step of the employee’s job classification for longevity incentive pay.

20. Certification, Certification Training, and Special Certifications. The City will provide a one (1) time add pay of the salary range for employees who possess a State certification for water, wastewater, distribution, or California Water Environment Association (“CWEA”). All employees are eligible to obtain certification in water and wastewater.

<table>
<thead>
<tr>
<th>Water, Wastewater</th>
<th>Water Distribution</th>
<th>CWEA</th>
<th>One Time Add Pay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grade 5</td>
<td>Grade 5</td>
<td>Grade 4</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>Grade 4</td>
<td>Grade 4</td>
<td>Grade 3</td>
<td>$500.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Grade 2</td>
<td>$125.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Grade 1</td>
<td>$100.00</td>
</tr>
</tbody>
</table>

A maximum of two certification levels will be paid by the City in a calendar year to any one employee.
Wastewater Treatment Operator Certification. An employee who possesses and maintains a Level IV or V Wastewater Treatment Operator Certification will receive quarterly amounts added to his or her monthly paychecks for certifications.

<table>
<thead>
<tr>
<th>Level</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>IV</td>
<td>$1,000.00</td>
</tr>
<tr>
<td>V</td>
<td>$2,000.00</td>
</tr>
</tbody>
</table>

Certification Training. Certification dues and fees required of employees in their specialized fields of work shall be reimbursed by the City at the actual costs. Pre-approved training(s) to maintain a job related certification will be paid at one-hundred percent (100%) by the City. The City shall pay for two (2) attempts at passing the test.

21. **Special Certification Pay.** Water Operations Supervisors who possess a Water Distribution Operator Certificate issued by the California Department of Health Services shall receive an additional three percent (3.0%) of base pay.

22. **Health and Welfare Benefits.** The City shall provide for the full cost of the health benefits package for those employees who choose the City's health benefits plan (i.e., hospitalization, medical, dental, prescription, and vision benefits).

23. **Orthodontic Coverage.** The orthodontic benefits coverage shall be two thousand dollars ($2,000.00) lifetime maximum for those employees who choose the City’s health benefits plan.

24. **Dental Coverage.** The annual dental maximum coverage shall be one thousand and four hundred dollars ($1,400.00).

25. **Life Insurance.** The City shall provide, at no cost to the employee, a term life and accidental death and dismemberment insurance policy, equal to two (2) times the employee's annual salary.

26. **Retirement Medical Allowance.** The City will contribute all premiums necessary for the purpose of providing hospital-medical and prescription benefits for each City employee who has retired at age fifty (50) or later, with a minimum of five (5) years of continuous service with City.

27. Retirement-Medicare Supplemental Plan. Employees who become eligible for the Retirement Medical Allowance shall, at age sixty-five (65), become eligible for Medicare Supplemental Coverage under the City’s Modified Employee Medical Plan. Coverage will be supplemental and secondary to Medicare (reduced by any amounts payable to Medicare). This benefit is provided to the employee and the employee’s spouse. The employee shall be responsible for paying any associated costs for obtaining Medicare coverage Part A and Part B.

The Water Supervisory Unit of the Municipal Utilities Department represents employees holding the following positions, whose salary grades have been established as set forth on Appendix A:

<table>
<thead>
<tr>
<th>Collection Systems Supervisor</th>
<th>Senior Plant Maintenance Supervisor</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laboratory Supervisor</td>
<td>Senior Plant Operations Supervisor</td>
</tr>
<tr>
<td>Occupational Health &amp; Safety Compliance Specialist</td>
<td>Senior Water/Collection Systems Supervisor</td>
</tr>
<tr>
<td>Plant Maintenance Supervisor</td>
<td>Technical Services Supervisor</td>
</tr>
<tr>
<td>Plant Operations Supervisor</td>
<td>Utilities Safety and Training Specialist</td>
</tr>
<tr>
<td>Regulatory Compliance Officer</td>
<td>Water Operations Supervisor</td>
</tr>
</tbody>
</table>

In addition to the main labor contract, there is a Side Letter of Agreement. Appendix B counts all service time with OMI/Thames Water Stockton, Inc. as service time with the City of Stockton, and transfers all leave balances from OMI/Thames Water Stockton, Inc. to the City of Stockton; and for specifically identified employees provides for deferred compensation benefit, longevity incentive benefit; and provides for a supplemental retirement benefit from the Public Agency Retirement Services; and preserves active and retiree medical benefits and other compensation.

The Water Supervisory Unit of the Municipal Utilities Department has executed the contract, along with the City’s Employee Relations Officer and her bargaining team, and the City Attorney has approved the contract as to form. Staff requests that the City Council authorize the City Manager to execute the contract, and all appendices thereto, to be effective March 1, 2008.
FINANCIAL SUMMARY

Approval of the Memorandum of Understanding for the Water Supervisory Unit will result in additional payroll expenses of approximately $13,500 in fiscal year 2008-09. These expenses will be paid by the Municipal Utilities funds as follows:

<table>
<thead>
<tr>
<th>Fund</th>
<th>Percentage</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Water Utilities Fund (421)</td>
<td>29%</td>
<td>$3,900</td>
</tr>
<tr>
<td>Wastewater Utilities Fund (431)</td>
<td>69%</td>
<td>$9,300</td>
</tr>
<tr>
<td>Stormwater Utilities Fund (441)</td>
<td>2%</td>
<td>$300</td>
</tr>
</tbody>
</table>

Sufficient funds are budgeted in the payroll accounts within these funds.

Respectfully submitted,

DIANNA R. GARCIA
DIRECTOR OF HUMAN RESOURCES

APPROVED

J. GORDON PALMER, JR.
CITY MANAGER

Attachments

Exhibit 1 – Supervisory Unit of the Municipal Utilities Department Memorandum of Understanding

Appendices A and B
CITY OF STOCKTON

MEMORANDUM OF UNDERSTANDING
SUPERVISORY UNIT
MUNICIPAL UTILITIES DEPARTMENT

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

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

This Memorandum of Understanding shall be presented to the Stockton City Council as the joint recommendations of the undersigned for salary and benefit adjustments for the period commencing March 1, 2008, and ending December 31, 2008.
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Section Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Recognition</td>
<td>3</td>
</tr>
<tr>
<td>2</td>
<td>Union Security</td>
<td>3-11</td>
</tr>
<tr>
<td>3</td>
<td>Compliance with Federal Laws/Safety</td>
<td>11</td>
</tr>
<tr>
<td>4</td>
<td>Probation</td>
<td>11-12</td>
</tr>
<tr>
<td>5</td>
<td>Layoff</td>
<td>12-14</td>
</tr>
<tr>
<td>6</td>
<td>Reemployment</td>
<td>14-15</td>
</tr>
<tr>
<td>7</td>
<td>Discipline</td>
<td>15-16</td>
</tr>
<tr>
<td>8</td>
<td>Grievance Procedures</td>
<td>16-20</td>
</tr>
<tr>
<td>9</td>
<td>Leaves</td>
<td>20-28</td>
</tr>
<tr>
<td>10</td>
<td>Days and Hours of Work</td>
<td>28</td>
</tr>
<tr>
<td>11</td>
<td>Overtime</td>
<td>28-31</td>
</tr>
<tr>
<td>12</td>
<td>Holidays</td>
<td>32-33</td>
</tr>
<tr>
<td>13</td>
<td>Compensation and Allowance Other than Base Salary</td>
<td>33-36</td>
</tr>
<tr>
<td>14</td>
<td>Insurance Plans and Retirement Benefits</td>
<td>37-40</td>
</tr>
<tr>
<td>15</td>
<td>Salaries</td>
<td>40-44</td>
</tr>
<tr>
<td>16</td>
<td>Severability of Provisions</td>
<td>45</td>
</tr>
<tr>
<td>17</td>
<td>Past Practices and Existing Memoranda of Understanding</td>
<td>45</td>
</tr>
<tr>
<td>18</td>
<td>Scope of Agreement</td>
<td>45</td>
</tr>
<tr>
<td>19</td>
<td>Duration of Agreement</td>
<td>45</td>
</tr>
<tr>
<td>20</td>
<td>Maintenance of Operations/City Rights</td>
<td>46</td>
</tr>
</tbody>
</table>
MEMORANDUM OF UNDERSTANDING (SUPERVISORY UNIT – MUNICIPAL UTILITIES DEPARTMENT)

Section 1. Recognition

Operating Engineers’ Local 3, AFL-CIO, hereinafter referred to as the "Union," is the recognized employee organization for the Supervisory Unit, certified pursuant to Resolution No. 08-0143, adopted by the City Council on April 15, 2008.

Section 2. Union Security

2.1 Dues Deduction

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

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

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

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

In addition to the deduction of dues, the City will deduct from the paychecks of Union members who request it, premiums for group insurance and investment plans sponsored by the Union. Such deductions shall be made in one lump sum and only upon signed authorization from the employee upon a form satisfactory to the City. Such authorizations may be made or changed no more frequently than twice yearly.

The employee's earnings must be sufficient after all other required deductions are made, to cover the amount of the deductions herein authorized. When an employee is in a non-pay status for an entire pay period, no withholdings will be
MEMORANDUM OF UNDERSTANDING (SUPERVISORY UNIT – MUNICIPAL UTILITIES DEPARTMENT)

made to cover that pay period from future earnings nor will the employee deposit the amount with the City which would have been withheld if the employee had been in pay status during that pay period. In the case of an employee who is in a non-pay status during a part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made.

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

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

2.2 Agency Fee

(a) Employee Rights

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

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

(b) Unit Members’ Obligation to Exclusive Representative

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

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

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

(c) Definition of Agency Fee

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

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

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

(e) Annual Verification of Agency Fee by the Union. Prior to January 31, of each year and before the collection of an agency fee from any unit member pursuant to these provisions herein, the Union shall submit a written certification to the fee payers verifying that the total amount of its representation fee conforms to Section (c) above, and itemizing all component parts of such fee which shall provide an adequate explanation for the basis of the fee. Each year such amount shall be verified and submitted in writing to the fee payers by the Union prior to January 31st.
MEMORANDUM OF UNDERSTANDING (SUPERVISORY UNIT – MUNICIPAL UTILITIES DEPARTMENT)

The Union will submit a copy of such verification to the Director of Human Resources of the City. The parties agree that such annual verification is a condition precedent to the collection by either the City or the Union of a representation fee from a unit member.

(f) Employees Exempted From Obligation to Pay Union

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

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

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

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

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

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

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

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

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

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

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

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

The monies held in escrow shall be released to the appropriate party upon the rendering of a final decision by the Union’s internal procedure.
(i) Payment Method/Payroll Deduction

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

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

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

(j) Obligations of Parties

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

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

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

2.3 Use of City Facilities

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

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

(c) City buildings and other facilities may be made available for use by City Employees of the Union or their representatives in accordance with such administrative procedures as may be established by the City Manager or department heads concerned.

2.4 Advance Notice

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

In cases of emergency when the foregoing procedure is not practical or in the
MEMORANDUM OF UNDERSTANDING (SUPERVISORY UNIT – MUNICIPAL UTILITIES DEPARTMENT)

best public interest, the City may adopt or put into practice immediately such measures as are required. At the earliest practicable date thereafter the Union shall be provided with the notice described above and be given an opportunity if requested to negotiate changes to said notice with the management representatives designated by the City Manager.

2.5 Attendance at Meetings by Employees

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

Time spent for this purpose during the representative's scheduled hours of work count as hours worked. Time spent for this purpose which may exceed the representative's regularly scheduled hours of work shall be compensated as overtime or compensatory time.

2.6 Maintenance of Membership

All employees in the Supervisory Unit who are members of the Union, tendering periodic dues at the execution of this agreement, and all employees who thereafter become members of the Union shall, as a condition of employment, pay dues to the Union for the duration of this Memorandum of Understanding, and each year thereafter. For a period of thirty (30) days prior to January 1, 2009 and thirty (30) days prior to any January 1, thereafter, any employee in the aforementioned unit who is a member of the Union shall have the right to withdraw from the Union discontinuing dues payments and retain employment in the City, subject to provisions of Section 2.2. Agency Fee. Said withdrawal shall be communicated by the employee in writing to the City. The provisions of this section shall be operative only to the extent that they are permissible under California law.

2.7 Assignment of Classifications

New job classifications established by the City shall be assigned to the bargaining unit pursuant to Section 8 (b) of the City's Employer-Employee
MEMORANDUM OF UNDERSTANDING (SUPERVISORY UNIT – MUNICIPAL UTILITIES DEPARTMENT)

Relations Resolution after providing notice and the opportunity to consult with the Union regarding such matters.

2.8 Contract Ratification

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

Section 3. Compliance with Federal Laws/Safety

3.1 Non-Discrimination. The City and the Union agree that there shall be no discrimination of any kind because of race, creed, color, religion, national origin, sex, political affiliation or legitimate union activity against any employee or applicant for employment; and to the extent prohibited by applicable State and Federal law there shall be no discrimination because of age.

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

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

Section 4. Probation

4.1 Purpose

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

4.2 Original Entrance and Promotional Positions

All original and promotional appointments shall be tentative and subject to a probationary period of six (6) months. The probationary period shall not be extended.

4.3 Retention/Rejection of Probationer

At the end of the probationary period, if the service of the probationary employee