

City – AFSCME Tentative Agreements
(Most recent change 4/14/2023, Last negotiation 5/4/2023)

AGREEMENT

Between

THE CITY OF CORVALLIS, OREGON

and

AMERICAN FEDERATION OF STATE, COUNTY,

AND MUNICIPAL EMPLOYEES LOCAL 2975,

COUNCIL 75

Effective July 1, 2023

Through

ARTICLE 1: (TA 3/17/23)

RECOGNITION

Section 1.1. The City recognizes the Union as the sole and exclusive bargaining agent for regular full-time and regular part-time employees and Seasonal employees in the Parks and Recreation Department (Park Seasonals) scheduled to work at least one thousand forty (1,040) hours per year from their most recent dates of hire without interruption in a position determined to be part of this bargaining unit by an appropriate authority under the applicable procedures for unit determination with respect to wages, hours, and other conditions of employment.

Section 1.2. Persons employed in supervisory, managerial, confidential, temporary/casual employees, police CPOA members, dispatch CRCCA members, and fire IAFF members, or interns are excluded from the bargaining unit. An intern is a student or a recent college graduate hired through an established program performing work related to their course of study. ,

Section 1.3. The City will not terminate the employment or change an employee's assignment for the sole purpose of avoiding the provisions of this article.

Section 1.4. Park Seasonals. All seasonal Parks and Recreation Department employees (Park Seasonals) meeting the definition of the bargaining unit per Section 1.1 above are members of the bargaining unit and, except where otherwise noted, this Agreement applies with full force and effect to the Park Seasonals.

ARTICLE 2: (TA 3/17/23)
UNION SECURITY AND CHECKOFF

Section 2.1. The City will not interfere with the rights of the employees to become members of the Union. No employee shall be required to become or remain a member of the Union as a condition of employment. There shall be no unlawful discrimination, interference, restraint, or coercion by the City, Union, Union representative, or any City representative against any employee because of Union membership or non-membership, or because of any employee activity in an official capacity on behalf of the Union or for any other cause relating to Union membership.

Section 2.2. Upon the expressed, written request by an employee within the bargaining unit, the City will deduct Union membership dues. The written request must be in the form of a membership application which shall be provided by the Union. Employees in leave without pay status or terminating with less than eleven (11) working days in any pay period month will not be subject to deduction of dues.

Section 2.3. On a monthly basis, the City will provide the Union with Union dues and other monies as well as a monthly report(s) including all bargaining unit members currently employed by the City that denotes new hires and lists any terminations since the prior month's report. The report will include: employee name, employee ID (to the extent available), address, phone number, job title, department, employee full/part-time status, and pay period begin and/or end date.

Section 2.4. Timely Deductions. A file listing new authorizations or changes in authorizations for employee Union deductions will be submitted by the Union to the City electronically by close of business on the business day immediately preceding the twentieth (20th) day of each month. The City agrees that new or changed Union payroll deduction authorizations submitted within the timelines above shall be deducted from the next issued paycheck for the previous applicable pay period.

Section 2.5. Such uniform amounts as the Union Treasurer certifies to the City as the monthly dues approved by the members of the Union shall remain as the reasonable amount to be deducted hereunder.

Section 2.6. The City will not be held liable for checkoff errors but will make proper adjustments with the Union for errors within a 30-day period. Provided the City acts in compliance with the provisions of this article, the Union will indemnify, defend, and hold the City harmless against any claims made and against any suit instituted against the City as a result of the City's enforcement of the provisions of this article or as a result of any checkoff errors.

Section 2.7 The City agrees to notify the Union within ten (10) calendar days of all new employees hired into bargaining unit positions and to provide at least thirty (30) minutes and no more than one hundred twenty (120) minutes for a steward or Union representative to meet with new employees on paid time during new employee orientation sessions conducted by the employer. A Union representative acting on behalf of the Union at new employee orientation

shall be released from their work duties in order to attend orientation and the time spent shall be considered work hours.

ARTICLE 4: (TA 3/17/23)
MANAGEMENT RIGHTS

Section 4.1. The City retains all the customary, usual, and exclusive rights, decision making prerogatives, functions, and authority connected with or in any way incident to this responsibility to manage the affairs of the City or any part of the City. The rights of the employees in the bargaining unit and the Union are limited to those specifically set forth in this Agreement; and the City retains all prerogatives, functions, and rights not specifically limited by the terms of this Agreement.

Without limitation, but by way of illustration, the exclusive prerogatives, functions, and rights of the City shall include the following:

- a. To direct and supervise all operations, functions, and policies of the departments in which the employees in the bargaining unit are employed, and operations, functions, and policies in the remainder of the City as they may affect employees in the bargaining unit.
- b. To close or transfer an office or facility or combination of facilities or relocate, reorganize, or combine the work of divisions, operations, or facilities for budgetary or other reasons.
- c. To determine the need for reduction or increase in the work force and the implementation of any decision with regard thereto.
- d. To establish, revise, and implement administrative policies and standards for hiring, classification, promotion, quality of work, safety, materials, equipment, uniforms, methods, and procedures.
- e. To implement new and to revise or discard, wholly or in part, old methods, procedures, rules, regulations, materials, equipment, facilities, and standards.
- f. To assign and distribute work and designate and assign all work duties.
- g. To contract or subcontract work as determined by the City. It is the intent of the parties to provide City services in the most effective and efficient means possible.
- h. To assign shifts, workdays, hours of work, and work locations.
- i. To determine the need for and the qualifications required of new employees, transfers, and promotions.
- j. To discipline, suspend, demote, or discharge an employee so long as such action is not arbitrary, in bad faith, or without just cause.

- k. To determine the need for additional educational courses, training programs, on-the-job training, and cross training, and to assign employees to such duties for a period to be determined by the City.

ARTICLE 5: (TA 3/17/23)
EMPLOYEE RIGHTS

Section 5.1. Both parties agree that this Agreement shall be enforced in a fair and impartial manner in any employer/employee relationship and neither party shall be arbitrary nor capricious in the application or interpretation of the terms of this Agreement.

Section 5.2. Employees shall have the right to self-organization, to form, join or assist labor organizations; and to bargain collectively through representatives of their own choosing.

Section 5.3. This Agreement shall apply equally to all members of the bargaining unit regardless of race, sex, age, color, creed, mental or physical disability, sexual orientation, gender identity or expression, citizenship status, level or source of income, national origin, veteran status, marital status, familial status, religion, religious observance, or political or religious affiliation. The City and the Union shall equally share the responsibility for upholding this provision of the Agreement.

Section 5.4. If an employee alleges a violation involving violence in the workplace, sexual harassment, discrimination concerning a matter listed in 5.3 above, or of any other administrative or Human Resources policy which includes an internal investigation by Human Resources, the employee at their option may choose to file a complaint according to the City administrative/Human Resources policies or file a grievance according to Section 8.4 of this agreement or file both concurrently. If the employee chooses to file both concurrently, the grievance process shall be suspended until after the results of the investigation are submitted to the employee, when it can commence at the Step Two level.

Section 5.5. Respectful Work Environment. Both parties agree that employees have the right to a safe and respectful work environment in order to perform their jobs to the best of their ability. Therefore, behavior which intimidates or obstructs this right is prohibited.

ARTICLE 6: (TA 3/17/23)
UNION REPRESENTATION

Section 6.1. The Union President shall certify in writing the names, office and business address of the Union representatives authorized to conduct Union business with employees of the bargaining unit, and authorized to represent the Union to the City. The City may refuse to recognize any such representative until they are so certified.

Section 6.2. Scheduling Contract Administration. Contract administration is defined as those activities undertaken by certified Union representatives which pertain directly and specifically to administering this Agreement and its covered employees, including formal grievance procedures, meeting with the City for the purposes of collective bargaining or contract interpretation relative to the specific terms and conditions of employment for the unit, solicitation of Union members for Joint Labor Management Committees, or for meetings with the City relative to discussions/investigations that may lead to discipline.

Contract administration may be carried out without loss of pay to the employees involved where such activities do not require a substantial period of time or where such activities cannot reasonably be performed outside scheduled working hours. Such activities must be performed without disruption of employees' work performance. Employees must have obtained an approval from their supervisors prior to engaging in contract administration on City time and shall code such time on their time sheet.

The City agrees that certified Union representatives shall be afforded reasonable access to non-working spaces for the purpose of contract administration, provided such access does not interfere with the performance by City employees of their duties. Non-working spaces are break rooms, conference rooms, City rental rooms, or like facilities which are not in use. The Union representative shall be responsible for reserving such space according to any applicable meeting room reservation procedures before the meeting time to ensure that the space is available and reserved for the specified time.

Section 6.3. Conducting Union Activities. Union activities are defined as Union organizing or representation activities relative to members of the collective bargaining unit or general union activities such as organizing, solicitation, and distribution, representative training, research or education, the internal administration of the Union, meetings with members outside of contract administration, or other mutual aid or protection. The parties agree to the primary principle that Union activities will normally be carried on outside of working hours and during the non-working time of an employee's normal work shift.

Section 6.4. Meeting with the City. Certified Union representatives shall be allowed time away from their duty stations without loss of pay when attending meetings with the City for the purposes of negotiating labor agreements or adjusting grievances under the procedures defined herein. Employees must have obtained approval from their supervisors prior to engaging in contract administration on City time and shall code such time on their time sheet. Such approval shall be granted by the supervisor so long as it will not interfere with accomplishment

of the employee's assigned work. The City reserves the right to reduce the amount of time paid for contract administration when, in the City's judgment, such privileges are being abused.

Section 6.5. Union Functions. The City will allow the Union one hundred sixty (160) hours of unpaid leave per year for Union representatives to attend Union functions other than those listed above so long as their absence does not hamper the normal operations of the departments. When such time off is requested, notice of no less than ten (10) regular business days will be required. Requests will be in writing to the employee's immediate supervisor on the department's leave request form and the supervisor shall consult with Human Resources prior to approving or denying the request. Unpaid leave shall be coded as such time on their time sheet.

Section 6.6. The Union shall have the right to use up to a total of one third of the space on designated bulletin boards in City facilities for Union related business for all of the employees they represent at the City. Items posted must include the following: date posted and date material is to be removed. For posting of materials that are non-Union business, Human Resources must give approval prior to posting.

ARTICLE 7: (TA 3/17/23)

LABOR MANAGEMENT ADVISORY TEAM

Section 7.1. The parties agree to establish a Labor Management Advisory Team (LMAT) to improve communications between employees and management. LMAT shall discuss ongoing labor-management issues and to provide input to the City Manager on matters of mutual interest related to productivity, employee morale, mutual problem-solving, and furthering the goal of general union-management cooperation.

Section 7.2. The Committee shall consist of an equal number of participants, not to exceed three (3) on each side. Each side shall select its own representatives. LMAT shall establish its own protocols.

Section 7.3. Either party may request a meeting of the Team to be held at a mutually convenient time and place and such a meeting shall if at all practicable be scheduled within fourteen (14) days. The Team shall have no authority to amend the terms of the Agreement or to be involved in the grievance procedure.

Section 7.4. Recruitment Issues. Supervisors with recruitment or retention issues may bring these matters to LMAT for recommendation. LMAT shall develop criteria and guidelines for supervisors to use in presenting such issues to the Team. LMAT may make recommendations for such cases to the City Manager and to AFSCME for resolution of the individual situation, including but not limited to, recommendations relating to compensation for licenses and certifications that are not required in the job description for the specific position. Recommendations for compensation changes may include recommendations for a review process to verify the on-going rationale for such a change.

ARTICLE 8: (TA 3/17/23)
GRIEVANCE PROCEDURE

Section 8.1. Grievance Definition. For the purpose of this Agreement, a grievance is defined as a dispute about the meaning or interpretation of a particular clause of this Agreement or about an alleged violation of this Agreement.

Section 8.2. Time Limits and Procedures. Any or all time limits in the grievance procedure may be waived by mutual written consent of the parties. Failure of the aggrieved party to submit or process a grievance in accordance with the time limits shall constitute abandonment of the grievance. Failure of the City to respond to the grievance within the stated time limits shall result in the automatic elevation of the grievance to the next step pursuant to the procedures hereinafter provided. Any or all time limits specified in the grievance procedure are calendar days. When the specified day falls on a non-business day, the deadline will be extended to the next business day. Business day is defined as Monday through Friday, 8:00 a.m. to 5:00 p.m. except for observed holidays as specified in Section 16.1.

Section 8.3. Representation.

- a. Employees shall have the right to be represented by the Union at any point in the grievance procedure. If an employee chooses to represent themselves, a copy of the grievance and the response at any step shall be forwarded to the Local's President within the time limits set forth herein.
- b. It is recognized by the City that shop stewards are desirable for the proper administration of the terms of this contract. The Union may appoint a steward from among its active employee members in each department or division. The Union shall provide the City with written certification of official shop stewards. In addition to the foregoing stewards, there shall be a Chief Steward of the Union Local.
- c. If requested to, stewards shall have the right and duty to represent individual employees within the bargaining unit for which the Union is the certified representative, with respect to grievances as defined herein.
- d. The Union may request the Chief Steward to consult with a new steward on a particular problem. The Chief Steward may represent a steward in the processing of that steward's own grievance at any step.
- e. No steward shall leave their duty or work station for purposes connected with their office of steward without the specific approval of their supervisor or other authorized management official.
- f. All grievance proceedings, where practicable, shall be held during the regular hours when City Hall is open, on City premises or through a virtual meeting platform, and without loss of pay or recrimination to the aggrieved party and/or designated

representative. It is understood that the City will not incur overtime liability as a result of such proceedings or investigations.

- g. Certified Union stewards shall be granted time to investigate and process grievances and to attend meetings with the City without loss of pay during working hours.
- h. Union stewards and representatives shall have the right to inspect and obtain copies of all information pertaining to an employee upon written consent of that employee.

Section 8.4. Grievance Procedure. It is the intention of both parties, through this procedure, to secure mutually acceptable solutions to grievances at the lowest possible organizational level.

Informal Resolution. If a dispute about the meaning or interpretation, or about an alleged violation, of this Agreement arises the employee shall meet with their supervisor or Human Resources to discuss the concern(s) and may have Union representation if they choose. If there is no resolution through this informal means with the supervisor, a grievance may be submitted in writing, in accordance with the Step One procedure described below either before or after the joint investigation process as identified.

Joint Investigation. A joint investigation can be conducted upon the mutual agreement of the City and the Union with the concurrence of the grievant and may take place at any point in the grievance procedure prior to Step Three. The grievant is entitled to Union representation throughout the investigative process.

The joint investigation team (Team) shall be comprised of two representatives from the City and two representatives from the Union. City representatives may not be from the employees direct line of supervision and Union representatives may not be directly involved in the grievance. The Team has the authority to interview any witnesses and gather any information that it mutually deems necessary. The Team shall have thirty (30) calendar days from receiving the request for a joint investigation to complete a written and jointly signed report containing mutually acceptable findings of fact and recommendations concerning the merits of the grievance. City representatives and/or Union representatives may also submit separate written reports on matters which have not been mutually agreed upon. The Team shall meet with the aggrieved employee, their supervisor and Department Director, and the employee's Union representative to present its findings upon the completion of the report.

Step One. Within twenty (20) calendar days of the occurrence of the action giving rise to the dispute (or reasonable knowledge thereof), the written grievance must be submitted to the aggrieved employee's supervisor, and must include:

- A detailed statement of the action (and date thereof) giving rise to the grievance and all relevant facts;
- Provisions of the agreement which are in dispute or alleged to have been violated and how they are believed to have been violated;

- A detailed statement of the remedy(ies) sought; and
- Name, position, and department of the grievant and their Union representative if applicable.

The supervisor may, if they deem necessary, call a meeting to get additional information regarding the grievance as filed. A written response including a detailed description of the supervisor's view of the facts and rationale for their conclusions shall be provided to the grievant and the Union within fifteen (15) calendar days of the receipt of the grievance.

Step Two. If the grievance has not been resolved in Step One, or the supervisor has not responded in a timely manner, the grievance may be submitted to the Department Director. It must be submitted within fifteen (15) calendar days of the supervisor's Step One response or failure to respond. The Department Director shall meet with the grievant and Union representative(s) at a mutually agreeable time and furnish a written response within fifteen (15) calendar days.

Step Three. If the grievance has not been resolved in Step Two, or the Department Director has not responded in a timely manner, the grievance may be submitted to the City Manager. The City Manager shall meet with the grievant and Union representative(s) at a mutually agreeable time and furnish a written response within fifteen (15) calendar days. Both the grievant and the Union will be provided with copies of City Manager's written response.

Step Four. If the grievance has not been resolved in Step Three, the grievance may be submitted to binding arbitration.

The submitting party must provide written notice of intent to arbitrate within fifteen (15) calendar days of the Step Three City Manager's response, and must request a list of seven (7) arbitrators from the Oregon Employment Relations Board, State Mediation and Conciliation Service.

Upon receipt of the arbitrator list, final selection shall be made by the parties alternately striking one name from the list until one name remains. The order of striking shall be determined by a coin toss. In the event the list is not satisfactory, the parties may mutually agree to request a new list or select any arbitrator of their mutual choice. The arbitrator shall begin the hearing as soon as possible, and shall render a decision within a timeframe agreeable to the parties and the arbitrator. The arbitration shall be conducted in accordance with the rules of the American Arbitration Association.

The power of the arbitrator shall be limited to the interpretation and application of the express terms of this Agreement and they shall have no power to alter, add to, subtract from, or otherwise modify the terms of this Agreement as written. The arbitrator's decision shall be final and binding on the parties. The losing party shall bear all costs of

arbitration. If, however, either party desires a verbatim transcript of the arbitration proceeding, it may cause such a record to be made, providing the requesting party pays for the transcript and makes copies available to the other party and the arbitrator.

ARTICLE 10: (TA 4/14/23)

LEAVE DUE TO EMERGENCY OR ADVERSE WEATHER CONDITION

Section 10.1. Leave Due to an Emergency or Inclement Weather. The City Manager or designee is the sole designated authority to declare implementation of this section. In the event of an emergency which destroys or renders a City work site unsafe or in the case of inclement weather, the City Manager may elect to curtail all but essential City operations. Non-essential employees who have reported to work and started their scheduled shift in that building may be released and their regular pay shall continue until the end of that working day. If possible, employees will ~~the employees cannot be re-assigned to an alternate worksite~~ prior to being released. Thereafter, ~~the employee may use approved vacation leave or compensatory time until the employee is called back to work. If the employee has no leave accruals, all time off, excluding the day of the incident, shall be without pay.~~ Non-essential employees that were notified of the closure prior to the start of their regular work shift may use any accrued vacation, floating holiday or compensatory time to cover the closure. If the employee has no accrued vacation, floating holiday or compensatory time, the employee may use any accrued sick leave prior to being in leave without pay status. Those employees allowed to leave the worksite prior to the designation by the City Manager (~~pursuant to section 10.3~~) will receive regular pay only for the time after the designation. Leave time granted prior to the designation shall be covered by the employee's accrued vacation, floating holiday, compensatory time, or leave without pay. ~~Section 10.2 Leave Due to Adverse Weather Conditions.~~ In the event of adverse ~~weather~~ conditions that may jeopardize an employee's ability to travel to or from work, the employee must notify their Supervisor of their absence as soon as practicable. The employee will use any of their accrued vacation, floating holiday, or compensatory time leave accruals to cover this leave. If the employee has no leave accruals, this leave shall be without pay.

~~Section 10.3. Notification. The City Manager or designee is the sole designated authority to declare implementation of Sections 10.1 or 10.2.~~

ARTICLE 11: (TA 3/17/23)
REST PERIODS/MEAL PERIODS

Section 11.1. Employees' work schedules shall provide for a paid fifteen (15) minute rest period during each segment of four hours worked in one work period. The rest period shall be scheduled near the middle of the four-hour segment whenever this is feasible. Rest periods must be taken separate from meal periods.

Section 11.2. Employees who for any reason work beyond their regular shift shall receive a fifteen (15) minute paid rest period before they start working the additional time if it is anticipated by the supervisor that they will work a minimum of two (2) additional hours.

Section 11.3. Employees shall receive a meal period during each work shift of six (6) or more hours. Meal periods shall be a minimum of 30 minutes and shall be scheduled near the middle of the shift unless this is not possible.

ARTICLE 13: (TA 3/17/23)
CLEANUP TIME

Section 13.1. When necessary, employees shall be granted a reasonable personal cleanup period prior to the end of each work shift.

ARTICLE 14: (TA 3/17/23)
LEAVES

This Article shall not apply to Park Seasonals, except as required by state or federal law.

Section 14.1. Sick Leave.

- a. To reduce the cost of non-occupational illness and disability (including pregnancy and childbirth related illness and disability), the employee shall accrue sick leave at the rate of eight (8) hours for each full pay period month of service. Part time employees shall accrue prorated hours based on actual hours in paid status per pay period month. There shall be a limit of 872 hours that can be accrued. Eligibility for sick leave benefits begins after the first thirty (30) days of employment. Sick leave can be used to supplement workers' compensation for an accepted illness or disability associated with their City employment as provided in Section 14.1.c below.
- b. Employees with ten (10) or more years of service and all retirees shall be compensated for their accrued sick leave upon termination at the rate of 1 hour of pay for every 2 hours of unused sick leave deducted up to a maximum of 436 hours of pay for 872 hours of sick leave deducted.

Employees with fewer than ten (10) years of service will have all accrued sick leave reported to the Public Employee Retirement System/Oregon Public Services Retirement Program (PERS/OPSRP) and converted in accordance with PERS/OPSRP rules.

- c. Sick leave shall be allowed when an employee is unable to work because of illness or off the job injury but not for disabilities resulting from outside employment. Sick leave may also be used when needed because of illness of family members living in the same household or for family medical leave as allowable under State or Federal law. Sick leave may also be used for purposes of medical and dental appointments so long as the City has prior notice. Should the City have reason to believe sick leave is being abused (e.g., questionable pattern of usage or calling in on a previously denied day off), or as necessary to determine eligibility for family medical leave, verification of illness/injury may be required and communicated to the employee. Where the City requires a medical provider's verification of illness/injury, the City will reimburse the employee for any out of pocket expenses required pursuant to the process prescribed by Human Resources.

To the extent an employee on time loss associated with workers' compensation, has a net salary greater than their workers' compensation payment, they may supplement their workers' compensation benefit amount through the use of their sick leave to make up the difference. Net salary is determined from the average of the three (3) prior pay periods using the employee's gross regular salary less any legal withholding exemptions and other mandatory deductions but including any optional deductions

(United Way, credit union, etc.). Sick leave may not be used where it would result in a total wage and benefit greater than net salary.

- d. Any employee who is ill, disabled, or unable to report for work for any other reason shall notify **their** immediate supervisor no later than the time scheduled for such employee to report to work. If the employee is incapacitated to an extent that notification is not reasonably possible, they shall notify their supervisor as soon as possible thereafter. In the case of a continuing illness, disability, or inability to report to work for any reason, the employee shall notify their immediate supervisor of the nature of the problem and anticipated duration of their inability to report to work. Should it become necessary that an employee's anticipated duration of leave be extended or be for longer than seven (7) days, the employee shall again notify their immediate supervisor that additional time off will be required and the anticipated duration of such absence. Such notification shall be given weekly. Supervisors may establish different reporting requirements so long as written notice is given to employees in advance. The giving of notification as provided in this section shall not absolve an employee from responsibility for unauthorized leave of absence.
- e. A completed pay period month for which benefits herein shall accrue is defined as a pay period month in which the employee has been in pay status for eleven (11) or more working days based on FTE (ex. 88 hours full time, 44 hours 1/2 time, etc.), in that pay period month. Current period sick leave accrual is available for use if at the time of timesheet entry the employee is shown to have been in paid status for eleven (11) days in that pay period. Time loss due to ~~on-the-job~~ illness or accident shall be counted as time in pay status, to a maximum of three (3) pay period months, for accrual purposes. Time spent in layoff status or on leave without pay shall not be considered in computing sick leave accrual. An employee employed less than forty (40) hours per week shall accrue sick leave in that proportion of the sick leave for full time employment as the number of hours per week budgeted in that position bear to the forty (40) hour week.

Section 14.2. Bereavement Leave. In the event of a death in the immediate family (spouse, domestic partner, parent, child, sibling, aunt, uncle, grandchild, grandparent, legal dependent living in household, parent-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, step-parent, step-grandparent, and step-child). The Department Director shall grant up to four (4) days off with pay as bereavement leave, which shall not be charged against sick leave. If more time off is needed, bereavement leave may be supplemented by use of sick, vacation, or compensatory time. Leave with pay up, to four (4) hours, may be granted when an employee serves as a pall bearer.

Section 14.3. Military Leave. A regular or probationary employee with six (6) months' service with the City who is a member of the National Guard or a reserve component of the Armed Forces of the United States is entitled to leave of absence for a period not to exceed fifteen (15) calendar days in any calendar year. Such leave shall be granted without loss of pay or other leave and without impairment of other rights or benefits to which they are entitled, providing the employee receives bona fide orders to active or training duty for a temporary

period and providing they return to their position immediately upon expiration of the period for which they were ordered to duty. Leave without pay shall be allowed in accordance with the Oregon state laws for employees entering military service for extended or indefinite periods of active duty.

Section 14.4. Witness or Jury Duty. Employees must notify their supervisors within five (5) working days after receiving the jury summons or subpoenaed as a witness. When an employee is called for jury duty or is subpoenaed as a witness under circumstances beyond their control and where such duties can be construed to be in the public interest, they will be continued at full salary for the period of required service. All moneys received as witness fees or pay for jury duty may be kept by the employee. Employees will be expected to report to work **if the time required by jury or witness duties is less than the number of their scheduled work hours**. Time off from work for appearances in court and other proceedings other than provided above shall be charged to an employee's accrued leave or leave without pay.

(housekeeping) Section 14.5. Leave of Absence. A regular employee may be granted leave of absence without pay up to one (1) year when the work of their department will not be seriously **hindered** by their absence. Requests for such leaves must be in writing and must establish reasonable justification for approval by the **Department Director**. Such request will be submitted to the City to allow a reasonable time for review. Response to such a request will be given to allow an employee adequate notice of its disposition prior to the period for which the leave of absence is being requested. Employees are generally required to use applicable accrued leaves prior to the use of leave without pay. The distribution of paid and unpaid leaves may be structured differently if all applicable accrued leaves will be exhausted by the end of the approved leave period.

Section 14.6. Parental and Family Medical Leave. Parental leaves without pay may be granted in instances of birth or adoption in the immediate family. Length of leave shall be determined between the City, the employee, and the family doctor except that in no case shall leave be granted for more than one (1) year. This leave is subject to request and the provisions listed above in Section 14.5. The City shall abide by all applicable Federal and State Laws. Upon an employee's request, Human Resources will inform the employee of their options according to the laws and this agreement. Employees who are not OFLA/FMLA eligible shall be afforded the same leave and reinstatement rights as OFLA/FMLA eligible employees.

(housekeeping) Section 14.7. Leave for Official Union Position. One (1) regular employee per year may be granted leave of absence without pay up to six (6) months to accept an official office with American Federation of State, County, and Municipal Employees when the work of their department will not be seriously **hindered** by their absence. Requests for such leaves must be in writing and must establish reasonable justification for approval by the department head and Human Resources. Such request will be submitted to the City to allow a reasonable time for review. Response to such a request will be given to allow an employee adequate notice of its disposition prior to the period for which the leave of absence is being requested. Such requests will not be unreasonably denied. If the City denies an employee's request for leave for an official Union position, the matter shall automatically be entered at the fourth step of the grievance procedure.

Section 14.8. Hardship/Sick Leave Exchange. Employees may donate sick leave, to an employee who has suffered a serious non occupational injury or illness or who has an approved family medical leave. The affected employee may receive leave donations to cover up to ninety (90) calendar days from the initial date of leave. The affected employee must first exhaust all available paid leaves. However, for employees who are not eligible for long-term disability, the 90-day eligibility period for hardship/sick leave exchange shall begin after all of the employee's paid leave accruals have been exhausted. Donated time will be exchanged hour for hour without a change in pay. Management may require doctors' certification of illness or injury. Donating employees must maintain a minimum sick leave accrual of 240 hours (120 hours for part time employees). Employees may not receive donated leaves for any hours for which they have the option to work modified duty.

Section 14.9. Long Term Disability Leave. An employee who is absent or terminated due to a long term disability leave shall be able to return to their position within one year from an initial date of absence. The employee shall maintain recall rights per Section 27.4 and 27.5 for an additional two years.

(clarification) Section 14.10 Leave Without Pay. Employees are required to use applicable accrued leaves (i.e. vacation, PTO, compensatory time, floating holiday and/or sick) prior to the use of leave without pay. Any exceptions must be pre-approved by the Department and Human Resources Directors prior to the employee taking leave without pay.

ARTICLE 17: (TA 3/17/23)
OUTSIDE EMPLOYMENT

Section 17.1. Permission to work at outside employment shall not be required. Employees are required to disclose outside employment to Human Resources on a form provided by the City, stating the employer's name, the job title, and basic duties. Human Resources shall be responsible for discussing any conflict of interest concerns with the employee. The primary commitment of full time employees must be to their City jobs. Outside employment should not detract from the efficiency of an employee's City duties, nor should it present a conflict of interest or otherwise damage the job related credibility of an employee or the City. Should a problem arise concerning an employee's outside employment, it is understood that the employee may be subject to discipline as provided in Article 29.

ARTICLE 19: (TA 3/17/23)
JOB CLASSIFICATION AND WAGE ADJUSTMENTS

Section 19.1. The compensation and classification plan shall be administered pursuant to an administrative policy governing implementation of Article 19. The City retains full and exclusive rights to manage the City's job classification plan. Without limitation, but by way of illustration, the exclusive prerogatives, functions, and rights of the City shall include the following:

- a. To establish new classifications.
- b. To revise existing classifications by changing, adding, or deleting duties, qualifications, or standards.
- c. To remove existing classifications.

Section 19.2. Wages for New Classifications. When a new classification is established, proper notice will be given to the Union and such notice shall include the classification and pay range recommended for such position. The Union shall be afforded an opportunity to meet and discuss the matter. If the Union does not object to the City's pay proposal within ten (10) calendar days, the City's proposal will be implemented.

If the Union does object to the City's pay proposal, then the matter will be submitted as a grievance at Step Four. Should the grievance proceed to binding arbitration, within five (5) days of the Step Five hearing, the parties shall meet to exchange and acknowledge single final offers of settlement of the grievance, specifying the preferred salary range for the position in question. The decision of the arbitrator shall be based on the criteria listed in the Public Employee Collective Bargaining Act and shall be limited to the selection of either final offer.

Section 19.3. Revision of Wages for Existing Classifications. Should it be necessary to revise the wage rate of an existing classification during the life of this Agreement and both parties mutually agree to do so, the City shall establish a temporary wage rate which shall be effective unless modified during the next open negotiations. Under no circumstances will the City reduce the wage rate during the life of this Agreement without the consent of the Union.

If, during the first negotiations after the establishment of the temporary wage rate, the City and Union agree to a different rate (not considering general increases), such negotiated rates shall be made retroactive to the date of the temporary adjustment.

ARTICLE 20: (TA 3/17/23)
SPECIAL PAY

Section 20.1. Shift Differential. The following shift premiums will be paid:

- a. A shift premium of forty-five cents (\$0.45) per hour actually worked shall be paid to an employee when the majority of their shift is worked during the hours of 3:00 p.m. and 11:00 p.m.
- b. A shift premium of seventy-five cents (\$0.75) per hour actually worked shall be paid to an employee when the majority of their shift is worked during the hours of 11:00 p.m. and 6:00 a.m.

(housekeeping) Section 20.2. Shift premium pay will be treated as part of the base rate for computation of overtime.

Section 20.3. Shift premium pay will not apply to employees working four (4) ten (10) hour shifts when the work is essentially daytime work. Shift premium pay will apply to those employees who are assigned to work split shifts when at least one half (1/2) of the hours actually worked fall between the hours of 3:00 p.m. and 11:00 p.m., or 11:00 p.m. and 6:00 a.m.

Section 20.4. The City retains the exclusive right to establish work schedules to accommodate operating needs which might minimize shift premium pay.

Section 20.5. Bilingual Pay. Employees who are qualified by the City as bilingual in any spoken or written language designated by the City will receive a monthly premium of 2.5% of their regular base pay. Employees who are qualified by the City as bilingual in any spoken and written language designated by the City will receive a monthly premium of 5% of their regular base pay. Employees must re-qualify annually. Assignment and removal of such job duties shall be at the City's discretion and is not grievable. For employees that receive bilingual pay, availability for work assignments throughout the year is required. Employees who refuse to utilize the skill will forfeit the pay. The City will provide an annual qualification/re-qualification opportunity. Employees who do not qualify must wait for the next annual testing opportunity to retest. **If a job position requires bilingual skills, the testing opportunity will be provided prior to hiring.** The City and the employee will mutually agree on ways for the employee to maintain and practice their skills. The types of assistance the City might provide include classes, conversation groups, release and/or flex time for volunteer work in bilingual situations, or other opportunities to use these skills.

ARTICLE 21: (TA 3/17/23)
ACTING IN CAPACITY

(housekeeping) Section 21.1. Acting in Capacity. An employee assigned the duties and responsibilities of a position in a higher job class shall receive compensation as follows; Step 1 of the higher class, a one step increase in their regular classification, or a 5 percent (5%) increase in their regular salary, whichever is greater and provided such assignment is designated in writing and the assignment lasts longer than five (5) consecutive working days. Such compensation shall be retroactive to the first day of the assignment. An employee will be deemed to have been assigned the duties and responsibilities of another position when they have assumed responsibility and accountability for the primary functions of the position and for substantive performance of the job.

For assignments of five (5) days or longer, the employee performance will be evaluated in the annual performance evaluation. For assignments of less than five (5) days, the assignment shall be noted but not evaluated in the performance evaluation.

Section 21.2. Extra Duties. When a vacancy or an absence longer than five (5) working days occurs, the work unit supervisor shall prepare a written work plan for the distribution of work which will be shared with all employees in the work unit. If the work plan results in the partial distribution of essential functions of a higher classified job, each employee assigned those duties and responsibilities outside of their own classification shall receive an additional two percent (2%) of their regular pay as extra duties' compensation during the duration of the work plan assignments. Such compensation shall be retroactive to the first day of the assignment. The assignments shall be evaluated in the annual performance evaluation.

Section 21.3. Career Development within the Bargaining Unit. This article shall not apply to an employee working in a job related training program provided the program and its duration are given to the employee in writing prior to entering the program.

Section 21.4. Career Development Outside the Bargaining Unit. An employee may request to perform tasks in order to advance the employee's career by notifying their supervisor in writing of a desire for career development in a position outside of the bargaining unit. Based on mutual agreement, the employee and supervisor will develop a written plan to define the parameters of the career development opportunity. The career development opportunity can be discontinued at any time by either party without consequence or penalty. Career development is not associated with any position vacancy. An employee shall complete a self-evaluation of their performance on any career development opportunity. Any career development opportunity lasting twenty (20) consecutive days or more will also have an evaluation completed by the supervisor and discussed with the employee. The employee's self-evaluation and the employer's evaluation shall be included in the employee's personnel file. Employees who are participating in a career development opportunity will not be eligible for overtime, stand-by, remote access, or call back compensation unless the work being performed is a part of the employee's regular job responsibilities. The City and the employee will agree on the days the career development duties will occur; these days will not exceed ninety (90) days in a twelve (12) month period.

Section 21.5. An employee who is designated to act in capacity or with extra duties outside of the bargaining unit, as provided for above, shall remain a member of the bargaining unit and shall be entitled to overtime, call back, or remote access compensation only for bargaining unit work performed outside of normal working hours as provided for in this Agreement. All non-bargaining unit work performed after hours shall not be paid overtime, call back, or remote access. The AIC assignment shall be in writing and shall state if standby duty shall be paid or unpaid. When standby is stated in the job description then no standby pay will be paid. When standby is not stated explicitly in the job description, the written agreement shall state the conditions under which standby may be expected and whether it will be paid or not. However, any standby duty assignment to an employee acting in capacity outside the bargaining unit shall not reduce the standby duty hours normally available to the other bargaining unit employees.

Section 21.6. Normally acting in capacity, Section 21.1 and extra duty, Section 21.2 assignments will not be longer than six (6) months, but in no event will such an assignment exceeds one (1) year. Employees will be notified in writing and in advance of any extension of such an assignment. If the City fails to so designate, the employee shall have cause for a grievance.

ARTICLE 24: (TA 4/14/23)
POSTING JOB VACANCIES

Section 24.1. Posting Job Vacancies. Vacancies which occur in a bargaining unit position, and which the City intends to fill, shall be posted and emailed to represented employees with City email, setting forth the job title, duties and qualifications, and salary range. The City agrees that vacancies will be open at least 14 calendar days after the date the vacancy notice was posted. No testing or interviewing will be conducted during the open period. All bargaining unit employees shall have the right to apply for the position by submitting the appropriate application form to Human Resources. All bargaining unit employees who meet minimum qualifications of the position and apply for the position will be interviewed. Following the selection process, any bargaining unit candidate not selected for the position may request an interview with the appointing supervisor to discuss their qualifications for the purpose of gaining an understanding of areas of strength and weakness as well as development needs.

Any additional vacancies in the same classification which occur within ninety (90) days of the filling of a bargaining unit position are exempt from the posting requirement above. Any bargaining unit member who applied for the original vacancy and meets minimum qualifications, however, shall be **considered** interviewed for the subsequent positions.

Employees on leave for more than two (2) weeks have the option of contacting Human Resources and requesting notification of any openings occurring during that time period in the classifications they specify. ~~Employees applying for FMLA/OFLA leave will be notified of this option by their supervisor.~~

These procedures will be posted in locations used to post job announcement and in the job announcements.

Section 24.2. Ultimate selection of employee(s) for any vacancy is the sole right of the City, and such actions are not subject to the grievance procedure. However, nothing contained in this article shall be construed as limiting the City's obligation to comply with Federal, State, and local regulations as they pertain to employees' civil rights in employment.

Section 24.3. The City and the Union agree to the premise that all qualified applicants, regardless of race, sex, age, color, creed, mental or physical disability, sexual orientation, gender identity or expression, citizenship status, level or source of income, national origin, veteran status, marital status, familial status, religion, religious observance, or political affiliation, should have an equal opportunity to compete on the basis of their knowledge, skills, and abilities. In the event that two (2) or more applicants possess equal qualifications for a position, consideration will be given to an employee's length of service with the City, provided such consideration does not inhibit the ability of the City to reach an employment goal specifically outlined in the City's Affirmative Action Plan.

Section 24.4. The City will encourage advancement by attempting to place current bargaining unit employees in vacant positions on a temporary basis during the recruitment process.

Section 24.5. Interview Time. Employees shall be allowed time away from their duty stations during their regular work shift without loss of pay when participating in interviewing and related skill and medical testing processes for other City jobs and where it is not possible to schedule such processes during non-work hours. Employees must have obtained approval from their supervisors for time away from work.

ARTICLE 26: (TA 4/14/23)
SENIORITY

(housekeeping) Section 26.1. Seniority means an employee's length of continuous service, in the Bargaining Unit, with the City since their last day of hire in a bargaining unit position. **When employees have the same date of hire, seniority shall be decided by application date and time (Pacific Standard Time).** Time spent in an exempt position shall not be included in computations for the purpose of determining seniority. For Park Seasonals, the time between seasonal appointments shall not count towards nor interrupt seniority; meaning that a returning Park Seasonal will be hired with their seniority standing as of the date of their termination from the prior season so long as they return to service for the consecutive season. Employees who become members of the bargaining unit by exceeding 1,040 hours of employment shall accrue seniority from the most recent date of hire. ~~Park Seasonals who were employed as of August 5, 2004, shall accrue seniority from that date, plus one month of additional seniority for every additional season (at least four months) worked in a Park Seasonal position prior to the 2004 year.~~

Section 26.2. Seniority will be applied as a determining factor in matters of layoff and filling of jobs only as specifically agreed in the appropriate provisions of this Agreement.

Section 26.3. Seniority shall not be broken by vacations, sick time, suspension, any authorized leave of absence, any call to military service for the duration of such service, or by working in an exempt position in an acting-in-capacity or extra duties basis. Employees who resign voluntarily, or who may be discharged for just cause, or during probation, or who take leave of absence without pay for the purpose of working at another occupation (not job-related as defined in section 23.7.b), shall lose all seniority. Official union position leave, as defined under section 14.7, shall not be considered another occupation.

ARTICLE 28: TA (3/17/23)
CONTRACTING OUT

Section 28.1. Prior to contracting or subcontracting work that reduces or eliminates a bargaining unit position, the City shall notify the Union and the Labor Management Advisory Team (LMAT). LMAT shall develop alternatives and other proposals and make a report including a recommendation where possible, to the City Manager and the Union within 90 days of the City's notice. The Union or the City shall have sixty (60) days from the date of notification to request assistance from the Oregon State Mediation and Conciliation Service pursuant to ORS 662.425 and ORS 662.435. The results of any such process shall be reported to the Union and to the City Manager prior to the end of the 90 day period.

Upon receiving the LMAT report and any additional information from any mediation process, the City Manager shall make a decision as to whether or not to contract the work. Should the City Manager decide to contract, or subcontract work, the affected employees shall be given, in addition to any other provisions of this Agreement, at least 60 days prior written notice. The City shall continue to provide health and dental insurance for a period not to exceed six (6) months or until the employee receives insurance coverage with another employer, whichever comes first, to any employee whose termination is a result of a decision to contract or subcontract out.

In consideration of the above, the Union waives any claim to bargain the City's decision to contract out or subcontract work during the term of this Agreement.

ARTICLE 29: (TA 3/17/23)
DISCIPLINE AND DISCHARGE

Section 29.1. Discipline. Disciplinary action shall include only the following:

- a. Oral reprimand;
- b. Written reprimand;
- c. Suspension (notice to be given in writing);
- d. Discharge.

Disciplinary action shall be given in writing and may be taken against an employee in forms listed above but will normally be progressive beginning with oral reprimand. If the employee's action is not corrected or if repeated violations occur, suspension will normally follow.

If the City has reason to discipline an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public. No regular employee shall be disciplined without just cause. A copy of the disciplinary notice shall be forwarded to the Union Chief Steward unless the employee indicates otherwise. Any disciplinary notice shall be regarded as confidential.

Employees may request Union representation when the City requests a meeting with the employee to discuss discipline. An employee shall also have the right to request Union representation at investigatory or work plan meetings required by the City when the employee has reason to expect that the discussion could lead to disciplinary action against the employee or at any suspension or pre-discharge hearing scheduled for the purpose of an oral response from the employee. The employee shall be entitled to a representative, except that a meeting or hearing shall not be unreasonably delayed awaiting a particular representative if another suitable representative is available.

Section 29.2. If the employee's action is of a serious nature, the City may invoke discipline up to and including discharge as its first response. If the City determines there is just cause for suspension or discharge, it shall provide the employee with written notice of the proposed disciplinary action at least five (5) regular business days prior to the effective date. Such notice shall set forth the reasons and any relevant facts for such intended action, and shall provide the employee an opportunity to respond to the charges prior to the effective date of the intended discipline.

Section 29.3. At the employee's request, prior to the date of intended discipline per Section 29.2 above, they may request a hearing by notifying Human Resources. The hearing shall occur within five (5) regular business days of request and a written decision shall be rendered by the City Manager or their designee within five (5) regular business days of the hearing. The employee may be placed on leave for the period between notice of discipline and the effective date of the discipline or, if a request for a hearing is made, the date of the written decision by the City Manager or their designee. If the employee is placed on leave, it shall be leave with pay.

Section 29.4. The Union shall have the right to take up a discharge as a grievance at the fourth step of the grievance procedure and to take up a suspension as a grievance at the third step of the grievance procedure. These matters shall be handled in accordance with the grievance procedure through arbitration.

ARTICLE 30: (TA 3/17/23)

SAFETY

Section 30.1. The Union and its members will not report an unsafe working condition to any State or Federal agency without first notifying the City of its intent to do so, and affording the City an opportunity to meet and discuss the matter and propose a resolution to the problem. The intent of this provision is not to restrain the rights of employees or the Union but to promote a cooperative effort between the parties to resolve and correct unsafe working conditions without the intervention of other agencies. Retaliation against a person due to their report of an unsafe working condition is strictly forbidden, whether or not the complaint is valid.

Section 30.2. Safety Committees. The Union President shall designate AFSCME safety committee members in accordance with Section 34.2 - Joint Labor Management Committees. The City shall notify the Union of any vacancies or participation issues. In the event the Union fails to designate a member within forty-five (45) calendar days of the notification, the City may seek a volunteer to fill the Union vacancy.

Section 30.3. Immediate Safety Concern. When an employee believes that a work assignment will cause an immediate danger to themselves or the public, they will notify the supervisor or designee requesting a review of the situation before proceeding with the task. If there is disagreement after the supervisor's review of the situation, the next level in the chain of command will make a final determination. The employee is expected to follow their direction, but may raise the issue to the department's safety committee.

Section 30.4. Fitness for Duty. Any employee may be required by the City to undergo fitness for duty testing. Any testing that be may be required relative to drug and alcohol testing as part of a Return to Work Agreement resulting from a fitness for duty test, shall be conducted as defined in Appendix C for CDL employees. No such testing will be required except as is consistent with Appendix C with regards to criteria for cause, supervisor training, standards and procedures for testing, standards and procedures for compliance and employee rights, consequences and responsibilities.

ARTICLE 32: (TA 3/17/23)
PREVAILING BENEFITS

Section 32.1. No employee covered by this Agreement shall suffer a loss of compensation or economic benefit by the signing of this Agreement.

ARTICLE 33: (TA 3/17/23)
PERSONNEL RECORDS

Section 33.1. An employee or the Union, with the employee's written permission, may, upon request, inspect the contents of their official City personnel file.

No grievance material, other than material relating to disciplinary actions, shall be kept in the personnel file after the grievance has been resolved. No material of an adverse nature may be used against an employee unless introduced into their official personnel file as described in this article.

Section 33.2. No performance evaluation or disciplinary actions shall be placed in the employee's personnel file that do not bear the signature of the employee. The employee shall be requested to sign such material to be placed in their personnel file provided the following disclaimer is attached:

“Employee signature confirms only that the supervisor has discussed and given a copy of the material to the employee, and does not indicate agreement or disagreement.”

(housekeeping) Section 33.3. If the employee is not available within a reasonable period of time or the employee refuses to sign the material, the **City** may place the material in the file, provided a statement has been signed by two (2) management representatives and a copy of the document was mailed to the employee at their address of record and copy to the Union.

Section 33.4. If the employee believes that any of the above material is incorrect or a misrepresentation of facts, they shall be entitled to prepare in writing their explanation or opinion regarding the prepared material. This shall be included as part of their personnel record until the material is removed.

(housekeeping) Section 33.5. An employee may include in their personnel file copies of any relevant material **they** wish, such as letters of favorable comment, licenses, certificates, college course credit, or any other material which relates creditably on the employee and their employment. Material reflecting caution, consultation, warning, admonishment, or reprimand shall be removed from the employee's personnel file after three (3) years upon request of the employee.

Section 33.6. An employee may, upon request, obtain copies of any of the contents of their personnel file.

Section 33.7. There shall be only one (1) personnel file.

ARTICLE 34: (TA 3/17/23)
JOINT LABOR MANAGEMENT COMMITTEES

Section 34.1. Joint Labor Management Committees. Joint Labor Management Committees are defined as follows: all departmental and Executive Safety Committees; the Labor Management Advisory Team (LMAT); the Health Care Review Committee (HCRC); Contract Negotiation Team; joint grievance investigation teams; and any other joint committee agreed to in writing and in advance by the City and the Union.

Section 34.2. Participation, Scheduling, and Compensation. Since participation on Joint Labor Management Committees is viewed as mutually desirable for the City and AFSCME, no person will be penalized for, or benefit from, participation on these committees. Committee meetings will be scheduled in a manner to ensure appropriate notice to members' supervisors, and in a way which minimizes the impact on work units of the committee members during their absence to attend meetings. Members who must attend committee meetings outside of their regular work schedule shall adjust their schedule to accommodate the meeting time if approved by their supervisor. If such adjustment is not approved, the Department Director may approve additional work hours to accommodate the meeting. If the Department Director does not approve the additional hours, the City will contact the Union to make other arrangements which are mutually acceptable. The City shall notify the Union of any vacancies or participation issues.

Section 34.3. Protocols. Each committee shall be responsible for establishing written protocols to include such issues as meeting times and places, quorums, methodology, facilitation, terms of members, minutes, and recommendation procedures. These protocols shall be posted on the City's intranet site.

ARTICLE 35: (TA 3/17/23)
SAVINGS CLAUSE

Section 35.1. Savings Clause. In the event any article, section, or portion of this Agreement shall be held invalid and unenforceable by an opinion of the Attorney General of the State of Oregon, or by a court of competent jurisdiction, or any administrative agency of the State of Oregon having jurisdiction over the subject matter, such decisions shall apply only to the specific article, section, or portion thereof directly specified in the decision. Upon the issuance of such decision, the parties agree to immediately negotiate a substitute, if possible, for the invalidated article, section, or portion thereof. All other portions of this Agreement, and the Agreement as a whole, shall continue without interruption, except those remaining provisions which are so essentially and inseparably connected with, and dependent upon the unlawful or unenforceable part that it is apparent that such remaining provisions would not have been agreed to without such other parts, and the remaining which, standing alone, are incomplete and incapable of being executed in accordance with the intent of this Agreement.

IN WITNESS WHEREOF, the parties to this Agreement have executed the same by their officers and agents as duly authorized on _____.

For the City of Corvallis

Mark Shepard, City Manager

Todd Lyon, Chief Negotiator

Mary Beth Altmann Hughes,
Human Resources Director

Jeff Blaine, Public Works Director

Meredith Petit, Parks & Recreation Director

Ashlee Chavez, Library Director

Ryan Seidl, Finance Director

For the American Federation of
State, County and Municipal Employees

Jim Steiner,
AFSCME State Representative

Stephen Whitener, Library Specialist III

Vince Jones, Water Distribution Systems
Specialist

Jennifer Jess, Sr. Administrative Specialist

Kristina Hauge, Parks Maintenance
Technician

Matt Rouleau, Parks Maintenance
Leadworker

Jeremy Kruse, AFSCME Representative

**APPENDIX C: MEMORANDUM OF AGREEMENT - TRANSPORTATION EMPLOYEE
DRUG AND ALCOHOL TESTING (TA 3/17/23)**

MEMORANDUM OF AGREEMENT FOR THE
IMPLEMENTATION OF THE OMNIBUS TRANSPORTATION
EMPLOYEE TESTING ACT OF 1991 AS AMENDED

This Memorandum of Agreement (MOA) is between the City of Corvallis (CITY) and the American Federation of State, County and Municipal Employees, Council 75, Local 2975, AFL-CIO, (AFSCME), for the purpose of specifying the drug and alcohol testing program as promulgated by the Omnibus Transportation Employee Testing Act of 1991 and subsequent requirements of the Federal Motor Carriers Safety Administration (FMCSA) and Federal Transit Administration (FTA) to implement the Act as well as to promote safe services to the public and a drug free workplace for employees. The Parties agree to the following in order to comply with the rules established by the FMCSA and FTA in CFR parts 40, 382, 655 et al:

1. Scope of Agreement. This MOA applies only to those employees who hold and use a Commercial Driver's License (CDL) or are required to be subject to drug and alcohol testing under the FTA in the course of employment with the CITY. Nothing in this MOA is intended to nullify or amend the employee's rights, obligations, or conditions of employment as set forth by law, collective bargaining agreement, City policy, procedure, or work rule.
2. Drugs. The term "Drugs" shall include all controlled substances regulated under the Federal Controlled Substances Act (21 U.S.C. § 812 *et seq.*), and medication containing controlled substances, including "designer drugs" not approved for use by the U.S. Food and Drug Administration. It also includes other substance that may impair performance and safety (e.g. inhalants, MDMA, opiates, etc.). Notwithstanding any provisions in state law, marijuana remains a controlled substance under the Federal Controlled Substances Act. Accordingly, marijuana is defined as a "drug" for the purposes of this Agreement regardless of whether or not the marijuana was distributed or consumed for medical purposes or recreational purposes consistent with state law. "Drugs" also applies to prescription and non-prescription medication.
3. Under the Influence. Reporting to work under the influence of drugs, alcohol, any intoxicants, any controlled substance as defined by law is prohibited. An employee is considered to be under the influence if a prohibited substance is present in the body at or beyond the agreed upon threshold limits as provided by the Department of Transportation. For those substances not covered by the Department of Transportation Regulations, an employee will be considered "under the influence" if the prohibited substance is present in the body. The CITY may also consider other evidence in determining whether an employee is "under the influence," including but not limited to review by the CITY's Medical Review Officer.

4. Representation. Employees covered by this MOA shall have the right to request AFSCME representation to any discussions with the CITY concerning this program.
5. Prescription Medication. Employees must report to their immediate supervisor the use of any prescription or over-the-counter medication that may inhibit the employee's ability to safely and effectively perform job duties. It is the employee's responsibility to ask their health care provider and/or pharmacist to determine whether any prescribed drug or other medication may have side effects that impair job performance or affect the employee's ability to safely and competently perform their job duties. If the employee and/or their health care provider believe the employee is experiencing side effects that impair job performance, the employee must notify their supervisor prior to performing or continuing to perform any work.
 - a. Employees are required to provide a medical authorization to work, upon request from the CITY. This may include verifying that the employee is able to safely perform their job duties before the employee is allowed to continue their work. The employee will not be required to disclose the medical condition for which the medication is being taken unless the CITY determines that disclosure is necessary to comply with its legal obligations (e.g., properly designating FMLA leave, evaluating reasonable accommodations, etc.).
 - b. Reporting to work under the influence of marijuana, even if permitted by state law (including medical marijuana laws) is in violation of this Agreement. The CITY does not excuse or accommodate marijuana use as a reasonable accommodation of a disability.
 - c. The use of medications that are unlawfully obtained, or are not taken consistent with the prescription, including but not limited to using medication prescribed to another person, is in violation of this agreement.
6. Costs. The CITY shall pay all costs for the implementation and administration of this program. Employee testing and evaluations shall be considered hours of work for pay purposes. Employees who test positive and seek the recommended treatment and counseling shall be responsible for the costs incurred. The CITY shall cover up to \$500 in out-of-pocket direct medical and mental health expenses not covered by the Employee Assistance Program (EAP) and health insurance program for employees who voluntarily seek treatment before any random or other testing is required by the CITY.
7. Employees covered under this MOA will submit to the following types of drug and alcohol testing as mandated by the FMCSA or the FTA including:
 - a. Pre-Employment Testing. All successful candidates for employment in covered positions must submit and pass pre-employment testing for drugs prior to placement in the position. Testing will be conducted after the CITY makes a contingent offer of employment or transfer subject to the employee passing the test.

- b. Random Testing. Employees covered by this MOA shall be placed in the pool for anonymous random selection by the CITY's Contractor. Each employee shall have an equal chance of being selected in each random selection incident. The CITY shall conduct a reasonable number and type of tests per year necessary to meet the minimum federal requirements. Test results shall be reviewed by a Medical Review Officer, and they shall be shared first with the employee.
 - c. Post-Accident Testing Requirements. An employee covered by this MOA who is involved in an accident (as defined in part 390.5 or 655.44 of the Federal Regulations) while performing their assigned duties shall be required to submit to drug and/or alcohol testing as mandated by FMCSA or FTA rules. The employee shall remain readily available for testing unless there is a life-threatening or life-saving occurrence requiring the employee to vacate the scene.
 - d. Reasonable Suspicion Testing. Testing may be required for reasonable suspicion when an employee is judged, based upon observations by one or more trained supervisors, that the employee's appearance, behavior, speech, or body odor give them cause to believe that the employee may be in violation of the alcohol or controlled substance prohibitions of this Agreement and/or City policy. Supervisor's observations will be reduced to writing as soon as reasonable after the tests are conducted.
 - e. Follow-up and Additional Testing. Follow-up testing may be required by the Substance Abuse Professional (SAP) during the rehabilitation process. In the case of a negative dilute urine sample result, the employee shall submit to one additional retest for confirmation.
8. Positive Test. The Department of Transportation standards shall be used to determine threshold limits for a positive drug and/or alcohol test.
9. Employee Testing Options. Employees who question the validity of the controlled substance test may request a retest of the split sample test within 72 hours of the results of the original test. Cost of the second test shall be borne by the CITY unless the employee chooses to utilize a different certified laboratory, in which case the cost shall be borne by the employee. The CITY shall offer a confirming breathalyzer test for alcohol immediately should the initial test be positive.
10. Employee Consequences and Responsibilities. Federal rules prohibit an employee covered by this statute from refusing to submit to alcohol and controlled substance testing. A refusal, as defined in Federal regulations, to submit to such drug and alcohol testing shall be equivalent to testing positive. Employees who refuse to submit to such testing shall be subject to discipline up to and including termination. Employees selected and notified for testing must report to the collection site immediately: all of the employee's actions after notification must lead to an immediate specimen collection. In no event shall an employee be allowed to return to work without submitting to such testing.

An employee who has a verified positive drug or alcohol result will be placed on administrative leave pending the results of an evaluation by a Substance Abuse Professional (SAP). Such employee may be subject to discipline up to and including termination. An employee who fails to comply with the SAP recommendations or rehabilitative treatment, outpatient counseling, or a signed Return to Work Agreement, which has been completed by both parties shall be subject to discipline up to and including termination. An employee must enter into a Return to Work Agreement whenever they have a positive test result. The Return to Work Agreement is a statement of the circumstances by which the employee may maintain their employment with the CITY.

Employees seeking treatment shall have the right to choose their treatment provider based on the needs identified in the medical recommendations.

Employees who test at .02 or greater alcohol concentration levels but less than .04 shall be ordered off the worksite and placed on administrative leave for at least the remainder of their shift. Such an employee may not perform safety sensitive functions until a negative return to duty breath alcohol test is obtained per FMCSA or FTA guidelines.

11. Training. In accordance with 49 CFR 382 subpart F, the CITY shall be responsible for training and informing all supervisors and employees about this program including objective methods of detecting drug and alcohol abuse. Such training shall be provided at the start of this program and biennially thereafter. The training shall be mandatory for all employees covered by this MOA and their supervisors, managers and AFSCME stewards. Attendees shall be required to sign a statement of attendance.
12. Duty to Bargain. AFSCME shall be held harmless of the violation of any employee's rights by the CITY arising from the administration of this Agreement.

