

**RESOLUTION NO. 2011-60**

**A RESOLUTION AMENDING THE "MEMORANDUM OF UNDERSTANDING" BETWEEN THE INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 148 (AFL-CIO) AND THE CITY OF PACIFIC DATED FEBRUARY 28, 2003**

**WHEREAS**, the City of Pacific did by Ordinance No. 2326 establish new employment provisions and terms for certain employees of the City; and

**WHEREAS**, Ordinance No. 2326 provides that the Memorandum of Understanding dated February 28, 2003 may be modified by vote of a majority of the members of the Board of Aldermen; and

**WHEREAS**, after additional good faith meetings with employees and union representatives, additional changes to the terms of employment were accepted by the City to the Memorandum of Understanding to include several additional policies and reconfirm other policies, and such changes were reflected in amendments approved in 2004 by Resolution No. 2004-03, in 2005 by Resolution No. 2005-46, and in 2008 by Resolution No. 2008-26; and

**WHEREAS**, as a result of ongoing discussions with employees and union representatives, additional changes to the terms of employment have again been accepted and deemed prudent to amend the Memorandum of Understanding in 2011 to include several additional policies and reconfirm other policies as attached hereto;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF PACIFIC, MISSOURI, AS FOLLOWS:**

The Amended "Memorandum of Understanding" dated February 28, 2003, and as amended by Resolutions 2004-03, 2005-46, and 2008-26, is further amended as attached hereto as Exhibit A is hereby approved and shall replace the prior amended "Memorandum of Understanding" document adopted by Ordinance 2326 as amended and as revised shall be in force from and after the date of approval.

Adopted by the Board of Aldermen and approved by the Mayor this \_\_\_\_ day of \_\_\_\_\_ 2011.

\_\_\_\_\_  
Herbert C. Adams, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**AMENDED  
MEMORANDUM OF UNDERSTANDING  
  
BETWEEN  
  
INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL NO.148 (AFL-CIO)  
  
And  
  
THE CITY OF PACIFIC, MO.**

February 28, 2003

**Amended January 2004 (Res. 2004-03)  
Amended June 2005 (Resolution 2005-46)  
Amended May 2008 (Resolution 2008-26)  
Amended November 2011 (Resolution 2011-\_\_\_)**

The following policies have been adopted by the City as applicable to all employees of the City Street Department, Water and Sewer Department:

## **ARTICLE I RECOGNITION OF UNION**

The governing body of the City of Pacific, hereinafter referred to as the "City" recognizes the International Union of Operating Engineers, Local No.148 (AFL-CIO), hereinafter referred to as the "Union," as the representative of the employees in the Street Department and the Water and Sewer Department of the City of Pacific.

**Nature of relationship.** The employment relationship of all City employees shall be subject to the laws of the State of Missouri relating to employees of fourth class municipalities, and such employment shall be at will of the Board of Aldermen as for all employees and officers of the City. The establishment of this Memorandum satisfies the City's obligation to recognize employee representatives and to meet and confer as provided by law, and is anticipated to meet such obligations for the calendar years 2012 through 2014, subject to any compensation or other adjustments that may be deemed appropriate from time to time. Nothing herein shall be deemed to waive the City's sovereign immunity or create any cause of action or action for breach of any kind against the City.

## **ARTICLE II MANAGEMENT RIGHTS**

The City retains the sole and exclusive right to control its properties, manage its affairs, all governmental and proprietary functions, and direct its work force including, but not limited to:

- A. The right to hire, fire, and discipline employees,
- B. The right to change, amend, and enforce department and disciplinary rules and regulations; after additional good faith negotiations with employees and union representatives except for emergency circumstances or where immediate action is deemed necessary by the responsible City officials;
- C. To increase or decrease the working force, determine the number of job operations, the work to be performed therein, the services to be performed, the methods to be employed in performing them and the standards applicable thereto; to decide the number and location of its shops, offices, and projects; to alter, combine, transfer, assign or cease any job, department operation of service; to decide the work to be contracted out or performed by its employees, the work to be contracted out; to take any actions appropriate or necessary to maintain safety, efficiency, order and compliance with federal, state, or local regulations, to establish, change, increase, or decrease, compensation or benefits (except such benefits as may be prohibited from change by federal or state law) after additional good faith negotiations with employees and union representatives except for emergency circumstances or where immediate action is

deemed necessary by the responsible City officials, and all such other related managerial duties;

- D. To direct the operation of and manage all manpower, facilities and equipment; to determine the purpose of the department; to determine the methods, means and number of personnel needed to carry out the department's mission; and
- E. To establish functions and programs; to set and amend budgets; to determine the utilization of technology, including the introduction of new or improved methods or facilities or the changing of existing methods or facilities.

These above-mentioned rights are not to be interpreted as all-inclusive, but merely indicate the type of rights which belong to and are inherent to management, and nothing in this Memorandum shall be interpreted as depriving the City of any right to unilaterally change or suspend application of any policy or provision herein as may be permitted by law or as may be necessary for the public interest or safety; after additional good faith negotiations with employees and union representatives except for emergency circumstances or where immediate action is deemed necessary by the responsible City officials.

### **ARTICLE III CODE OF CONDUCT**

**Prohibited Acts During Working Hours.** In the interest of efficient conduct of business and economical use of time, the following activities may not be conducted within the regular working hours of the employees involved on City property:

- a. Activity connected with organizing efforts and the internal management of the union;
- b. Solicitation of union memberships;
- c. Collection of dues or other assessments;
- d. Circulation of authorization cards or petitions;
- e. Solicitation of signatures on dues-withholding authorization form or forms
- f. revoking dues-withholding authorizations;
- g. Campaigning for union office; and
- h. Distribution of union literature.

Employees are prohibited from strike, or related work stoppage, and may not delay or refuse to perform any assigned or otherwise required task due to the existence of union pickets or strike of any union or employee group, provided that discussion of work problems is not prohibited.

### **ARTICLE IV UNION DUTIES**

The City will allow the business representative of the Union to visit the City during working hours, provided that such Union representative does not in any manner interfere with the City's business or operations, and gives prior notice to the City and provided that the requirements relating to the Union as established herein are complied with. A shop steward and alternate shop

steward may be designated among the employees. All Union meetings shall be posted by the shop steward at the maintenance building posting board.

## **ARTICLE V BASIC PRINCIPLES & COOPERATION**

The Union and its members shall be responsible to report to the City acts of sabotage, subversive activities, theft, damage, or the taking of any of the City's property or materials. The Union agrees to use its best efforts to assist the City in apprehending the guilty parties.

Consistent with the principle of a fair day's work for a fair day's pay, and consistent with the employees' welfare in regard to safety, health, and sustained effort, the Union agrees to cooperate with management in its effort to increase employee effectiveness and productivity, provided that disputes concerning proper workload assignment and proper compensation for increased productivity shall be subject to the grievance procedure of this Memorandum of Understanding.

The parties shall cooperate together toward the elimination of surplus employees, performance of duties on related jobs when not busy on their own jobs, doing a fair day's work by all employees and the carrying out promptly of all reasonable instructions issued by their supervisors regarding work assignments.

Both parties recognize that it is to their mutual interest and to the best interests of both the City and its employees if the quality of the City's work is improved. The Union will encourage its members to attain these ends.

The employees shall further be subject to the Guide To Conduct attached hereto.

## **ARTICLE VI GRIEVANCE PROCEDURE**

If an employee has a problem in the workplace or with regard to application of any policy, the employee shall raise such issue or grievance in a timely manner to the supervisor. The Union Steward may attend any stage of the process, unless otherwise requested by the employee. The Union Steward shall have no loss of wages or benefits due to participating in any such meetings. Formal procedure and written complaints are not necessary or necessarily intended, and informal resolution of workplace problems is encouraged. If the employee feels the problem is unresolved at the supervisor level, the employee may address the problem with the City Administrator. If the employee still feels the issue is not adequately resolved, he may request a meeting with the City Administrator, the employee and the Union representative. If the City Administrator determines that this additional meeting would not be productive, the Union representative shall place in writing the additional information relating to the grievance. The decision of the City Administrator following this process shall be final and unappealable; except that the employee may within ten (10) days thereof request that a disciplinary or safety decision be reviewed by a three (3) member Administrative Committee who will then forward their recommendation to the Board of Aldermen for final determination.

## ARTICLE VII GENERAL PROVISIONS

Reasonable space shall be provided at the City Maintenance Building for the posting of Union notices. Consideration of race, political or religious opinions, or practice as a test for employment or promotion in any position of the City shall not be exercised. Membership in any club or organization shall not be required for any employee. Any work or activity of any employee which adversely affects his/her ability to perform his/her work properly while on duty, may result in disciplinary measure, including dismissal from employment.

**Temporary Employees.** Temporary or part time employees shall not be included in the provisions of this Memorandum, and each will be set up on an individual basis as to salary, working hours, work to be performed, etc., by the City. They may not be included in holiday leave, retirement pay, etc., due to the fact they are only employed part time or on a temporary basis.

**Conditions of Employment.** The normal work week of hourly employees of the City subject of this Memorandum shall be Monday through Friday. The hours of work of hourly employees of the City subject of this Memorandum shall be 7:00 AM to 3:30 PM, with a ½ (half) hour unpaid lunch period; provided, however, that the Water and Sewer Department shall be maintained between the hours of 8:30 AM to 5:00 PM on a rotation basis.

**Heat Alert Hours.** In any case where the forecast on the local noon news (or national weather service forecast as of noon) for the next day is for a heat index of 95 degrees or higher, the Public Works Commissioner will consider whether to change the starting time to 6:00am for any day shift employee whose duties will require him or her to work outdoors for a period of 4 or more consecutive hours, subject to consideration relating to the type of work which is required for that day (Monday schedule will be posted on the preceding Friday) and staffing and other business concerns. Decisions will be made on a case-by-case basis without any precedent. Heat alert hours will be at the discretion of the Public Works Commissioner with appeal to the City Administrator if necessary (or designee).

**Labor/Management Committee:** There shall be established a Labor/Management Committee to meet at six (6) month intervals. In addition, parties shall submit, no later than January 31, each year, any modifications to this Memorandum.

## ARTICLE VIII SPECIAL PAY RATES

Employees of the City paid by the hour who are required to work overtime, shall be paid at an hourly rate equal to one and one half (1½) times their regular rate of pay after forty (40) hours worked. Personal days, vacation days and holidays shall be considered as hours worked. Overtime pay shall commence from the time the employee arrives at his/her work station.

Employees shall be paid double their regular hourly rate for all work performed on Sundays or holidays when called in on an emergency. An emergency is defined to mean an unforeseen, unscheduled or otherwise unavoidable condition which arises that endangers continuity of service, protection of equipment or personnel. Such emergency is to last only as long as necessary to resume to normal procedures and schedules.

Employees called for unscheduled work, outside of their regular hours, shall be paid a minimum of three (3) hours' pay.

Shift Differential—Employees scheduled to a work shift after the normal (day) shift shall receive \$1.00 per hour as shift differential in addition to their regular hourly rate of pay.

Any employee required to use their personal vehicle to perform work for the City shall be compensated at the current mileage rate as set forth by the Internal Revenue Service.

The employee shall be paid every two (2) weeks. Each employee shall receive a separate record of total wages and deductions. Employees may elect to have union dues withheld from their paychecks by execution of any necessary forms wherein the City would then disburse withheld amounts to the Union.

There will be a reasonable distribution of overtime between the employees within a classification or between all employees qualified to do the available work. The City may adopt an overtime equalization procedure to promote fair distribution of overtime. Unless another policy is established, overtime will be ordinarily allocated based on seniority.

Employees may report to their job site when conditions arise that prevent the employee from reporting to the City Maintenance Building at the beginning of the work day. Project work will not terminate until ten (10) minutes prior to the end of the work period for clean-up. A fifteen (15) minute break in the morning and afternoon will be given.

Employees shall be given the option of compensatory time in lieu of overtime pay. The compensatory time shall be limited to an accrual of forty (40) hours. However, when Compensatory Time is used, the employee may reaccrue such time up to the 40 hour limit. Any overtime after the forty (40) hour accrual shall be paid overtime. The decision to allow Compensatory Time in lieu of overtime pay shall always be subject to approval of the City to ensure appropriate manpower, scheduling and efficiency of operations.

**ARTICLE IX  
UNION DUES AND CHECKOFF**

Union dues will be deducted from those employees upon receipt of a signed withholding authorization. The Union shall notify the City and each employee in writing of the amount of dues or changes in the amount of dues thirty (30) days prior to any change. Such deductions shall continue for the period of this Memorandum unless terminated by the employee by written notice to the City and the Union.

Any present or future employee covered by the scope of this Memorandum who has not paid Union dues, shall pay the Union a Memorandum Service Fee, as a fair share contribution toward the negotiation and administration of this Memorandum; provided that the Union has at all such times maintained with the City a binding Hold Harmless Agreement in the form attached hereto, and further subject to the provisions of the Fee Payers Objection Plan, also attached as Exhibit A to this Memorandum. No further authorization is required for deduction of union dues or service fees. The Service Fee shall be in an amount represented by the union as the fair share costs attributable to the negotiation and administration of this Memorandum that are permitted to be imposed on all employees within this Memorandum pursuant to *Schaffer v. St. Louis Board of Education*, 869 S.W.2d 163 (Mo. App. 1993). The Union agrees to notify the City and the employee in writing of the Service Fee amount and shall further notify the City and employee if such fair share amount hereinafter reduces or increases so that the City may promptly reduce such amount to comply with said fair share obligations.

Nothing herein shall be interpreted or applied by the City, the union or any employee to: (1) discharge or discriminate against any employee because of his exercise of any right to form and join labor organizations and related rights granted by law, or (2) directly or indirectly, by intimidation or coercion, compel or attempt to compel any such employee to join or refrain from joining a labor organization. In the event that the City at any time determines that the Service Fee amount or implementation violates any existing or subsequent applicable law, the City may discontinue such implementation and shall notify the union of the same. Implementation of this paragraph is a courtesy to the union and employees and as with other provisions herein shall not be deemed to create any cause of action against the City relating to its enforcement.

**ARTICLE X  
SAFETY**

The City Administrator shall appoint an employee from the Police Department as a Safety Officer. This person in addition to their regular duties will monitor and correct any conditions that could unreasonably endanger any employees.

There shall be a Committee comprised of the following members: The Union Shop Steward, The Water/Sewer Supervisor, The Streets Supervisor, The Public Works Commissioner, The Safety Officer, The Building Commissioner, and the City Administrator. All employees shall have the right to make a safety complaint to any member of the Safety Committee. The Safety Committee shall meet monthly to discuss complaints and corrective actions. Excavating shall comply with Dig-Rite requirements.

## ARTICLE XI WAGES

Employees of the City shall receive compensation for their services as established by ordinance each year. In addition, pay increases per the attached Utility Maintenance Man Pay Charts will be given as movement occurs upon completion of training classes. The City shall develop and maintain a Job Classification Plan to assist in establishing such compensation, which shall be set in conjunction with review of performance of each employee.

Minimum rates for the Street Division shall be \$11.00 per hour.

Minimum rates for the Water/Wastewater Division shall be \$12.00 per hour.

Pay increases per the applicable Utility Maintenance Man Pay Chart shall be as follows:

- Each increase from Utility Maintenance Man I position to Utility Maintenance Man II to Utility Maintenance Man III includes an \$800.00 pay increase.
- Each ten (10) or thirty (30) hours of OSHA Awareness Training required in the listed specialized categories includes a \$500.00 pay increase.
- A "temporary stipend" will be given to those employees who were eligible for the step-in-grade pay plan increase during time of "meet and confer." Employees who are eligible will be required to sign a statement acknowledging it as a temporary stipend.

On prior approval of the supervisor and City Administrator, a three percent (3%) pay increase will be given for obtaining or having obtained a water license needed for the operation of the City's system. No pay increase shall be granted for additional licenses obtained by an employee, unless such license is deemed necessary by the City Administrator and supervisor. City will pay for all water licensing and testing for personnel granted prior authorization for such testing.

On prior approval of the supervisor and City Administrator, a three percent (3%) pay increase will be given for obtaining or having obtained a Waste Water license needed for operation per Mo. DNR Regulations. The City will pay for all sewer licensing and testing for personnel granted prior authorization for such testing.

## **ARTICLE XII BENEFITS**

Except as provided herein, benefits and requirements (including, but not limited to, health, vacation, funeral leave, holiday days, pension, etc.) generally established for employees by the City's personnel manual shall apply to employees subject of this Memorandum. Employees subject to this Memorandum shall be granted five (5) personal days and three (3) sick days per calendar year. Sick days may be accumulated up to forty (40) days. Personal days must be used within the calendar year. Any unused personal days will be paid to Employee on the last pay period of the calendar year. Employees are expected to give reasonable notice and call their supervisor prior to work to report absence. Notice of any change to benefits or other provisions of the personnel manual applicable to the union members will be given to the union prior to implementation and the City will make reasonable efforts to meet and confer with the union prior to implementation of such change.

Vacations with pay are provided for all full-time employees as follows:

- Employees continuously employed for one (1) year by the City shall be entitled to one (1) week.
- Employees continuously employed for two (2) years by the City shall be entitled to two (2) weeks.
- Employees continuously employed for six (6) years by the City shall be entitled to three (3) weeks.
- Employees continuously employed for fifteen (15) years by the City shall be entitled to four (4) weeks.

Vacation time shall not accrue and must be used during the year in which it was earned or said vacation time shall be lost.

**Safety Shoes Allowance**—Employees shall receive reimbursement for up to \$100.00 yearly, for safety shoes/boots, with a paid receipt turned in to the Supervisor.

## **ARTICLE XIII SENIORITY AND LAYOFF**

In the event of layoff, probationary employees shall be laid off first. A Probationary period shall exist for all new employees as set forth in the Personnel Manual of the City. City seniority is determined by an employee's starting date with the City. Employees in layoff status shall have recall rights for a period of three (3) years. Recall from layoff shall be made in reverse order of layoff.

## **ARTICLE XIV GUIDE TO CONDUCT**

These standards of conduct apply to all employees of the City of Pacific. If any standard is violated, the City may take disciplinary action up to and including termination. Any of the following actions during your employment with the City would violate the standards of conduct:

- Leaving the job during working hours without permission and/or without notification.
- Deliberate failure or refusal to carry out instructions of supervision.
- Direct insubordination.
- Immoral or indecent conduct.
- Engaging in horseplay, disruptive or unruly conduct.
- Fighting or attempting to injure another employee.
- Use of profane, abusive or threatening language toward others.
- Abuse of City property, tools, equipment or property of others.
- Failure to exert normal effort on the job after attention has been called to the same.
- Failure to follow safety rules or to wear or use as instructed required safety or health protective equipment.
- The conscious falsification of any reports or records or conscious false information with regard to hours worked, attendance, personnel records, sickness.
- Harassing any person, based on that person's sex, race, religion, age, handicap, national origin or membership in another protected class.
- Smoking and/or open flame in prohibited areas.
- Unauthorized removal or possession of City tools, property or equipment.
- Possession of firearms, knives or other weapons while on City property.
- Use, possession, distribution, sale or offering for sale alcohol or illegal drugs.
- Reporting to work under the influence of alcohol or illegal drugs.
- Posting or removal of notices, signs or writing in any form from any bulletin boards without prior authorization.
- Unauthorized solicitation or distribution of literature, except such solicitation and distribution during employee's non-working time as is protected by the National Labor Relations Act.
- Unacceptable attendance, tardiness, early departures, and/or failure to return to work following a leave of absence or layoff in accordance with the provisions of the collective bargaining agreement.

## **ARTICLE XV REPRIMANDS AND DISCIPLINE**

Reprimands/Discipline—A shop Steward or Union Representative shall be present when an employee is given a reprimand, if so requested by the employee, unless the representative is unavailable. It is not the desire of the City for any employee to lose their job as a result of a violation of the standards of conduct and the City will normally use a progressive discipline approach in an attempt to correct a problem. An established severe violation of some standards of conduct may lead to a more severe penalty, up to and including termination.

For purposes of this Article, matters of discipline shall remain on file for the duration of employment, but shall no longer be considered for the purpose of progressive discipline if no related occurrences are the subject of disciplinary action during the following periods:

Verbal or Oral Reprimand	One (1) year from original date
Written Reprimand	Two (2) years from original date
Suspensions or Demotions	Three (3) years from original date

## Article XVI

### Duration of Agreement

- Section 1. This Agreement shall be effective from January 1, 2012, and shall continue in full force until December 31, 2014.
- Section 2. This Agreement shall automatically be renewed from year to year unless either party has notified the other in writing at least ninety (90) days prior to the expiration date that it desires to modify the Agreement. In the event that such notice is given, negotiations shall begin no later than sixty (60) days prior to the anniversary date.

City of Pacific:

IUOE LOCAL 148

\_\_\_\_\_

\_\_\_\_\_  
Business Representative

\_\_\_\_\_

\_\_\_\_\_  
Business Manager

DATE \_\_\_\_\_

DATE \_\_\_\_\_

## **UTILITY MAINTENANCE MAN I**

The basic requirements for the Utility Maintenance Man I position for the City of Pacific are as follows:

1. Has successfully completed his/her probationary period.
2. Has successfully met the classification duties as outlined in the On-The-Job-Experience (OTJE) responsibilities for the Utility Maintenance Man I position.
3. Has successfully completed ten (10) hours OSHA Awareness Training.
4. Has a minimum of one (1) year experience other than probationary period in Utility Maintenance Man I classification in order to advance to the Utility Maintenance Man II position.
5. Has the ability to operate a dump truck and/or other type of equipment necessary for the function and operation of the City of Pacific Utility Departments.
6. Has Missouri – Class B CDL-W/Air Brakes Endorsement.

**UTILITY MAINTENANCE MAN I**  
**ON-THE-JOB-EXPERIENCE (OTJE)**

1. Basic knowledge of electrical, air driven, hydraulic, pneumatic and hand-powered driven tools, which includes:
  - a. Linear motion saws – concrete, wood and metal;
  - b. Reciprocating saws – circular, chain and saber saws;
  - c. Drills – power planes, routers;
  - d. Hammers – powder actuated fastening guns;
  - e. Screwdrivers – screw guns, chippers;
  - f. Rules for power tool safety.
2. Knowledge of City of Pacific boundaries.
3. Ability to drive City vehicles and/or operate safely such vehicles and equipment.
4. Ability to follow directions and work productively with other employees.
5. Working knowledge of City operations, buildings, procedures and programs.
6. Working knowledge of wood metal products, sizes, grades, defects, applications, fasteners, suitability, thickness, width and length, warping factors, stress points, cements, pitch pockets, durability.
7. Basic electrical troubleshooting – generators – servicing.
8. Basic chemical troubleshooting – amounts and use, permits, protective equipment, MSDS knowledge and understanding.
9. Ability to work unsupervised at City of Pacific Utilities and Departments.
10. A productive employee for the City of Pacific Street and Water Departments

## **UTILITY MAINTENANCE MAN II**

The minimum requirements for the Utility Maintenance Man II position for the City of Pacific are as follows:

1. Has a minimum of one (1) year experience as a Utility Maintenance Man I and/or has been hired into this position having successfully met:
  - a. His/her probationary period.
  - b. Has successfully met the classification duties as outlined in the On-The-Job-Experience (OTJE) responsibilities for the Utility Maintenance Man II position.
2. Has successfully completed ten (10) hours OSHA Awareness Training.

## UTILITY MAINTENANCE MAN III

The minimum requirements for the Utility Maintenance Man III position for the City of Pacific are as follows:

1. Has a minimum of three (3) years experience as a Utility Man II.
2. Has successfully met the classification duties as outlined in the On-The-Job-Experience (OTJE) responsibilities for the Utility Maintenance Man III position.
3. Has successfully completed twenty (20) hours OSHA Awareness Training.
4. Is confident in the function and operation of equipment, machinery and procedures necessary for function and operation of the City of Pacific Street and Water Departments.
5. Has acted and/or directed co-workers, part-time or seasonal employees in a supervisory capacity in responsibilities necessary for the function and operation of the City of Pacific Utility Departments.
6. Is certified and/or licensed in either a service, operation and/or type of machinery necessary for the function and operation of the City of Pacific Utility Departments.
7. Has a minimum of three (3) years experience in Utility Maintenance Man III classification in order to advance to the Lead man position.

**UTILITY MAINTENANCE MAN III**  
**ON-THE-JOB-EXPERIENCE (OTJE)**

1. Has successfully met all five (5) requirements of the Utility Road Maintenance Man III position.
2. Is now primarily responsible for specific equipment operation and responsibilities necessary for the function and operation of the City of Pacific Street and Water Departments.
3. Directs specialized operations, work sites, number of employees, Utilities and responsibility for beeper call out and emergency leadership responsibility.
4. Reports directly to the Supervisor.

**UTILITY SYSTEM OPERATOR**  
**PRIMARY CHIEF UTILITY OPERATOR**

1. The Primary Chief Water Operator shall meet minimum requirements set by the Department of Natural Resources to operate the City water/sewer system.

## **SECONDARY CHIEF UTILITY OPERATOR**

1. The Secondary Chief Water Operator shall meet minimum requirements set by the Department of Natural Resources to operate the City water/sewer system.

**Exhibit A**  
**HOLD HARMLESS INDEMNIFICATION**

As a condition of the City providing certain dues and service fee retention as provided for in the Memorandum of Understanding with the City of Pacific, dated January 1, 2012 as thereafter amended (“Memorandum”), the Union hereby indemnifies and agrees to save the Employer, City of Pacific Missouri and its officers, employees, and agents harmless against any and all claims, demands, judgments, suits, legal costs or other forms of liability (monetary or otherwise) that may arise out of, or by reason of, any action taken by the Employer relating withholding of dues or Service Fee from employees as provided in Article IX of the Memorandum.

Such indemnification shall include but not be limited to any claims or appeal process and to reliance by the City on representations by the union that it has fully reviewed the Service Fee amount requested by the Union and established in the Memorandum and that these “fair share costs” established by the union within the Memorandum are lawful in imposition and amount including being consistent with the limitations established in *Schaffer vs. St. Louis Board of Education*, 869 S.W.2d 163 (Mo. App. 1993).

In the event that any claim shall be asserted or filed against the City within the scope of this Hold Harmless Indemnification, the Union shall, at the City’s option, either provide legal defense, acceptable to the City, or timely pay (within 15 days of the City providing demand and each summary invoice(s) of costs and fees incurred) the City’s costs incurred to provide its own defense in response to such asserted or filed claims. Undersigned Union agrees and certifies by signature below that:

- (1) this Hold Harmless Indemnification is a binding agreement and commitment to the City and shall continue for the duration of Article IX of the Memorandum, and thereafter for any claims arising from events occurring during such duration and that the City shall be entitled to its reasonable attorneys fees to enforce this indemnification; and
- (2) it agrees to and shall abide by all of the terms of the **OPERATING ENGINEERS LOCAL UNION 148 FEE PAYERS OBJECTION PLAN** attached to the Memorandum and such other provisions as may be required by law regarding any retention of dues or Service Fee pursuant to the Memorandum.

Nothing in this Hold Harmless Indemnification shall be construed to in any way limit the authority of the City to subsequently discontinue withholding of dues or Service Fees at any time.

**LOCAL 148, OPERATING ENGINEERS**

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**OPERATING ENGINEERS LOCAL 148**  
**FEE PAYERS OBJECTION PLAN**

Any employee who is not a member of the International Union of Operating Engineers (IUOE) and who must pay agency fees to IUOE Local Union 148 pursuant to the Resolution of the City of Pacific, Missouri (hereinafter the "City") will have the right to object to expenditures of his or her fees for activities which are not reasonably related to collective bargaining or undertaken to advance the employment-related interests of employees represented by the Local. For purposes of this Plan, such activities will be referred to as "non-chargeable activities." The fees paid by a fee payer who perfects an objection under the procedures set forth below will be reduced by an amount reflecting the portion of the overall expenditures of Local Union 148 that are used for non-chargeable activities.

All fees are retained by Local 148 and no portion is paid to or chargeable to IUOE. As explained in greater detail below, an objector who requests a reduction under the terms of this Plan will receive an appropriate reduction of a portion of his or her fees. To register for a reduction, the objector need file a request as specified in herein.

Objections must be made annually and will be effective for a single calendar year (January 1 through December 31). Each fee payer who wishes to file an objection must do so in writing, addressed to the Business Manager (B.M.) at the office of Local Union 148, IUOE, 2929 S. Jefferson Ave., St. Louis, MO 63118, with a copy to the City of Pacific, City Administrator, 300 Hoven Dr., Pacific MO 63069. In registering their objections, objectors must state their name and address and that they pay fees to Local Union 148, and provide their nonmember identification number, if any and if known, and their social security number. Objections must be post-marked during the month of November or December preceeding the calendar year for which the objection will be in effect, or during the first thirty days after the objector commences paying fees to Local Union 148 as required by the Memorandum of Understanding in effect between Local 148 and the City of Pacific, Missouri. Objections must be renewed annually, during the month of November or December.

An annual notice of the procedure for filing objections will be posed in October at work throughout the City where notices to covered employees are typically posted. Local Union 148 will also provide notice to fee payers who join the bargaining unit during the year.

During the course of the year, objectors will be expected to remit the full amount of fees charged by Local Union 148. However, no later than January 31 (or within thirty days after a nonmember newly employed in the bargaining unit files his or her objections), the Local Union will mail a check to each individual who perfects a timely objection, reflecting the reduction in the Local's portion of agency fees to which he or she will be entitled for the twelve-month period (of the period remaining in the calendar year).

Before the beginning of the calendar year, the B.M. will calculate the percentage of the Local Union's total expenditures for the preceding fiscal year that were made on non-chargeable activities.

The B.M. will mail each objector a reduction check, accompanied by an explanation of how the amount was determined and an explanation of the appeal process.

An objector who disagrees with the allocation made by Local Union 148, in the believe that it does not accurately reflect the Local's expenditures on non-chargeable activities, may appeal the Local's determination to an impartial arbitrator appointed by the Federal Mediation and Conciliation Service.

The appeal must be made in writing and must be received in the office of the B.M. within thirty (30) days of the date on which the B.M. mails the reduction check to the objector. The appeal should explain the basis of the objector's challenge.

While the appeal is pending, the Local will hold in escrow a portion of the fees paid by all objectors who receive a reduction from the Local, in an amount sufficient to ensure that the portions of the fee reasonably in dispute will not be expected during the appeal procedure. In the event that the impartial arbitrator determines that objectors are entitled to a greater reduction in their fee payments than that which they receive from the Local, additional check will be issued by Local Union 148 at the close of the appeal procedure to all of the Local's objectors for the balance of the reduction due, as determined by the arbitrator.

All such appeals will be consolidated and heard as soon as the arbitration can be scheduled. The presentation to the arbitrator will either be in writing, or at a hearing if requested by any objector(s). If a hearing is held, any objector who does not wish to attend may submit his or her views in writing by the date of the hearing. If a hearing is not requested, the arbitrator will set a date by which all written submissions will be received, and will decide the case based on the records submitted. The Local will bear the burden of justifying the amount of its reduction.

The cost of the arbitrator's services and the costs of any proceedings before the arbitrator will be borne by Local Union 148. Individually-incurred costs will be borne by the party incurring them.