

MEMORANDUM
OF
UNDERSTANDING
by and between
CITY OF SUTTER CREEK
and
S.E.I.U. LOCAL 1021

July 1, 2022
Through
June 30, 2023

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ARTICLE 1. PARTIES. This agreement is made and entered into, by and between the City of Sutter Creek (City) and the Sutter Creek Employees Association/S.E.I.U. Local -1021 (Union).

ARTICLE 2. RECOGNITION. The City recognizes the Union as the sole collective bargaining agent for those miscellaneous employees, excluding safety employees, employed by the City of Sutter Creek.

In accordance with AB119, both the City of Sutter Creek and the Union shall abide by this law and follow the provisions set forth within, that was passed on June 27, 2017. Any disputes arising out of violations of this section shall be subject to the grievance procedures set forth in the MOU. Any material changes to any forms that are altered or created by this proposal are also subject to negotiations.

ARTICLE 3. FULL UNDERSTANDING, MODIFICATION AND WAIVER.

3.1. This Agreement sets forth the full and complete agreement between the City and the Union on all subjects contained herein and shall supersede all prior formal or informal agreements, memoranda or understanding, policies, practices, procedures or resolutions thereon.

3.2. There are no valid or binding representations, inducements, promises, or agreements, oral or otherwise, between the City and the Union except those embodied herein.

3.3. It is agreed and understood that during the negotiations which culminated in this Agreement each party enjoyed and exercised without restraint, except as provided by law, the right and opportunity to make demands and proposals or counter-proposals with respect to any matter subject to bargaining, and that the understandings and agreements arrived at after the exercise of that right are set forth in the Agreement. The parties agree, therefore, that the other shall not be required to negotiate with respect to any subject or matter, whether referred to or not in the Agreement.

3.4. Any agreement, alteration, understanding, waiver of modification of any of the terms or provisions contained in this Agreement shall not be binding on the parties unless made and signed in writing by all of the parties to this Agreement.

3.5. The waiver of any breach, term, or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

ARTICLE 4. COVERAGE OF EMPLOYEES. This agreement applies to all employees as stated in Exhibit A of this Agreement.

ARTICLE 5. UNION RESPONSIBILITY/WORK STOPPAGE. The Union agrees that during the term of this Agreement, neither it nor its officers or members will engage in, encourage, sanction, support, or suggest any strikes, work stoppages, boycotts, slow downs, mass absenteeism, picketing, or any other similar actions which would involve suspension of or interference with the normal work of the City. In the event that any concerted action as described occurs, the Union will notify its members that such concerted action shall cease and the members shall return to work.

ARTICLE 6. DUES DEDUCTION.

6.1. The City agrees that employees may authorize payroll deductions for the purpose of paying Union dues and any other program of the Union that the employee voluntarily chooses to engage in. Any such deduction will be presented and certified by the Union to the City and the deduction will begin at the next pay period. Any deductions for Union programs (Dues, COPE, etc) and any stopping of said deductions will be made through the Union in accordance with AB 119.

6.2. The Union shall certify to the City, in writing, the current rate of membership dues. The City shall be notified of any change in the rate of membership dues thirty days prior to the effective date of such change.

6.3. Membership dues are deducted every pay period at the current rate of 1.3% of earnings with an annual maximum deduction of \$600.00.

ARTICLE 7. SEVERABILITY.

7.1. If, during the term of this Agreement, there exists any applicable law, rule, regulation, or order issued by government authority other than the City which shall render invalid or restrain compliance with or enforcement of any provisions of this Agreement, such provision shall be immediately suspended and be of no effect hereunder so long as such law, rule, regulation, or order shall remain in effect. Such invalidation of a provision of this Agreement shall not invalidate any remaining provisions, which shall continue in full force and effect.

7.2. In the event of such severance of a provision of this Agreement, the City and the Union shall, within thirty (30) days of a request by either party, recommence meeting and negotiation upon a replacement if any, for such severed provisions.

7.3. The above provisions of this Section notwithstanding, the City does not waive and expressly retains any and all legal and equitable remedies which the City may have against the Union, its officers, agents, or members, or which the City may have against any employee who is represented by the Union.

ARTICLE 8. NONDISCRIMINATION.

8.1 The provisions of this Agreement shall be applied, subject to state and federal law, without discrimination because of mental, physical, or sensory handicap, age, sex, marital status, race, color, national origin, creed, religion, political affiliation, membership or non-membership in any employee organization, or Union/union activity.

8.2. The City and the Union shall share jointly the responsibility for application of this section.

ARTICLE 9. DEFINITIONS. As used herein, the following terms shall have the meanings indicated.

9.1 CITY. When used alone, means the elected representatives embodied in the Sutter Creek City Council or the City Administrator acting at the direction of such Council.

9.2. COUNCIL. When used alone, the Sutter Creek City Council.

9.3. CONSULT/CONSULTATION IN GOOD FAITH. To communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions; and, as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process. Matters subject to consultation are not subject to impasse procedures.

9.4. DEPARTMENT HEAD. The highest management level person having overall supervisory responsibility over an established department.

9.5. DAY(S). Calendar day(s) unless expressly stated otherwise.

9.6. EMPLOYEE. A person who is legally occupying a position in City service or who is on authorized leave-of-absence from such a position, and is employed in either a regular full-time or regular part-time position.

9.6.1.A regular part-time employee shall be paid for an authorized leave-of-absence based on the employee's regularly scheduled workweek of twenty (20) hours.

9.6.2. Temporary employees are not covered by this contract.

9.7. PERSONNEL COMMITTEE. The person or persons designated by the Council to represent the Council in employee relations.

9.8. UNION. / S.E.I.U. LOCAL 1021. The employee organization that has been formally acknowledged by the Council as the employee organization that solely represents the employees in an appropriate representation unit pursuant to this Agreement.

9.9. IMPASSE. The representative of the City and the Union have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

9.10. MEET AND CONFER. The process where by representatives of the City and the Union in good faith exchange information, opinion, and proposals to endeavor to reach agreement on wages, hours, and other terms and conditions of employment, as contemplated by Government Code Section 3505.

9.11. MAJORITY. More than fifty (50) percent of those employees occupying positions determined to be appropriate for any bargaining.

9.12. MANAGEMENT EMPLOYEE. An employee having responsibility for formulating, administering or managing the implementation of City agency policies or programs. Management Employees shall include the City Manager, Assistant City Manager, Chief of Police, Director of Public Works, and Community Development Director. Such positions, or combination of such positions, are properly excluded from the Union.

9.13. SCOPE OF REPRESENTATION. All matters relating to employment conditions and employer-employee relations, including, but not limited to , wage, hours, and other terms and conditions of employment, but not including consideration of the merits, necessity, or organization of any service or activity provided by law or executive order, or prescribed City rights pursuant to Section 7.00.

9.14. VALID ELECTION. An election held pursuant to procedures that result in one choice having a majority of the valid votes cast in its favor.

ARTICLE 10. CITY OF MANAGEMENT RIGHTS.

10.1. The Council retains the exclusive right, except otherwise noted herein, to manage the City, and to carry out its constitutional, statutory, financial, and material functions and responsibilities.

10.2. Nothing in these rules and regulations shall be construed to require the City to meet and confer on any matter that is hereby determined to be an exclusive right of the City. The exclusive rights of the City include, but are not limited to:

10.2.1. Manage the City generally and determine the issues of policy, to include the determination of facts as the basis of management decision;

10.2.2. Determine the necessity for and organization of any service or activity conducted by the City and to expand, diminish or discontinue City services, operations or functions;

10.2.3. Determine and/or change the nature, manner, means, technology, equipment, facilities, personnel, and extent of services to be provided to the public;

10.2.4. Determine the methods, means, and priority of financing all operations of the City;

10.2.5. Determine the organizational structure, staffing size and composition, and to allocate and assign the work by which agency operations are to be conducted including the content of job classifications;

10.2.6. Utilize Volunteers so long as such utilization is not in replacement of bargaining unit positions and so long as such utilization does not result in reduced hours for represented employees.

10.2.7. Contract or subcontract work performed for the City as deemed appropriate for the efficient operation of the City;

10.2.8. Determine, change, allocate, assign, issue, schedule and withdraw all equipment by which City services operations and functions are to be conducted;

10.2.9. Allocate, assign, establish, and schedule or modify work schedules and assignments by which City services, operations, and functions are to be conducted;

10.2.10. Participation in mutual aid agreements and/or joint power agreements of pacts;

10.2.11. Lay off employees from partial or total duties because of lack of work or funds, or under conditions where continued work would be ineffective or non-productive;

10.2.12. Establish and modify productivity and performance programs and standards and require compliance therewith, and to determine the merit pay to be received by each employee so evaluated in accordance with City policies following meet and confer opportunity with any recognized employee organization;

10.2.13. To adopt, eliminate or revise all City policies, practices, procedures resolutions or ordinances which are not in direct conflict with a specific provision of the Agreement;

10.2.14. To dismiss, suspend without pay, demote, reprimand, transfer, withhold merit increases, or otherwise discipline employees subject to the requirements of law and this M.O.U.;

10.2.15. Determine minimum qualifications, job duties, selection procedures and standards, and job classifications, and to reclassify employees when operational conditions warrant;

10.2.16. Hire, transfer, promote, and demote employees for non-disciplinary reasons subject to the requirements of this M.O.U.;

10.2.17. Determine policies, procedures, rules, and practices governing the administration of personnel matters that do not conflict with, or contravene, application to employees covered by and active M.O.U., and to require compliance therewith;

10.2.18. Restrict the activity of any employee or person on City property except as set forth in these regulations;

10.2.19. Take any and all necessary actions to carry out the operations of the City in emergencies; and

10.2.20. Nothing in these rules and regulations is intended to restrict consultation or meeting and conferring with recognized employee organizations regarding matters within the right of the City to determine, nor to restrict the duties of authorities vested by law in the City, the Council, or the City Administrator.

ARTICLE 11. WORKDAY / WORKWEEK.

11.1. The workweek for all bargaining unit employees shall consist of five (5) consecutive eight (8) hour days that shall be exclusive of a meal period.

11.2. The City may designate certain positions to work four (4) consecutive eight (8) hour days that shall be exclusive of a meal period.

11.3. Alternative work schedules may be established by mutual agreement of the parties.

ARTICLE 12. REST PERIODS AND MEAL PERIODS.

12.1. All employees may be allowed rest periods not to exceed fifteen (15) minutes during each four (4) consecutive hours of work.

12.2. Rest periods shall be considered hours worked and employees may be required to perform duties, if necessary.

12.3. Employees normally shall be allowed a meal period of not less than thirty (30) minutes nor more than one (1) hour which shall be scheduled generally in the middle of the work shift.

12.4. Meal periods shall not be counted as part of total hours worked, except for those employees for whom meal periods include the actual performance of assigned duties, such as the employees who work a straight eight (8) hour shift.

ARTICLE 13. SALARIES.

13.1. On or before December 15 each year, each Full-time employee of the bargaining unit will be awarded a one-time pay for performance award between \$0 and \$1500 predicted on the rating received on the pay-for-performance evaluation. Pay for performance awards shall be predicated on the following scale: 80 percent and above, \$1,500; 60 percent to 79 percent, \$1,000; 40 to 59 percent, \$500; under 39 percent, \$0.

13.2. WORKING OUT OF CLASS PAY. Employees who, for fifteen (15) calendar days, work in a higher classification of substantially perform the duties of a position to which they are not normally assigned, shall be compensated for all such time worked at the pay step of the higher classification which would guarantee a minimum differential of five percent (5%) over their normal pay rate.

13.3. SALARY STEP INCREASES / ALLOCATIONS.

13.3.1. Employees shall receive salary step increases based on merit and length of service. Such step increases shall become effective on the employee's anniversary date, and shall not be denied without just cause.

13.3.2. At the discretion of the City, upon entry into City service employees may be appointed at higher than the entry salary for the classification based on qualifications, education and/or experience, but shall not be appointed higher than the top step of the range for the classification to which they are appointed.

13.3.3. Wages:
On July 1, 2022, all members of the SEIU bargaining unit shall receive an 5% base wage adjustment to the current salary.

13.3.4. LONGEVITY PAY. An employee who has 7.5 years of City service shall have 1.5% added to their current wage. An employee who has 12.5 years of City service shall have 1.5% added to their current wage. An employee who has 17.5 years of City service shall have 1.5% added to their current wage.

ARTICLE 14. STANDBY.

14.1. Employees are eligible for standby compensation at the rate of three dollars (\$3.00) per hour of standby time when the following criteria are met:

14.1.1. The employee is so restricted from normal activity that his/her response to a City summons is immediate, unimpaired, and guaranteed.

14.1.2. The restriction is the result of specific direction from the employee's department head, and is authorized by the City Manager.

14.1.3. For any time an employee is required to respond to an emergency. This compensation is not retroactive, and will not be expanded without formal agreement through the meet and confer process.

14.2. CALL-BACK/CALL-OUT.

14.2.1. Any employee required to return to work or who is called out to work during a day off or at a time that is not an extension of the regular assigned work day, shall be paid a minimum of three (3) hours pay at the rate of time and one-half.

14.2.2. Should the employee be called back or called out a second time, the three(3) hour minimum shall not apply unless the employee is called out after three (3) hours have passed since the original call back or call out.

14.2.3. The regularly scheduled public works minimum three (3) hour plant duty shall be paid at straight time unless the total hours worked in the workweek qualifies the time as overtime.

ARTICLE 15. SSI/MEDICARE BENEFIT. Employees will pay the full employee portion of Social Security/Medicare contributions.

ARTICLE 16. PUBLIC EMPLOYEES RETIREMENT SYSTEM (PERS).

16.1. Employees will pay the full employee portion of retirement contribution using the following calculation: EARNINGS - \$61.00 x 8%.

16.2. For fulltime employees hired on or before the effective date of this MOU, the City will participate in the 3@60 PERS retirement plan. For employees hired after the effective date of this MOU the City will participate in the 2@60 PERS retirement plan. This new plan shall be implemented by the City as soon as possible.

16.3. Employee-paid PERS contributions will be “picked-up” by the City pursuant to Internal Revenue Code Section 414(h)(2) as designated and described in Appendix A.

ARTICLE 17. OVERTIME.

17.1. Except as otherwise provided in this article, employees required to work in excess of eight (8) hours per day of forty (40) hours per week shall be compensated for such overtime with pay at one and one-half (1-1/2) times the hourly rate or by compensatory time off on the basis of one and one-half (1-1/2) hours off for each hour of overtime worked.

17.2. In addition to their regular salary, any employee required to work on a holiday shall be compensated for those hours worked at one and one-half (1-1/2) times the regular hourly rate. Such compensation shall be in the form of cash payment or compensatory time off. In cases where the employee specifically requests cash payment or compensating time off, consideration shall be given to the preference of the employee.

17.3. Compensatory time off may be accrued up to a maximum of eighty (80) hours. However, no credit toward comp time accumulation shall be granted unless it is first approved by the employee's supervisor or the City Manager. Employees may utilize their accrued comp time at any time so long as such utilization has received employer approval. The MOU and/or state and federal wage and hours law shall govern all other aspects of comp time.

ARTICLE 18. BEREAVMENT LEAVE

Employees shall be granted bereavement leave with pay in the case of the death of the following family and foster members.

- The parent(s) of the employee
- The employee's spouse/domestic partner
- The parent(s) of the employee's spouse/domestic partner
- The step-parents of the employee and/or employee's spouse/domestic partner
- The grandparents of the employee, and the brother and/or sister of the spouse/domestic partner of the employee.
- Also included are the sister and brother of the employee, children, grandchildren, stepchildren and adopted children of the employee and/or spouse/domestic partner.

Family members listed above pertaining to the employee's domestic partner are recognized by the City. The City Manager may require appropriate documentation prior to approval of bereavement leave.

Such leave shall be limited to three (3) days per loss.

ARTICLE 19. CALL-OFFS. The City may direct an employee to leave his/her work site if there is insufficient work for said employee to do, with said employee not to receive compensation in the form of pay or other benefits for the time after which he/she has been directed to leave. Any department head directing an employee to leave his/her work site because of insufficient work shall attempt to equalize the impact over his/her available work force and not to concentrate the effect of this provision on any individual employee. Any employee directed to leave his/her work site because of insufficient work may, by notifying the City Manager, designate said time off as vacation leave, holiday leave, or compensated time off to the extent said employee has accrued vacation leave, holiday leave, and/or compensatory time off to make up a full work day.

ARTICLE 20. DEFERRED COMPENSATION. The City shall provide payroll deduction for those employees electing to participate in employee-sponsored deferred compensation plans.

ARTICLE 21. MEDICAL, DENTAL, VISION BENEFITS.

21.1. For permanent or probationary employees choosing to participate in the City-sponsored medical, dental and/or vision plans hired on or before January 1, 2011, the City shall provide monthly payments of up to \$1,898 for the uses identified in Section 21.2. Employees not opting to participate in the City-sponsored medical, dental and/or vision plans are not entitled to a cash-back option.

21.2. The monies provided in the above section shall be used for one or more of the following purposes only:

- Payment of premium charges for the City-sponsored medical insurance in which the employee is enrolled.
- Payment of premium charges for dental care.
- Payment of premium charges for vision care.
- Payment of premium charges for long-term disability.

21.3. Additionally, at the option of the employee, the City shall provide Hepatitis B vaccinations and also Hepatitis A vaccinations at City expense.

21.4. The City of Sutter Creek offers the above benefits through a Section 125 Plan, which allows employees to pay for any portion above the \$1,100 monthly payment on a pre-tax basis.

ARTICLE 22. INSURANCE BENEFITS.

22.1. Medical, Dental, Vision

22.1.1. The City shall contract with the Tri-Counties School District Plan for the purpose of providing medical, dental and vision insurance benefits for active employees, eligible retired employees, and eligible survivors of retired employees. Eligibility to participate in and the

enrollment of employees, employees' dependents, retired employees and dependents and survivors or retired employees shall be in accordance with regulations promulgated by the selected provider.

22.1.2. For the purpose of this section, a dependent is defined as a person who satisfies the definition of dependent in the selected medical, dental and vision insurance plans in which the employee is enrolled. Such dependents must also be enrolled in, and covered by, the plan.

22.1.3. For employees who previously have retired from City service and for employees hired on or before the effective date of this MOU who subsequently retire from City service, the City will contribute \$105 per month toward retiree medical premiums for those retirees enrolled in the City-sponsored medical plan.

22.1.4. LIFE INSURANCE. The City shall provide each full-time employee with a \$15,000.00. life insurance policy. It is the responsibility of each employee to furnish the City with the name of the beneficiary of this life insurance policy.

ARTICLE 23. VACATION SCHEDULE.

23.1. All bargaining unit employees who are employed on a continuous full-time basis shall accrue vacation leave on the basis of the schedule show. Temporary employees shall not accrue vacation time.

23.2. ANNUAL ACCRUAL.

Term of Employment	Annual Accrual	Monthly Accrual	Per Pay Period Accrual
0 through 60 months	80 hours	6.66 hours	3.07 hours

61 through 144 months	120 hours	10 hours	4.62 hours
145 months or more	160 hours	13.33 hours	6.15 hours

Each employee shall accrue vacation leave during his/her probationary period, but shall not be allowed to use vacation leave until he/she has been employed continuously for twelve (12) months. Vacation shall be taken at a time as approved by the employee's supervisor. Request for the use of vacation leave may only be denied based on operating demands.

23.3. Once per calendar year employees may cash out up to two (2) weeks of vacation accrual at their then rate of pay. If the City proposes the suspension of the vacation buybacks for any portion of the duration of this contract, the City and the Union will meet and confer. Employees can either cash out two (2) weeks at once or one (1) week two times per year.

23.4. Employees may accrue a maximum of 240 hours of vacation. Once the maximum accrual amount is reached employees will not accrue additional vacation time. Within 60 days of reaching maximum accrual, employees must schedule leave. If the employee does not schedule leave, the City may require the employee to take leave.

Employees that are over the 240 maximum accrual must either cash out the amount of vacation time in excess of 240 hours or must take the excess vacation amount within 60 days (or within a longer period of time as agreed by both parties).

ARTICLE 24. HOLIDAYS.

24.1. Employees shall be entitled to the following holidays with pay. In addition, the City shall observe every day appointed by the President or Governor as a public holiday or day of thanksgiving.

New Years Day	January 1
Martin Luther King's Birthday	3 rd Monday in January
Presidents Day	3 rd Monday I February
Cesar Chavez Day	March 31
Memorial Day	Last Monday in May
Juneteenth	June 19
Independence Day	July 4
Labor Day	1 st Monday in September
Columbus Day	2 nd Monday in October
Veteran's Day	November 11
Thanksgiving Day	4 th Thursday in November
Friday after Thanksgiving	
Christmas Day	December 25

Two (2) Floating Holidays or Personal Days to be used at employee's discretion during each year of this Agreement. These personal days do not carry over from year-to-year.

24.2. The City shall observe all holidays as provided for above. In the event a holiday falls on a weekend day, the holiday will be observed on the Friday preceding a Saturday holiday or the Monday following a Sunday holiday. For employees who work other than a Monday through Friday work schedule, should a holiday fall on a regularly scheduled day off, the holiday will be observed on the date preceding the first day off of the day following the second day off. A full-time employee whose regularly scheduled day off falls on a holiday shall be entitled to eight (8) hours of compensatory time off, or eight (8) hours of pay at his/her regular hourly rate.

ARTICLE 25. SICK LEAVE.

25.1. All unit employees who are employed on a continuous full-time basis shall accrue sick leave credits at the rate of eight (8) hours per month (3.69) hours per pay period). Sick leave hours shall be accrued without limitation.

25.2. Employees are entitled to use sick leave only when they or a member of their immediate family are incapacitated due to illness, injury, or when receiving necessary medical and dental treatment.

ARTICLE 26. FAMILY AND MEDICAL LEAVE. The City recognizes its obligations to employees who meet the eligibility requirements of the Federal Family and Medical Leave Act and the California Family Rights Act.

ARTICLE 27. SICK LEAVE INCENTIVE PROGRAM. Employees who use thirty-two (32) hours or less of sick leave during each one (1) year period beginning July 1 through June 30 shall be credited and additional twenty-four (24) hours of time off with pay at the end of each one (1) year period not charged to any other leave balance. Each twenty-four (24) hours of time off shall be used during the following one (1) year period, and may be used in conjunction with other vacation or compensatory time off.

ARTICLE 28. UNIFORM ALLOWANCE.

28.1. The City agrees to provide by August 31st of each year an annual uniform allowance of \$200 for Public Works employees to use toward the purchase of pants. This allowance is in addition to the City-provided shirts for Public Works employees.

28.2. If the Public Works Director determines they are needed, the City agrees to pay up to \$250 for employee safety boots, boot repair or boot related supplies by August 31st of each year to those employees required to utilize such boots in their employment. Employees are required to pay for any costs above the \$250.

ARTICLE 29. PERSONAL PROPERTY REPLACEMENT.

29.1. The City shall reimburse bargaining unit employees for clothing and other personal property items that are stolen, damaged, lost in a work related incident, destroyed during the performance of work duties, during the performance of hazardous tasks, or who, while in the performance of assigned duties, becomes the subject of an unprovoked attack. The City's obligation herein shall not arise unless the employee is unable to be reimbursed from any other source provided; however, the City shall be responsible for seeking reimbursement of expenses that may be paid through court order of restitution.

29.2. Such reimbursement shall be limited to items of personal property that are reasonably required in order for the employee to perform his/her duties, excluding uniform items which are covered by the Uniform Allowance provision. It shall be further limited to situations in which the employee was in no way responsible for the loss or damage of the item.

ARTICLE 30. GRIEVANCE PROCEDURE.

30.1. Grievance procedures for employees are provided in the City's Personnel Rules.

30.2. DISCIPLINARY ACTION.

30.3. Disciplinary action procedures are found in the City's Personnel Rules.

ARTICLE 31. PERSONNEL FILES / PERFORMANCE EVALUATIONS.

31.1. The City shall maintain personnel files for each employee in the bargaining unit. Access to such files shall be limited to the employee, the employee's department head, and the City in conjunction with the proper administration of the City's affairs and/or supervision of the employee. Information in the employee's personnel file is confidential and will only be released or made available pursuant to the employee's authorization, court order, or subpoena. The employee shall immediately be informed of the existence of any court order or subpoena requesting release of information from the file prior to such release.

31.2. There shall be only one official personnel file regarding each employee. Each employee shall be informed of the existence and location of the file, and the employee shall have the right to inspect this file during regular business hours.

31.3. The employee's supervisor for both permanent and probationary employees shall complete performance evaluations. Permanent employees shall be evaluated annually on or about their anniversary date of employment, or may be issued a special performance evaluation at any time at the discretion of the department head.

31.4. Probationary employees shall be evaluated at least twice prior to completion of the probationary period.

31.5. Performance evaluations are used for employee development. Performance evaluations are designed to instruct employees as to how they may better meet their job objectives, and shall reflect specific written job related expectations

31.6. Every employee shall be given an opportunity to read and sign performance evaluations prior to placement of such evaluation in the employee's personnel file. Each employee shall receive a copy of the performance evaluation and shall have the right to discuss the evaluation with his/her supervisor as well as file written comments pertaining to the content of the evaluation with thirty (30) days of the employee's review.

ARTICLE 32. LAYOFF / SENIORITY.

32.1. POSITIONS TO BE ELIMINATED. If the City determines the need for a reduction in its work force, written notice of not less than two (2) weeks shall be provided to regular employees to be laid off. The City will determine the positions to be eliminated and the employees to be laid off within each affected job class.

32.2. ORDER OF LAYOFF.

32.2.1. Initially the City shall consider employees for layoff in the inverse order of seniority. Seniority shall be determined on the basis of uninterrupted employment with the City in the employee's current class.

32.2.2. When selecting which employee will be laid off, the City will review the qualifications of the employee with the least seniority in the affected job class. If the City finds the employee has qualifications not possessed by an employee with the next greater seniority, and the qualifications are essential to the successful performance of the job, the City may layoff the employee with the higher seniority.

32.2.3. Qualifications to be considered in determining exceptions to seniority order shall include knowledge, skill, ability, and certificates required for job functions to be assigned to the remaining staff, as well as previous experience in performing the essential functions of the position.

32.2.4. In the event of equal seniority and qualifications within job class, total seniority within the department shall prevail.

32.3. APPEAL PROCEDURE.

32.3.1. NOTICE OF APPEAL. In the event that an employee who has been laid off out of seniority order believes the decision based upon qualifications is incorrect, she/he may request that the Union appeal the City's determination. If the Union finds there is good reason to believe that the City has erred in its decision, it may appeal through the process set forth in this Article. Such appeal shall be filed within five (5) working days of delivery of the layoff notice to the employee.

32.3.2. APPEAL REVIEW COMMITTEE.

32.3.2.1. When an appeal is filed, the Union shall identify two (2) persons to serve on a Review Committee at the time of the appeal. The City shall then appoint two (2) persons to the Committee. Each of the persons appointed to the Committee shall be familiar with the work of the department and of the job class from which layoff is to be made. The Committee shall meet within five (5) days of delivery of

the notice of appeal to the City. It shall review the basis of the City's layoff decision and the reasons the employee believes the decision is in error. The Committee shall then determine whether the City's decision was reasonable, and on that basis either confirm or reject the City's decision.

32.3.2.2. If the Committee cannot reach agreement regarding the City's decision regarding order of layoff, it shall within three (3) days of its initial meeting request the participation of a mediator from State Mediation and Conciliation Services. The services of the mediator will be jointly requested by the City and the Union on an urgent basis. The mediator shall seek to achieve a consensus decision among the Committee members. If none is reached, the mediator shall become a voting member of the Committee.

32.3.2.3. The determination of the Committee regarding the appropriate order of layoff shall be final and binding and may not be grieved.

32.4. RECALL FROM LAYOFF. An employee who is laid off shall have the following rights for a period of two (2) years following his/her layoff:

32.4.1. To be rehired to any open position in the department from which the employee was laid off which open position has the same classification as the position which the employee held immediately prior to his/her layoff;

32.4.2. To be rehired to any open position in any department other than the department from which the employee was laid off which open position has the same classification as the position which the employee held immediately prior to his/her layoff unless the open position is to be filled by the promotion of another employee from that department.

32.4.3. To be rehired to any open position covered by this Agreement for which position the employee meets all the minimum requirements unless the open position is to be filled by the promotion of another employee from that department.

32.4.4. In the case of a rehire to subsection 34.4.2 or 34.4.3, the rehired employee shall complete the probationary period as required for other new employees.

32.4.5. The right of recall shall not accrue beyond the date on which the employee declines or fails to respond within five (5) working days to an offer of recall from layoff or two (2) years from the date of layoff, whichever occurs first, and upon expiration of such right, such employee shall be deleted from the recall lists.

32.4.6. An employee re-employed within two (2) years following expiration of his/her right of recall from layoff shall be granted restoration of all sick leave available to such employee as of the date of layoff. The period of layoff shall not be considered a break in service for such employee, but his/her seniority shall be reduced by the length of time intervening between the date of expiration of his/her right of recall from layoff and the date of his/her re-employment.

ARTICLE 33. AMERICANS WITH DISABILITIES ACT (ADA)

33.1. The City and the Union recognize that the City has an obligation under law to meet with an individual employee who alleges a need for reasonable accommodation in the workplace because of a disability. If, by reason of the aforesaid requirement, the City finds it necessary to comply with the ADA by setting aside any provision of the Agreement in order to provide reasonable accommodation to an individual employee, such action by the City shall not be subject to the grievance procedure set forth in this Agreement. The City will advise the Union of any such proposed accommodation prior to implementation.

33.2. Any accommodation provided to an individual employee pursuant to the provisions of this Section shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the arbitration of a grievance filed by either party.

ARTICLE 34. UNION RIGHTS. Shop Stewards.

34.1. The City recognizes the need and affirms the right of the Union to designate two (2) Shop Stewards and one alternate from among employees in the unit. It is agreed that the Union in appointing such Shop Stewards does so for the purpose of promoting an effective relationship between supervisors and employees by helping to settle problems at the lowest level of supervision.

34.2. The Shop Steward recognizes the fact that the supervisor is the key person for the City and, as such, is responsible to higher management for the quality and quantity of work. As the supervisor is the key person for management, the Shop Steward is the key person for the Union. They must promote and maintain good morale and friendly relations and must be willing to meet in good faith to settle grievances as they arise, exercising a positive approach. There must be mutual respect on both sides in these relations. The Shop Steward understands that his/her stewardship function does not relieve him/her from conforming to all rules of conduct and standards of performance established by law, regulation, City or department policy, or MOU.

34.3. The Union shall reserve the right to designate the method of selection of Shop Stewards. The Union shall notify the City in writing of the names of the Stewards.

34.4. If a worker has a grievance and wishes to discuss it on City time with a designated Steward, he/she shall be allowed the opportunity within a reasonable amount of time to verify if his/her designated Steward is present and available to be seen.

34.5. A reasonable amount of time shall be granted to the worker and Steward to handle the investigation of the grievance. Such scheduled time shall be subject to the approval of the City Administrator. No reasonable request will be denied. The parties agree that in handling grievances the worker and the Steward will use only the amount of time necessary to handle the grievance and that such investigation may take place on City time.

ARTICLE 35. LABOR-MANAGEMENT COMMITTEE.

35.1. The parties agree to continue the joint Labor-Management Committee.

35.2. The Committee shall be comprised of two (2) members selected by each party.

35.3. The scope of its work shall include:

35.3.1. Developing updated job and classification descriptions;

35.3.2. Conducting internal and external salary surveys; and

35.3.3. Drafting or revising appropriate labor relations policies for Council consideration.

ARTICLE 36. TERM OF MEMORANDUM OF UNDERSTANDING

36.1. This Memorandum of Understanding shall become effective as of July 1, 2022 and shall continue in full force and effect until expiration at midnight, June 30, 2023.

36.2. During the month of April 2023 the parties agree to begin to negotiate a successor agreement.

APPENDIX A

I.R.C. Section 414(h)(2) "Pick-Up" Program

The City agrees to implement the provisions contained in Section 414(h)(2) of the Internal Revenue Code concerning the tax treatment of employee retirement contributions paid to the California Public Employees' Retirement System (PERS) on behalf of said employees. Pursuant to Section 414(h)(2) contributions to a pension plan, although designated under the plan as employee contributions, when paid by the employer in lieu of contributions by the employee, under circumstances in which the employee does not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer, may be excluded from the gross income of the employee until these amounts are distributed or made available to the employee. Implementation of Section 414(h)(2) shall be accomplished through a concomitant reduction in wages equal to the employees' contribution rate to PERS pursuant to the following provisions:

Definitions

Unless the context otherwise requires, the definitions in this section govern the construction of this provision.

"Employees" The term "employees" shall mean those employees represented by SEIU Local 1021 who make employee contributions to the PERS retirement system.

"Employee Contributions" The term "employee contributions" shall mean those contributions to PERS which are deducted from the salary of employees and credited to individual employees' accounts.

"Employer" The term "employer" shall mean the City of Sutter Creek.

"Gross Income" The term "gross income" shall mean the total compensation paid to employees represented by SEIU Local 1021, by the City, as defined in the Internal Revenue Code and rules and regulations established by the Internal Revenue Service.

"Retirement System" The term "retirement system" shall mean the California Public Employees' Retirement System (PERS).

"Wages" The term "wages" shall mean the compensation prescribed in the Memorandum of Understanding between the parties.

"Compensation: The term compensation shall mean the employee's monthly wages reported to PERS before any reduction pursuant to this pick-up program.

1. Pick-Up of Employee Contributions

(a) Pursuant to this provision, the employer shall make employee contributions on behalf of employees, and such contribution shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States. Such contributions are being made by the employer in lieu of employee contributions.

(b) Employer contributions made under Paragraph A of this provision shall be paid from the same source of funds as used in paying the wages to affected employees.

(c) Employee contributions made by the employer under Paragraph A of this provision shall be treated for all purposes other than taxation in the same manner and to the same extent as employee contributions made prior to the effective date of implementation of the "pick-up" program. Nothing contained in this pick-up program is intended to reduce the reportable amount of the employee's monthly compensation reported to PERS.

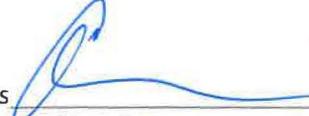
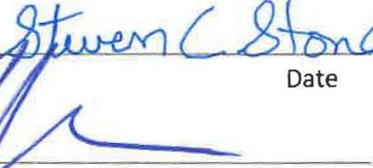
(d) The employee does not have the option to receive the employer's contributed amounts directly instead of having them paid to the retirement system

(e) In the event the existence of any state or federal tax law creates any personal tax liability for an employee by virtue of the employer's paying the employee's normal PERS retirement contribution, nothing contained in this section shall relieve the employee of any tax liability prescribed by law nor give rise to a grievance against the City, requiring it to assume the employee's tax liability.

Agreement between Service Employees International Union Local 1021

And

City of Sutter Creek

Amy Gedney City Manager of Sutter Creek	 Date	12-7-22	Cheryl Hicks Field Representative, SEIU 1021	 Date	12/13/22
			George Allen Public Works	 Date	12/8/22
			Steven "Corey" Stone Public Works	 Date	12-8-22
			David Canham Executive Director, SEIU 1021	 Date	
			William Petrone Regional Director, SEIU 1021	 Date	12/5/22