



## City of Biggs

### Agenda Item Staff Report for the Special City Council Meeting: November 1, 2010 4:30PM

DATE: October 29, 2010

TO: Honorable Mayor and Members of the City Council

FROM: Pete Carr, City Administrator

SUBJECT: Memorandum of Understanding with Laborers Local 185  
(Discussion/Action)

City Administrator is seeking Council approval by resolution of a draft MOU for extending and amending the current labor agreement covering bargaining unit (non-management public works) employees.

#### **Background**

Modifications to the existing MOU have been a subject of deliberate consideration and negotiations for several months. The resulting product is completely consistent with most recent council-directed guidance to the negotiating team. Bargaining unit has indicated acceptance.

Features of the new MOU include:

1. Shortened response time requirements for Public Works crew when on standby duty (a customer service concept).
2. Compensation increase of \$1.50 spread over the next three years, elimination of CPI (consumer price index) as a COLA (cost of living adjustment) factor. Establishment of a performance-based pay system.
3. Recognition for certain skill certificates and licenses where these are not already recognized by job and wage rate.
4. Continued employee contribution of 10% of health insurance premium cost, increasing to 15% in 2012, 20% in 2013; agreement to explore together alternative carriers and plans for potential cost savings to city and employees.
5. Addition of basic life insurance as a benefit.
6. Continued minimal PERS pension formula (2% @ 60) with employees continuing to pay their full pension premium contribution.
7. No change to vacation or other leave benefits.
8. Grievance process modified to eliminate public hearings before Council.
9. Establishment of an employee safety recognition program.
10. Three year agreement.

Attachments:

- A. Draft MOU between Biggs and Laborers Local 185 2010-2013 (full text)
- B. Resolution 2010-27

**Recommendation**

Approve agreement by resolution as presented and authorize Mayor to execute both documents.

**Fiscal Impact**

Some cost increases to this year's personnel budget, some new cost controls for budgets for future years. Budget impacts have been considered and will be further quantified and considered at November regular meeting.

**MEMORANDUM OF UNDERSTANDING  
BETWEEN CITY OF BIGGS AND LABORERS LOCAL 185**

THIS MEMORANDUM OF UNDERSTANDING (MOU), entered into this first day of November, 2010, is by and between the City of Biggs, hereinafter referred to as the "City," and Laborers' Local # 185, affiliated with the Laborers' International Union of North America, AFLCIO, hereinafter referred to as the "Union," representing all Public Works employees under the Direction of the City Administrator/Public Works Director. The Public Works Supervisor/Superintendent is not a member of the bargaining unit. The effective date of this agreement is September 1, 2010.

**ARTICLE I – RECOGNITION**

Section 1. Recognition

The City recognizes the Union as the exclusive bargaining representative for collective bargaining purposes of all employees of the City under the direction of the Public Works Director and related classifications, except for Clerical, Administrative, Professional, Supervisory, and Managerial, except, as agreed in March of 1998, that all part-time employees of the Public Works Department (those working 20 hours or less per week) shall not be considered as members of the bargaining unit; provided however, that they will be considered as bargaining unit members if they work more than 20 hours a week or if they replace a full time employee of the Unit.

**ARTICLE II - UNION SECURITY**

Section 1. Union Security

- A. It is recognized that all employees in the bargaining unit shall become members of the Union or pay a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments for the duration of this MOU on or before the thirty-first (31 st) day after the initial date of hire or at the signing of this agreement, whichever comes first. All employees of the bargaining unit shall, as a condition of employment, abide by the Agency Shop requirements of this section.
- B. The Union shall supply the City with the appropriate forms for automatic dues deduction. The Union shall provide the City with a written authorization on a form approved by the City signed by the unit member authorizing the payroll deduction and setting forth the full amount to be deducted each month. The City shall forward in a timely manner payroll deductions withheld from employees within the Union. The Union shall immediately notify the City of any cancellation or changes in the deduction authorization. The City shall not be liable to the Union, any employees, or any other party by reason of this section for the remittance or payment of any sum other than the actual deductions made from the employee's paycheck. The Union shall save and hold the City harmless against any and all claims, demand, suits, orders, judgments or other forms of liability that may arise out of or by reason of action taken by the City under this section.
- C. The City shall notify the Union, in writing, of all new hires within seven (7) days after the initial hire date.

Section 2. Union Visitation and Communications

With prior notice to the City, except in the case of an emergency involving employee safety, a Union Representative shall have access to the membership during working hours with regard to matters of Union representation. The Union agrees to do its business as expeditiously as possible.

**ARTICLE III - EQUAL EMPLOYMENT OPPORTUNITY**

Section 1. Non-discrimination

The City and the Union shall not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, physical or mental disability, medical condition, marital status, ancestry, sexual preference or as contained in the Americans with Disabilities Act.

Section 2. Anti-harassment Policy

It is the policy of the City that all employees should be free of any and all forms of sexual harassment. Harassment includes, but is not limited to: (1) verbal harassment, e.g., epithets, derogatory comments or slurs on a basis enumerated in the law; (2) physical harassment, e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual on a basis enumerated in the law; (3) visual forms of harassment, e.g., derogatory posters, cartoons, or drawings on a basis enumerated in the law; or, (4) sexual favors, e.g., unwanted sexual advances which condition an employment benefit upon an exchange of sexual factors.

Any and all forms of discrimination and harassment that are prohibited by federal and state laws will not be condoned. Employees have the right to complain about any illegal harassment and are encouraged to bring any bona fide complaints to management's attention without fear of retribution or retaliation. The City will promptly, fully, and objectively investigate the complaint and forceful appropriate measures will be taken to punish offenders and redress the harm done to the victim of harassment.

**ARTICLE IV - HOURS OF WORK**

Section 1. Workweek

A workweek shall be defined as a period commencing at 12:00 a.m. on Sunday and concluding at 12:00 midnight the following Saturday.

Section 2. Work Hours

The City shall have the right to set daily work schedules. The regular working time of the single shift shall be eight (8) consecutive hours of work between the hours of 6:00 AM to 5:00 PM. The starting and ending hours may be seasonally adjusted.

### Section 3. Lunch Breaks

An unpaid duty-free lunch break of at least one-half (1/2) hour will be provided to an employee who works six (6) or more consecutive hours in one (1) day. The lunch break will normally be scheduled between the fourth and sixth hours of the employee's regular shift. The City may designate the time and location at which lunch breaks may be taken.

### Section 4. Rest Breaks

Each employee shall have at least a fifteen (15) minute duty-free break, near the middle of his or her shift if practical, during each four (4) hour period worked. The taking of rest breaks by employees shall not interfere with the normal course of work. The City may designate the time and location at which rest breaks may be taken.

### Section 5. Overtime

Work in excess of eight (8) hours per day or forty (40) hours per work week shall be paid at the rate of one and one-half (1.5) times an employee's straight-time hourly rate, or compensated with time off at the time and one-half (1.5) rate, at the City's discretion. Work in excess of eight (8) hours per day or in excess of forty (40) hours per work week is permitted only upon prior approval of the Manager or Field Superintendent. At the discretion of the City, compensatory time off ("CTO") in lieu of overtime pay may be granted by City to covered employees, pursuant to 29 USC 207(0), up to a maximum of 80 accrued "comp time" hours, above which all overtime work will be compensated at aforementioned wage rate. At the discretion of the City, covered employees may be directed to utilize accumulated CTO through scheduling time off, upon reasonable notice to the Employee. Overtime work shall not be a basis of increasing vacation, sick leave, or other benefits, nor shall it be the basis for advancing completion of the required period for probation or salary step advancement.

### Section 6. Stand-By and Callback

#### A. Stand-By

The City shall post a stand-by schedule for the employees to cover nights, weekends, and holidays for emergency work or weekend operation, and shall rotate employees to be fair to all. Any employees so scheduled shall be available by cellular phone and shall respond as soon as possible by telephone.

The employee on stand-by shall be paid two (2) hours of straight time compensation per day for being on stand-by.

Employees on standby shall be expected to respond to calls as soon as possible but not to exceed ten (10) minutes for telephone response and forty-five (45) minutes for physical response.

The Public Works Superintendent may perform stand-by work on as-needed basis, in the event that the employee is unable to respond or is unqualified to do the work required.

#### B. Callback

An employee who is required to physically return to work on an overtime basis shall be compensated at the time and one-half (1.5) rate of pay for all time worked or a minimum of two hours. Part-time employees shall be compensated at the straight time rate for all hours worked or a minimum of two hours. Part-time employees shall receive overtime rate compensation if applicable.

Section 7. Emergencies

When an employee is required to work beyond his or her regularly scheduled work shift, the City shall permit the employee to notify his or her spouse or residence.

**ARTICLE V – COMPENSATION**

Section 1. Compensation

Effective September 1, 2010: The unit members shall receive the following wage increases for each of the next three contract years, across the board, as follows:

- i. October 1, 2010 (\$1.00 per hour).
- ii. October 1, 2011 (\$0.25 per hour).
- iii. October 1, 2012 (\$0.25 per hour).

Other than the prescribed adjustments, there shall be no further changes for the life of this contract to the wages listed on the schedule, except as noted in section 4 of this article.

Section 2. Pay Periods

Employees shall be paid wages in full every 5th and 20th day of the calendar month, along with a statement with the City's name and address, which itemizes the employee's gross amount earned, hourly rate, hours worked, and applicable deductions. Employees shall continue to receive notice of accrued vacation, sick leave and compensatory time off under separate sheet with their paychecks. Employees may elect to receive direct deposit or traditional paychecks.

Section 3. Out of Class Assignment

The City, by its City Administrator or Public Works Director, may assign an employee in one of the following classes only: City Crew II or III, to temporarily work in a higher class requiring a license, but only if the employee is licensed to perform the work of that higher class. The parties agree that the out of class pay increase set forth in this section shall not apply to employees working under the license of another employee. The assignment shall be confirmed and will specify which duties are to be paid at the higher rate. The assignment may be partial, meaning that not all of the hours worked during any particular shift will be paid at the higher rate. The employee will receive the higher pay at the same step as the employee's current classification. The assignment shall be at the sole discretion of the City. Except in the case of discipline, there will be no reduction in pay of an employee temporarily assigned the duties of a lower class.

Section 4. Salary Schedule

The City's salary schedule is part of a flexible performance-based compensation system. Schedule, position titles and performance-based merit pay system will be as agreed by City and Union and published in City Personnel Manual November 2010.

Section 5. Certificate Recognition

Employees assigned to positions not already recognizing compensation for certain licenses and certificates will be paid a monthly stipend to recognize the value of the license or certificate held. The stipend schedule will be as agreed by City and Union and published in City Personnel Manual November 2010.

**ARTICLE VI - HOLIDAYS**

Section 1. Paid Holidays

Employees shall receive the following holidays paid at his or her straight-time rate for eight (8) hours provided the employee works as scheduled on his or her workdays immediately preceding and succeeding the holiday, or is on a pre-approved vacation or authorized sick leave:

New Year's Day	Labor Day
Martin Luther King Day	Veteran's Day
President's Day	Thanksgiving Day
Memorial Day	Friday after Thanksgiving
Independence Day	Christmas Day
Floating Holiday (2)	

In addition to the above holidays, all offices shall be closed either the day before or the day after Christmas, to be determined by City. Floating holidays will generally be scheduled by the City so that no more than one employee from each department may use the holiday on the same day.

Section 2. Designated Holidays

If any of the above holidays falls on Sunday, the following Monday will be observed. If the holiday falls on Saturday, the preceding Friday will be observed.

Section 3. Work on Holiday

If an employee performs work on a specified holiday, he/she shall receive his/her double time rate of pay for time worked. If a recognized Holiday occurs during a vacation period of an employee, the employee shall be paid for the Holiday and such Holiday shall not be charged to the employee's vacation time.

**ARTICLE VII - VACATIONS**

Section 1. Vacation Accrual

Upon the successful completion of designated years of service with the City, employees shall be entitled to paid vacation as follows:

<u>Completed Years of Service</u>	<u>Hours of Paid Vacation</u>
1 to 5	96
6 to 10	120
11 and beyond	160

Vacation may be accumulated only to a total of two hundred fifty-six (256) paid hours. Vacation time will not be accrued over that amount; any amount over that amount will therefore be lost. A maximum of one hundred twenty (120) paid hours may be taken at any one time unless, under extraordinary circumstances, approved in advance by the Manager. Once an employee who has reached his or her maximum number of accruable hours uses his or her earned vacation, he or she shall again accrue up to the maximum of two hundred fifty-six (256) paid vacation hours.

#### Section 2. Vacation Requests

Whenever possible, scheduling of vacation will be done pursuant to employee request. However, the employer retains the ultimate authority with respect to scheduling. A request for leave form should be submitted to the employee's supervisor at least fourteen (14) days prior to the anticipated start of vacation. Employer shall grant vacation to avoid exceeding the 256 hour cap.

### **ARTICLE VIII - UNPAID LEAVES OF ABSENCE**

#### Section 1. Leaves Provided by Federal and State Law

The City shall grant leaves from employment as required by federal and state laws.

#### Section 2. Unpaid leaves

At the commencement of an unpaid leave, an employee may, at his or her option, be paid for wages and vacation accrued as required by this Memorandum of Understanding.

### **ARTICLE IX - BEREAVEMENT LEAVE**

#### Section 1. Paid Bereavement Leave

Employees shall receive up to eight (8) hours straight-time pay per day, up to five (5) out-of-state and three (3) days in-state for leaves in cases of death in the employee's immediate family, which shall be defined to include his or her mother, father, child, sister, brother, spouse, grandparent, grandchild, step-parent, aunt, uncle, or in-law, or person living in the immediate household.

#### Section 2. Notice of Bereavement Leave

Reasonable notice by an employee of his or her intention to use bereavement leave must be given by the employee. Upon return from said leave, the employee may be required to provide reasonable proof for the claimed leave.

## **ARTICLE X - JURY DUTY**

### Section 1. Paid Jury Duty

Once an employee completes his or her probationary period as defined in ARTICLE XV, the employee shall be paid at his or her straight-time rate up to eight (8) hours for any scheduled workdays missed due to required jury duty, provided that any per diem payment or jury fee received by the employee is remitted to the City. At the employee's option, he or she may retain jury duty compensation and use accrued leave balances, other than sick leave.

### Section 2. Notice of Jury Duty

Notice of jury duty must be given within seventy-two (72) hours of receipt by the employee of the initial notice to report for jury duty for him or her to become eligible to receive any pay from the City under this Article.

## **ARTICLE XI – SICK LEAVE**

### Section 1. Accrual of Sick Leave

Once an employee completes his or her probationary period as defined in Article XV, he or she shall begin to accumulate sick leave available for use in accordance with the requirements of this Article. Sick leave shall be accumulated up to a total of one hundred seventy-five (175) days. Employees shall accrue sick leave on the basis of eight (8) hours for each calendar month of service. Employees shall be paid one day for every two days of sick leave accrued at the time of separation up to a cap of \$2,500.

### Section 2. Notice of Sick Leave

Employees may receive up to eight (8) hours of straight-time pay per day, but in no instance more than the amount of hours scheduled for that day, for leaves due to bona fide illness or accident or quarantine of the employee or member of his or her immediate family, provided that the employee provides notice to the City of his or her intention to use sick leave prior to the scheduled starting time of his or her shift. If requested prior to or upon his or her return to work, the employee must provide a doctor's certificate or other reasonable proof of illness to the City to be excused and to receive sick-leave pay.

### Section 3. Workers' Compensation and SDI

#### A. Industrial Disability With Pay

Each covered employee who is injured or contracts an industrial illness on duty shall be granted an industrial disability leave by the City with the following rules:

- 1) Employees shall be required to use any accrued leave benefits in order to receive paid leave.
- 2) Employee's earnings will be adjusted to the differential between amounts paid an any industrial disability benefits received during the period of paid leave.
- 3) Employees shall have leave benefits reinstated in the equivalent value of the disability benefits.

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- 2) Employee's earnings will be adjusted to the differential between amounts paid and any industrial disability benefits received during the period of paid leave.
- 3) Employees shall have leave benefits reinstated in the equivalent value of the disability benefits.

- 4) During the period of paid industrial disability, will continue to accrue full benefits for vacation, sick leave and holidays.

B. Industrial Disability Without Pay.

Each covered employee who is injured or who contracts an industrial injury on duty shall be granted an unpaid disability leave by the City from the time accrued leave benefits are exhausted until the employee is released to work on a full or modified basis or the employee is declared permanent and stationary or a compromise and release is signed, whichever occurs first. Employees shall accrue no benefits while in this status. In no event shall this leave exceed 90 calendar days.

B. SDI

In cases of off-the-job injuries, employees are encouraged to apply for and receive State Disability Insurance (SDI). In the event SDI payments cover all or part of the period during which sick leave pay may be used, the sum of the two shall not exceed the sick leave pay which otherwise could have been paid for said period.

## **ARTICLE XII - HEALTH AND WELFARE**

### Section 1. Medical Benefits

The City shall provide medical insurance for employees at the same rate of employee contribution as in the previous agreement, 90% of premium for the Blue Shield HMO and PPO plans (Access+ and Choice) available through CalPERS, for calendar year 2011.

Effective January 1, 2012, the employee contribution will be 15% of cost for coverage of employee and dependents. January 1, 2013 employee contribution will be 20% of cost for coverage of employee and dependents

If the Blue Shield HMO plan becomes unavailable through CalPERS, City coverage will be 85% and 80% (for 2012 and 2013 respectively) of the most comparable plan offered. If at any time employee selects a higher cost plan, employee will be required to pay the entire increased cost.

City and Union agree to meet and confer in 2010 and 2011 to consider alternative medical and dental plans and options for 2012 and 2013. City reserves the right to select a different carrier and plan for 2012 and 2013, consistent with the objective of providing good health insurance at reduced cost to both City and employees.

The parties agree that in the event of significant health insurance cost increases during the term of this agreement, the City has the right to reopen this employee health benefit contribution portion of the agreement; however, if the City does so open that portion of the agreement, wages and other benefits are open as well.

### Section 2. Other Benefits

City will provide dental insurance to employees at a similar premium cost share structure to medical, i.e., no change for 2011; 85% for employee, 85% for dependents for 2012; 80% for employees and dependents for 2013. City and Union will meet and confer in 2010-2011 to consider alternative dental insurance carriers and plans.

City will continue to provide 100% of the cost of vision care insurance for employees and dependents through the life of this contract.

City will provide 100% of cost of life insurance and AD&D (accidental death and dismemberment) insurance for employees through the life of this contract. Life insurance will provide \$50,000 per employee; City will facilitate optional transactions for employees who wish to purchase additional coverage at their own expense through the City's carrier.

City will continue to provide employee assistance coverage so long as it is available to the City through its risk management pool, and optional '457' pre-tax retirement savings plans.

City will continue to provide education assistance benefits per City Personnel Manual.

### **ARTICLE XIII – PENSION**

#### Section 1. Deferred Compensation

The City shall maintain the current Deferred Compensation Plan (2% @ 60) for the life of the Memorandum of Understanding. The parties agree that there shall be no negotiations concerning the Laborers pension benefits for the term of this agreement, except if consented to by the employer.

### **ARTICLE XIV – SAFETY**

#### Section 1. Safe Working Environment

The Union and City will comply with all applicable state and federal laws regarding safety. City will discuss with employees and implement a safety recognition program to be in place by January 1, 2011. The program will be designed to recognize team-based safety performance with the objective of avoidance of lost-time injuries. City will budget for this expense annually.

#### Section 2. Protective Clothing and Equipment

The City shall furnish all forms of protective clothing and equipment, such as hard hats, goggles, safety glasses, ear guards or plugs, safety toe guard and steel toed boots, that it requires employees to wear to perform their jobs safely. All protective clothing provided to employees must be returned by the employee in the same condition as received, subject to reasonable wear and tear. The City shall continue to supply uniforms (e.g., shirts, pants, jackets, headwear) as needed.

### **ARTICLE XV - PROBATION AND SENIORITY**

#### Section 1. Probationary Period

Probationary employees employed for less than six (6) months and all other non-permanent employees are at-will employees, with no right of continued employment and are subject to discipline, including discharge, at the City's discretion, at any time, with or without cause, with or without notice and without recourse to the grievance and arbitration procedure contained in Article XVII. The City may, in its

discretion, increase the probationary period beyond six (6) months, but no longer than twelve months. Any such extension shall be in writing. The probationary period shall be twelve (12) months for all bargaining unit positions other than the City Crew I, II and III positions.

#### Section 2. Promotion Probation

An employee who is promoted shall serve a six (6) month probationary period in the higher classification. During this probationary period, an employee who has regular status in a lower class shall be regarded as having such status in that former class. If the employee is rejected during the probationary period in the higher class of position, the employee shall have the right, in lieu of termination, to voluntarily demote back to the employee's former class of position if (1) the employee had served the full probationary period of that lower classification, and (2) if there is a vacancy in that lower classification.

#### Section 3. Seniority Defined

As to reductions in force or promotions within the unit, the employee having the most work time accumulated with the City shall be last laid off, and in case of recall, the first recalled, or in the case of promotion within the unit, the individual promoted.

#### Section 4. Loss of Seniority

An employee shall lose his or her seniority for the following causes:

- 1) voluntarily quitting his or her employment;
- 2) discharge for just cause by the City;
- 3) layoffs in excess of twelve (12) months;
- 4) declining a recall;
- 5) failure to respond to work within five (5) workdays after written recall notice is mailed to last known address; and
- 6) failure to return from any leave as scheduled.

### **ARTICLE XVI - DISCHARGE AND DISCIPLINE**

#### Section 1. Discharge and Discipline

Employees are subject to discipline, including dismissal, for just cause. Probationary employees are subject to dismissal at any time.

#### Section 2. Summary Dismissal

Employees may be subject to summary dismissal for serious misconduct which causes undue harm to the City, including such offenses as driving the City's vehicles under the influence (DUI); possession of controlled substances; unauthorized possession of weapons or explosives; using or being in the possession of narcotics or intoxicants while on duty or reporting to work in such condition; gross insubordination; fighting; theft; intentionally damaging the City's property; and falsification of employment applications, records, medical reports or time cards.

### Section 3. Progressive Discipline

Where appropriate, the City will follow the requirements of progressive discipline when enforcing its work rules. Depending on the severity of the offense, the City may not be required to give an employee a warning or reprimand prior to a suspension.

### Section 4. Disciplinary Action Notice

The employee shall be given a copy of the Disciplinary Action Notice and a copy mailed and faxed to the Union.

## **ARTICLE XVII - GRIEVANCE AND ARBITRATION PROCEDURE**

### Section 1. Grievance Definitions

The following definitions control the meaning of the terms as used in Sections 1 through 5:

- A) "Grievance" means a complaint of one or more employees, or the Union, that the complainant has been adversely affected by a violation, misapplication or misinterpretation of this Memorandum of Understanding arising during its term.
- B) "Grievant" means the employee signing the grievance, the Union, or the Union on the employee's behalf.
- C) "Party" means the Union or the City.
- D) "Working day" means a day when the administrative office of the City is open to the public.

### Section 2. Formal Grievance: Step 1 (Manager)

- A) A Formal Grievance shall be initiated in writing within five (5) working days after the violation, misapplication or misinterpretation of this Memorandum of Understanding. Without affecting the time limits stated in this Article, the City and the Union may meet informally in an attempt to resolve a grievance without the grievance being reduced to writing.
- B) A Formal Grievance shall be completed to show the following:
  - 1) grievant's name;
  - 2) the date the grievance is submitted to the Manager;
  - 3) the provision(s) of this Memorandum of Understanding alleged to have been violated, misapplied or misinterpreted;

- 4) the circumstances of the grievance (a concise statement of the facts);
  - 5) the remedy sought by the grievant; and
  - 6) the signature of the Union.
- C. Within five (5) working days after the Formal Grievance was filed, the Manager shall investigate the grievance and give his or her decision in writing to the grievant and the Union. The Manager shall date his or her response to the grievant.

#### Section 3. Formal Grievance: Step 2 (City Council)

- A) If the Union is not satisfied with the decision rendered at Step 1, it may appeal the decision in writing to the City Council of the City of Biggs within five (5) working days after receiving the Manager's response. The Union's written appeal shall be presented by an authorized representative at the City's administrative offices and contain a short statement as to why the Manager's decision should be reversed or modified.
- B) The City Council shall schedule the grievant and his or her Union representative to be heard, in accordance with procedures established by law, regarding the grievance at the next regularly scheduled City Council meeting, but no later than the next regularly scheduled board meeting after that, at its discretion. A majority of the Council members shall decide whether to uphold, reverse or modify the action or conduct which gave rise to the grievance. The grievant and the Union will be informed by the City Council of its decision, which shall be in writing and mailed to the grievant and the Union unless both are informed of such decision at the City Council meeting on the record.
- C) The procedures to be followed at the hearing before the Council shall as be prescribed in the Personnel Rules. The hearing will be closed to the public.
- D) Except as provided in section 4, the decision of the Council shall be final and binding.

#### Section 4. Formal Grievance: Step 3 (Arbitration)

- A) If the Union is not satisfied with the decision rendered at Step 2 (Section 3), the Union shall have the right to refer the matter to arbitration. The Union shall make a demand for arbitration within ten (10) working days after receiving the City Council's decision by filing a written request with the State Mediation and Conciliation Service, with service of a copy to the City on the same date. However, arbitration shall be available in the following matters only: (1) contract interpretation not involving employee discipline, (2) employee demotion, (3) employee suspension without pay and (4) employee termination.
- B) Upon receiving a list of potential arbitrators from the State Mediation and Conciliation Service, the parties shall within ten (10) days select an arbitrator by striking names from the list in alternative order.
- C) The decision of the arbitrator shall be final and binding.

#### Section 4. Grievance Rules

- A) The failure to file a grievance timely or to appeal it timely to subsequent steps is a waiver, with prejudice, of the grievance. If the City does not meet the time limits set forth above, the grievance shall be held valid for the employee.
- B) The arbitrator has no power to add to, subtract from modify or alter the terms of this Memorandum, and will confine his or her decision solely to the interpretation or application of this Memorandum.
- C) The arbitrator's fee and the cost of recording the proceedings for the arbitrator shall be borne by the parties equally.

### **ARTICLE XVIII - NO STRIKE/NO LOCKOUT**

There shall be no strikes nor shall there be any lockouts by the City.

### **ARTICLE XIX --MANAGEMENT RIGHTS**

#### Section 1. Management Rights

The City reserves all rights with respect to matters of general legislative and managerial policy, including, among others, the exclusive right to determine the mission of its various departments, set standards of service, determine the procedures and standards of selection for employment, direct its employees, take disciplinary action, relieve its employees of duties because of lack of work or other legitimate reasons, maintain the efficiency of governmental operations, determine the method, means and personnel by which governmental operations are to be conducted, take all necessary actions to carry out its mission in emergencies, and exercise complete control and discretion over its organization and the technology of performing its work. These rights shall be limited only as specified in this agreement.

### **ARTICLE XX - SAVINGS AND SCOPE**

Should any section or provision of this Memorandum of Understanding be declared illegal by final judgment of a court of competent jurisdiction, such shall not invalidate the remaining portions of this Memorandum.

### **ARTICLE XXI - THREE YEAR TERM, TERMINATION AND RENEWAL**

This Memorandum shall be effective as of September 1, 2010 and continue in effect until August 31, 2013, unless either of the parties hereto give written notice to the other with copies to these agencies required by law to be notified of such no more than two hundred twenty (220) days, nor less than one hundred and eighty (180) days, before the expiration date of each year during which this Memorandum has been automatically renewed, either of a desire to terminate or to modify this Memorandum.

**ARTICLE XXII - COMPLETE AGREEMENT**

The parties agree that this agreement covers all matters affecting ages, hours and conditions of employment, and, that during the term of this agreement, neither party will be required to negotiate on any matter excluded from or included in this agreement, except as noted in the agreement.

CONSTRUCTION & GENERAL  
LABORERS' LOCAL #185

By

John Flem, Business Representative

CITY OF BIGGS

By

Roger L. Frith, Mayor

By

Roben Dewsnup, City Clerk

Approved as to Form:

Gregory P. Einhorn, City Attorney

**RESOLUTION NO. 2010-27**  
**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BIGGS**  
**RATIFYING COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF**  
**BIGGS AND LABORERS LOCAL 185**

The City Council of the City of Biggs does hereby resolve as follows:

**WHEREAS**, City of Biggs (City) and Laborers Local 185 (185) are required under the Meyers-Milias-Brown Act (Government Code sections 3500-3510) to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment; and,

**WHEREAS**, the City and 185 have meet and conferred in good faith and have reached a tentative agreement on a new collective bargaining agreement regarding wages, hours and other terms and conditions of employment and have memorialized their tentative agreement into a Memorandum of Understanding (MOU); and,

**WHEREAS**, the proposed MOU is within the instructions and authorizations provided by the City Council to the City's negotiating team; and,

**WHEREAS**, 185 has ratified the proposed MOU; and,

**WHEREAS**, the City Council is required to ratify the proposed MOU for it to become effective.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Biggs as follows:

Section 1. The recitals set forth above are true and correct.

Section 2. The City Council finds and determines that the proposed MOU between the City and 185 is ratified and instructs the City Administrator to sign the MOU on behalf of the City.

Section 3. This Resolution shall take effect immediately upon its adoption.

**I HEREBY CERTIFY** that the foregoing **RESOLUTION** was duly introduced, passed and adopted at a special meeting of the City Council of the City of Biggs, held on the 1st day of November, 2010 by the following vote:

AYES: Council Members: \_\_\_\_\_

NOES: Council Members: \_\_\_\_\_

ABSENT: Council Members: \_\_\_\_\_

ABSTAIN: Council Members: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Roben Dewsnup, CITY CLERK

\_\_\_\_\_  
Roger L. Frith, MAYOR