

**COLLECTIVE BARGAINING AGREEMENT**

**Between**

**CITY OF GLADSTONE**

**and**

**LOCAL 350-03**

**AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES  
(AFSCME)  
AFL-CIO**

**7/1/2022-6/30/2025**

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## **PREAMBLE**

This Agreement is entered into by the City of Gladstone, hereinafter referred to as the City, and AFSCME Local 350-03, AFL-CIO, hereinafter referred to as the Union.

## **ARTICLE 1 – UNION RECOGNITION**

### **Section 1. Bargaining Unit**

The City recognizes the Union as the sole and exclusive bargaining agent for the purpose of establishing wages, hours and other conditions of employment for all regular full-time and part-time (defined as more than 20 hours per week) employees of the City of Gladstone in the classifications listed in Appendix "A" of this Agreement, excluding confidential and supervisory employees as defined under ORS 243.650, and on call, temporary or seasonal employees working for less than 1039 hours in any twelve (12) month period, from date of hire. The City may create limited duration assignments which exceed the above limitation with the express approval of the union.

### **Section 2. New Hires**

Whenever a new employee is hired into a position covered by the bargaining unit, the City will inform the Union of the name and address of the new employee, and will also advise the employee that AFSCME Local 350-03 represents workers of the City of Gladstone, and that they are covered by the Union's contract.

### **Section 3. Position Changes**

If the City establishes any new positions, or reclassifies any existing position, it shall notify the Union of the new positions, including position description, and whether or not it is in the bargaining unit, within seven (7) days. If the Union disagrees with the City's decision regarding inclusion or exclusion of the position, the parties shall meet within fourteen (14) days to discuss the matter. If agreement is not reached, the Union shall have the option of submitting the issue to the Employment Relations Board.

### **Section 4. Limitations**

Employees may only request that their position be reviewed once every other year. In addition, each request must be based on the requesting employee's good faith belief that their position has substantially changed.

## **ARTICLE 2 – UNION MEMBERSHIP AND DUES CHECKOFF**

### **Section 1. Union Membership**

Membership or non-membership in the Union shall be the individual choice of an employee. Employees are subject to the terms of their Union membership. The terms of this agreement have been made for all employees in the bargaining unit and not only for members of the Union.

### **Section 2. Union Dues**

The City will deduct Union dues from the wages of employees when so authorized and directed in writing by the employee on the authorization form provided by the Union. The Union agrees to provide copies of authorization cards to the City. The amount of dues shall be indicated by the Union to the City in writing and shall be effective on the date indicated by the Union.

### **Section 3. New Hires**

The City agrees to notify the Union of all new hires in the bargaining unit within two (2) weeks after their date of hire, furnishing the Union with the new employee's name, telephone number, date of hire and position for which they were hired.

### **Section 4. Union Agreement**

The Union agrees to indemnify, defend and hold the City harmless against any claims made and against any suit instituted against the City as a result of any action taken pursuant to the provisions in this Article.

## ARTICLE 3 – GRIEVANCE PROCEDURE

### Section 1. Grievance

The City shall promptly consider and adjust employee grievances. A grievance shall be defined as a disagreement concerning an alleged violation or misapplication of this Agreement affecting an employee and/or the Union. This procedure shall be the exclusive means of resolving disputes arising between the parties covered under this Agreement. Furthermore, the City desires to adjust the cause of grievances informally. Both supervisors and employees are expected to resolve problems as they arise.

Grievances shall be processed as provided under this Article. Any resolution reached at any step will be reduced to writing.

Informal Resolution: Employees and management will first try to resolve grievances informally before proceeding to a written grievance.

An employee, with or without a Union representative, shall orally present the grievance to the immediate supervisor within ten (10) working days of its occurrence. The supervisor shall give a brief written and dated reply, within five (5) working days of the date of presentation of the grievance, not including the date of presentation.

### Section 2. Grievance Steps.

Step 1 If the grievance is not settled informally, it shall be prepared in detail, (such preparation must include the grieving's name, article and section of the contract violated, all facts forming the basis for the grievance and that employee's requested remedy to correct the wrong) shall be reduced to writing, shall be dated, shall be signed by the aggrieved employee and shall be presented to the department manager/director within ten (10) working days after the supervisor's reply is given, not including the day that answer is given. The department manager/director shall reply in writing to the grievance within five (5) working days of the date of the presentation of the written grievance, not including the date of presentation.

Step 2 If the grievance is not settled in Step 1, the written grievance shall be presented along with all pertinent correspondence, records and information accumulated to date to the City Administrator within five (5) working days after the department manager/director's response is given, not including the date the response is given. The City Administrator shall meet with the aggrieved employee or group of employees, the immediate supervisory personnel and the department manager/director. The City Administrator shall reply to the grievance in writing within five (5) working days of the date of presentation of the written grievance.

Step 3 Mediation. If the grievance is still unsettled, the moving party will file for mediation, within ten (10) working days after the reply of the City Administrator or designee(s) is due, by written notice to the other to request mediation. The



parties shall mutually agree to a mediator or use the ERB. The moving party will contact the ERB and request a mediator within twenty (20) days of the City Administrator's response. Mediation will be scheduled with the mediator and must initiate within sixty (60) days of the initial notice/request to the ERB, unless otherwise agreed. The parties will engage in at least two (2) mediation sessions. This mediation step does not apply to employment termination cases, unless mutually agreed.

Step 4. If the grievance is still unsettled, either party may, within ten (10) working days after the second mediation session, by written notice to the other, request arbitration. Only grievances over the application, meaning, or interpretation of a specific provision of this Agreement may be submitted to arbitration.

### Section 3. Selection of Arbitrator

The parties shall first attempt to select an arbitrator who is mutually acceptable. If, within ten (10) working days from the request for arbitration, the parties are unable to agree upon an arbitrator, the Employment Relations Board shall be requested to submit a list of seven (7) names. If the first list is unacceptable to either party, a second and final list shall be requested. Both the City and the Union shall have the right to strike two (2) names from the list. The party requesting arbitration shall strike the first name, and the other party shall then strike one name. The process shall be repeated, and the remaining person shall be the arbitrator. The designated arbitrator shall set a time and place for hearing which is agreeable to both parties.

### Section 4. Expenses of Arbitration

The arbitrator's fee and expenses shall be borne equally by the parties. Each party, however, shall be responsible for compensating its own representatives and any outside witnesses.

### Section 5. Verbatim Record

Either party may audio record the arbitration proceeding. Parties agree to share recordings, including a copy to the arbiter. In the event a partial or complete transcript is needed, both parties will share in the costs, including a copy to the arbiter if applicable.

### Section 6. Arbitrator Decision Binding

The parties agree that the decision or award of the arbitrator shall be final and binding on each of the parties and that they will abide thereby. The parties do not waive any right of review provided by law. The arbitrator shall have the authority to consider only claims based upon a specific provision of this Agreement and shall have no authority to add to, modify, or detract from this Agreement.

Section 7. Time Limits

Any grievance not taken to the next step of the grievance procedure in accordance with the time limits contained in this Article shall be considered settled on the basis of the last reply made and received in accordance with the provisions of this Section.

If either party fails to meet or answer any grievance within the time limits prescribed for such action by this Section, such grievance shall automatically advance to the next step.

Time limits specified in this procedure must be observed, unless either party requests a specific extension of time, which, if agreed to, must be stipulated in writing and shall become part of the grievance record. Likewise, any step in the grievance procedure may be eliminated by mutual agreement in writing and shall be signed by all parties involved.

If the grievance procedures are not initiated within the time limits established by this Article, the grievance shall be considered not to have existed.

Section 8. Grievance Meetings

All meetings or conferences held under this procedure shall be closed unless mutually agreed to otherwise. Participation in the confidential sessions will normally be limited to the individual employee, Union Steward, and City representatives involved.

## ARTICLE 4 – DISCIPLINE AND DISCHARGE

### Section 1. Discipline with Just Cause

The City reserves the right to discipline any employee, provided that no employee shall be disciplined without just cause. Disciplinary action or measures shall include only the following: Oral reprimands reduced to writing, written reprimand; suspension without pay, with notice in writing; demotion or discharge. (Note: Oral reprimands are limited in the grievance process, in Article 3, to step 2, with final authority by the City Administrator. Employees may provide a written rebuttal to be attached to the oral reprimand.) Counseling reduced to writing and other similar corrective measures are not considered discipline and will not be directly placed in an employee's personnel file, subject to Article 19.

### Section 2. Disciplinary Action

Disciplinary action may be imposed upon an employee only for failing to fulfill their responsibilities as an employee. Any disciplinary action or measure imposed upon an employee may be processed as a grievance through the regular grievance procedure. If the City has a reason to reprimand an employee it shall not be done before other employees who are not involved in the circumstances surrounding the discipline, nor before members of the public. No employee shall be disciplined or discharged unless the employee has violated a city or department policy, work rule, or regulation which can reasonably be supported by substantial evidence.

### Section 3. Discussing or Administering Discipline

Whenever an employee is directed to appear by management for the purpose of discussing or administering discipline, the employee shall have the right to have a Union representative present, without unreasonable delay.

### Section 4. Disciplinary Process

No employee shall be disciplined or discharged without due process. For the purpose of this agreement due process shall be defined as:

1. Notice of the department policy or work rule that has been breached including sufficient facts;
2. An opportunity to be heard;
3. An opportunity to respond in writing to the charges; prior to imposition of discipline.

### Section 5. Written Reprimand

In the event of discipline (i.e.: oral (reduced to writing) or written reprimand, suspension, demotion, or termination), a written statement shall be given to the employee at the time the disciplinary action is imposed. The written statement shall clearly state the level of discipline imposed, include the complaint against the employee and the facts upon

which the employer relies in support of the complaint, the policy or rule violation, and explanation of the sanction.

Section 6. Grievance

The Union shall have the right to take up the suspension and/or discharge as a grievance under Step 2 of the grievance procedure and the matter shall be handled in accordance with this procedure through arbitration if deemed necessary by either party.

**ARTICLE 5 – UNION RIGHTS**

Section 1. Stewards

Employees selected by the Union to act as Union representatives shall be known as “stewards.” The names of employees selected as stewards and the names of other Union representatives who may represent employees shall be certified in writing to the City by the Union. Stewards shall not exceed three (3) in number.

Stewards shall have the right during working hours, without loss of pay to investigate and process grievances, attend meetings with management scheduled for the purpose of conducting any and all Union business and distribute literature and information so long as in doing so they do not interfere with the work performance of other bargaining unit employees. Stewards exercising the above right shall first coordinate their absence from their regular duty with the immediate supervisor. The immediate supervisor will not unreasonably refuse to grant such activity but may set a reasonable time limit.

Section 2. Visits by Union Representatives

The City agrees that representatives of the Union, whether Local Union representatives, Council representatives, or International Union representatives, shall have access to the premises of the City to conduct Union business. Union representatives shall not interfere with an employee’s work.

Section 3. Negotiating Sessions

The City or its designee(s) shall meet at mutually convenient times with the Union negotiating committee. The Union negotiating committee shall consist of not more than three (3) members selected by the Union. Employees participating in Union-City negotiation sessions shall be permitted to do so without prejudice to their compensation, subject to advance notice to the City of the nature, purpose and extent of the session.

Before and after a negotiation session, bargaining team members must seek and obtain prior approval from their immediate supervisors to meet with Union representatives and other bargaining team members. The immediate supervisor will not unreasonably refuse to grant permission. In no event shall these meetings exceed one and a half (1 ½) hours total.

#### Section 4. New Employee Orientation

The City will notify the Union of all new employees whose positions are in the bargaining unit. The Union will be allowed to hold one (1) thirty (30)-minute meeting on City paid time in total per month for each month in which the City hires at least one (1) employee to orient all new Union members. One (1) Union member will be allowed work time to lead the orientation process. This orientation meeting will be coordinated with the Department manager/director or designee with the intent on selecting a time and City location with the least impact on business. Attendance by the employees is voluntary and it is the Union's responsibility to notify the new employee of the meeting time and place.

#### Section 5. Bulletin Board

The City agrees to furnish and maintain three bulletin boards. One (1) in the Senior Center, one (1) in the City Hall, and one (1) in the City Shops.

The Union shall limit its posting of notices and bulletins to such boards and shall use the boards only for notices and bulletins concerning Union matters. Bulletin boards shall not be used for controversial or inflammatory subjects.

### ARTICLE 6 – HOURS OF WORK

#### Section 1. Regular Hours

The regular hours of work each day shall be consecutive except for interruptions for a lunch period, unless the employee is assigned work other than consecutive hours. The lunch period shall be a minimum of thirty (30) minutes.

#### Section 2. Work Schedules

Except for emergency situations, the City will not change weekly work schedules without two (2) weeks advance notice to the employee.

#### Section 3. Rest Periods

All employees' work schedules shall provide for a fifteen (15) minute rest period during each half shift. Rest periods shall be scheduled at the middle of each half shift whenever practical. Employees who, for any reason, work beyond their regular quitting time into the next shift shall receive a fifteen (15) minute rest period before they start to work on the next succeeding shift when it is anticipated the overtime will exceed a minimum of two (2) hours.

#### Section 4. Clean-Up Time

Employees shall be allowed a reasonable amount of clean-up time during duty hours, prior to meal breaks and completion of shift.

## ARTICLE 7 – HOLIDAYS

### Section 1. Holiday List

All employees of the City shall be entitled to the holidays listed below. Employees shall receive regular compensation. Part-time employees' holiday compensation shall be prorated as provided for in Article 14, Section 6.

- A New Year's Day
- B Martin Luther King's Birthday (Third Monday in January)
- C Washington's Birthday (President's Day)
- D Memorial Day
- E Juneteenth
- F Independence Day
- G Labor Day
- H Veteran's Day
- I Thanksgiving Day
- J Christmas Day
- K Two Employee's Floating Holidays
- L Any day declared a paid holiday for city employees by the City Council.

### Section 2. Holiday falls on Weekend

If any such holiday falls on a Sunday, the following Monday shall be given as a holiday. If any such holiday falls on a Saturday, the preceding Friday shall be given as a holiday.

### Section 3. Work on a Holiday

An employee who works on a recognized holiday as part of their regular work week shall be paid for the holiday and receive time and one-half (1 ½) pay for all hours worked, subject to callback provisions in Article 16.3.

### Section 4. Leave Over Holiday

Holidays which occur during vacation or sick leave shall not be charged against such leave.

### Section 5. Holiday on Normal Day Off

If the holiday falls on the shift employee's normal day off, that employee may observe a different day, normally the following work day that does not fall on the shift employee's day off.

## ARTICLE 8 – VACATIONS

### Section 1. Vacation Accrual Schedule and Terms

Vacations shall be granted to all regular employees in the bargaining unit in accordance with the following schedule:

More than 1 year, but less than 3	80 hours/year*
3 or more years but less than 5	96 hours/year*
5 or more years, but less than 10	120 hours/year*
10 or more years, but less than 13	136 hours/year*
13 or more years, but less than 15	152 hours/year*
15 or more years, but less than 20	184 hours/year*
20 or more years, but less than 25	200 hours/year*
25 or more years, but less than 30	216 hours/year*
30 or more years, but less than 35	232 hours/year*
35 or more years,	240 hours/year*

\*Vacation is accrued at the end of the payroll period on a prorated monthly amount based on the yearly values above.

According to the above schedule vacation leave shall be prorated based on part time status for any regular part time employees hired by the City.

Vacation leave shall not accrue during any periods of layoff or unpaid leave of absence. An employee recalled within one (1) year of a layoff shall retain seniority for vacation accrual purposes.

Employees shall be eligible for their vacation after the completion of six (6) month's service. Employees must have vacation leave accrued at the time of taking the leave. The City retains the discretion to allow employees to use unearned vacation leave prior to accrual on a case by case basis.

### Section 2. Maximum Accrual

Vacation leave can accrue from year to year with a maximum accrual limit of three hundred twenty (320) hours for full time employees, prorated based on part time status. Employees with two hundred forty (240) or more hours of accrued vacation will be provided notice of accrued vacation balances, as well as the maximum accrual limit, on a month-to-month basis. Upon such notice, the supervisor and the employee will make efforts to agree upon a plan to reduce accrued vacation to a manageable level. Vacation accrued beyond the three hundred twenty (320) hour limit and not so utilized will be paid to the employee. Upon written request and approval by the City Administrator, vacation leave may accumulate beyond three hundred twenty (320) hours. In no event shall an employee lose accrued vacation if the employee is unable to use vacation through no fault of their own.

### Section 3. Scheduling Vacation

Employees may request vacation leave with reasonable advance notice as provided by City Policy. Department manager/directors shall schedule vacations for their respective employees with due consideration for the desires of the employees and the work requirements facing the department. Vacation schedules may be amended to allow the department to meet emergency situations.

Vacation leave may be used in ¼ hour increments.

When two or more employees from the same department request the same vacation dates and all requests cannot be honored, vacation will be approved on the basis of first request with consideration given to seniority.

### Section 4. Vacation sell back.

Any employee may sell back to the city up to fifty (50) hours of accrued vacation time during any fiscal year, limited to the following conditions: Vacation reimbursement shall occur only once during any fiscal year for each employee, regardless of how many days are used.

The City Administrator or designee shall receive thirty (30) days prior written notice from any employee requesting vacation reimbursement.

An employee must maintain an account balance of eighty (80) hours after the sell back to the City.



## **ARTICLE 9 – SICK LEAVE**

### **Section 1. Accrual**

All full time employees shall earn sick leave with full pay at the rate of eight (8) hours for each calendar month of service. All part-time employees shall earn sick leave on a prorated basis as provided for in Article 14, Section 6. Sick leave shall accrue from the date of employment, but shall not be taken until after one (1) month. Sick leave shall not be accumulated in excess of nine hundred forty (940) hours for full time employees. This maximum accrual will be prorated based on part time status. For every three (3) months that an employee does not use sick leave, they will have the option of converting one day of sick leave to one day of vacation.

### **Section 2. Eligibility**

Employees are eligible for sick leave for the following reasons:

- A For an employee's mental or physical illness, injury or health condition, need for medical diagnosis, care or treatment of a mental or physical illness, injury or health condition or need for preventive medical care.
- B To care for a family member with a mental or physical illness, injury or health condition, care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition or care of a family member who needs preventative medical care. Immediate family shall be defined as the spouse of an employee, the biological, adoptive or foster parent or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the employee or a person with whom the employee was or is in a relationship of in "loco parentis".
- C Any other reason required by law.
- D OFLA and FMLA Leave. Leave for birth, adoption or placement of a foster child, or to care for the serious health condition of family members or the employee's, will be administered in accordance with the provisions of the Oregon Family Leave Act (OFLA) and the Federal Medical Leave Act (FMLA). Employees utilizing leave under this Section for birth, adoption or placement of a foster child shall be allowed to use any form of earned, paid leave (vacation, compensatory time or sick time). Employees utilizing leave under this Section to care for the serious health condition of family members or the employee shall exhaust all paid sick leave benefits before using other types of earned paid leave.
  - 1 If the period of disability because of childbirth or related circumstances extends beyond the time allowed under OFLA or FMLA, then the employee may take a leave of absence not to exceed one (1) year without pay or benefits. When the above occurs, the employee must work out the condition of the leave of absence with the department manager/director, who shall submit it to the City Administrator for approval.

Sick leave shall be deducted based on every hour absent from work or fraction thereof to the nearest fifteen (15) minutes. Abuse of sick leave privilege will be cause for discipline, up to and including dismissal. Examples of suspected abuse would be repeatedly calling in sick on Mondays, or Fridays or a day during the week that an employee is on standby status.

### Section 3. Conditions of Use

- A If required by the City Administrator or designee, sick leave with pay in excess of three (3) consecutive working days shall be allowed only after presenting a written statement from a health care provider certifying that the employee's condition prevented them from reporting for work. The City may not request medical certification if leave is being taken for a reason under Oregon's Domestic Violence leave statute.
- B The City may also request verification/certification as provided for by state law. The cost of this examination will be paid by the City.
- C Employees or their emergency contact shall verbally report to their supervisor (leaving a voice mail on the supervisor's desk or cell phone is ok, a text or email is not acceptable) the reason for absence prior to the time the employee is expected to report for work. Sick leave with pay shall not be allowed unless such report has been made.

### Section 4. Leave Donation

An employee who has unused vacation leave may donate vacation leave to another employee for that employee's use as sick leave during a serious illness. Serious illness will be determined by the City on each specific situation. Such determination shall not be unreasonably denied. The employee making the donation must retain at least 40 (forty) hours of vacation leave for their own use. The conversion of one employee's vacation to another employee's sick leave shall be on an hour for hour basis. To maintain confidentiality and impartiality of the donation process it be administered by Human Resources and will begin in the department of the employee in need of a donation. The employee receiving donations of vacation for sick leave shall not monetarily compensate the employee making such donation.

## ARTICLE 10 – OTHER LEAVES

### Section 1. Leaves of Absence

Leaves of absence without pay or accrual of other benefits for a limited period not to exceed six (6) months may be granted for any reasonable purpose where, in the judgment of the department manager/director, and as approved by the City Administrator for leaves exceeding ten (10) days, the work of the department will not be seriously compromised by the temporary absence of the employee requesting such leave. Any such leave must be consistent with the needs of the City and approved by the department manager/director. At the discretion of the department manager/director, upon written request by the affected employee, such leave may be renewed or extended for any reasonable period. If an employee is denied a leave of absence, the department manager/director or City Administrator/designee will state the reasons in writing. In the event an employee requests leave without pay from having exhausted all other paid leaves due to a medical condition, the City will engage in the interactive process to review any requested accommodations.

### Section 2. Jury Duty

Employees shall be granted leave with regular straight time pay any time they miss their regularly scheduled shift because they are required to report for jury duty or jury service, or as the result of appearing under subpoena in a Court of Law. An eligible employee shall endorse any jury/witness fee to the City as a condition to receipt of regular pay.

### Section 3. Bereavement Leave

In the event of a death in the employee's immediate family, a regular employee may be granted leave of absence with pay not to exceed forty (40) hours. Part-time employees are prorated. Immediate family for the purposes of this Section shall be defined as spouse, same sex domestic partner, ex-spouse, child, parent, sibling, parent-in-law, child-in-law, grandparent, grandchild, step and half relations.

Bereavement leave under this Article shall run concurrently with OFLA leave.

### Section 4. Funeral Participation

When an employee serves as a pallbearer or speaker in a funeral ceremony, the employee may be granted a reasonable time off, up to four (4) hours paid leave, to perform such duty.

### Section 5. Military Leave with Pay

- A. For all periods of annual active duty for training as a member of the National Guard, National Guard Reserve or of any reserve component of the Armed Forces of the United States or of the United States Public Health Service, any employee of the City of Gladstone is entitled, upon application therefore, to a leave of absence from their duties for a period not exceeding fifteen (15) work days in any one (1) calendar

year, without loss of time, pay or regular leave and without impairment of efficiency rating or other rights or benefits to which the employee is entitled.

#### Section 6. Military Leave without Pay

- A Military leave of absence without pay shall be granted to a regular employee during a period of active duty with the Armed Forces of the United States.
- B The employee shall, upon honorable discharge from such service, be returned to a position in the same classification as they last held, at a salary rate prevailing for such classification, without loss of seniority or employment rights. If it is established that the employee is not physically qualified to perform the duties of their former position by reason of such service, the employee shall be reinstated in other work that the employee is able to perform at the nearest appropriate classification to their former classification.
- C Such employees shall make application for reinstatement within ten (10) days and shall report for duty within thirty (30) days following separation from active military duty. Failure to comply shall terminate military leave. If an employee voluntarily re-enlists, their military leave shall be deemed canceled.

#### Section 7. Conferences and Conventions

Decisions concerning attendance at conferences, conventions or other meetings at City expense shall be made by the department manager/director. Permission shall be granted on the basis of an employee's participation in or the direct relation of their work to the subject matter of the meetings. Members of professional societies may be permitted to attend meetings of their society when such attendance is considered to be in the best interest of the City.

#### Section 8. Union Leave

Authorized Union representatives, upon written requests from the Union, may be given short term leaves of absence (less than thirty (30) days) to transact business for the Union in which they are a represented member. The Union will cooperate with the City by controlling requests for such short term leaves to a maximum of one (1) employee at any given time and in a manner which will minimize interference with the City's operations. The Union may request an extension beyond the original thirty (30) days. Approval of such requests will be granted based on the City's operational needs.

Employees granted such leave shall be maintained on the payroll with full accrual of wages and benefits and the Union shall reimburse the City for all wage and wage-driven benefits costs associated with these leaves. The City will provide written documentation of the full wage and wage-driven costs to the Union.

## **ARTICLE 11 – SENIORITY**

### **Section 1. Definitions**

Seniority is defined as total length of continuous service as a regular employee of the City. An employee's seniority shall be computed from the date of their employment with the City in any capacity. If two (2) or more employees were hired on the same day, the employee whose application was first filed shall be deemed the senior employee.

### **Section 2. Break in Service**

For the purpose of computing seniority, all authorized leave shall be considered as time worked, provided that in the event of an unpaid leave of absence beyond ninety (90) calendar days other than military, or Peace Corps leave granted in accordance with this Agreement, the actual time of leave shall be deducted from the employee's length of service. Employees who are laid off and subsequently reinstated shall retain their full seniority except that such period of layoff shall be deducted from the employee's length of service.

Seniority shall not be forfeited if an employee has a break in service of ninety (90) calendar days or less, provided such period shall be deducted from the employee's length of service.

### **Section 3. Seniority List**

A list of employee seniority shall be posted on January 1 of each year.

### **Section 4. Application of Seniority**

Where qualifications and abilities of more than one employee are equal, seniority within the City shall be the determining factor. This shall be applied in filling work out of classification assignments, temporary positions, administering the call-out list and for promotional opportunities within the City.

## ARTICLE 12 – LAYOFF/RECALL

### Section 1. Layoff

A layoff means a permanent reduction in the City work force. If the City shall reduce its work force, layoffs shall be made within each job classification in a department on the basis of seniority or special job skills. A layoff out of the inverse order of seniority shall be made by the City if, in the City's judgment, retention of special job skills is required by the operating requirements of the department. Advance notice will be provided to employees the City intends to layoff. Such notice shall normally be provided as soon as plans are finalized, but not less than thirty (30) days prior to such layoff. Employees laid off for a period of more than twenty-four (24) months lose all seniority credits.

### Section 2. Recall

Employees shall be recalled according to seniority unless in the City's judgment special skills are required by department operating requirements. No new employees shall be hired for a classification of work until employees laid off in that classification have been offered an opportunity to return to work at equal pay or similar classification, by certified mail. A refusal to recall shall constitute voluntary termination and such employee shall lose their layoff status privileges and their seniority unless the employee is temporarily incapacitated by illness or injury.

No regular employee shall be laid off while temporary employees or community service workers are retained by the City in the classifications of the employees proposed to be laid off. Employees shall be recalled to part time and temporary positions as they occur. However, employees who accept such recall shall retain recall rights to their original position and hours.

### Section 3. Recall List

The City shall furnish to the Union, upon request, a current list of all employees in layoff status with recall rights.

## **ARTICLE 13 – POSTING AND FILLING OF VACANCIES**

### **Section 1. Vacancy Posting**

When the City determines that a vacancy has occurred, it shall post on each bulletin board provided in accordance with Article 5, Section 5 of this contract for not less than five (5) days notices of job vacancies so employees may apply.

### **Section 2. Promoting Within City Services**

All job vacancies shall, whenever possible, be filled by promoting qualified employees within the City service.

### **Section 3. Applicants Outside City Services**

Nevertheless, the appointing power may recruit applicants from outside the City service whenever the City has reason to believe that better qualified applicants are available outside of City service.

### **Section 4. Filling Vacancies**

The appointment to fill the vacancy shall be made on a competitive basis. Where qualifications and ability are relatively equal, seniority within City service shall be the determining factor.

**ARTICLE 14 – INSURANCE AND RETIREMENT**

**Section 1. Health, Prescription, Dental & Vision**

The City shall make available to employees in the bargaining unit and their dependents medical, dental, vision, prescription and alternative care benefits.

Employees shall contribute 10% of the total monthly premiums, through payroll deductions on a pre-tax basis unless specifically requested different by an employee and the Employer shall contribute 90% of the total monthly premium.

In the event an insurance provider moves to a policy year or changes their multiple tier designations other than those currently provided, or discontinues a currently offered plan, the parties agree that such changes are outside the control of the parties, however, the parties agree to the duty to bargain the impact.

Employees may select from health plans as offered by the Employer providing employees an option between a health maintenance organization (Kaiser) or a traditional co-pay type plan (Regence BC/BS) or other.

The employer will provide a monthly HRA/VEBA contribution to each employee as follows: (1/12th of the annual)

Plan Tier:	Employee Only:	\$500.00 annually
	Employee + Child	\$1,000.00 annually
	Employee + Children	\$1,500.00 annually
	Employee + Spouse	\$1,000.00 annually
	Employee + Family	\$1,500.00 annually

Effective January 1, 2023, 2024 and 2025 the employer will contribute \$25 to each eligible employee's HRA/VEBA for consideration towards the HRA/VEBA administrative fee.

**Section 2. Part-time Employees**

Benefits for part-time employees will be calculated based upon the budgeted full-time equivalence (FTE) of the position using the chart below:

.75% FTE or greater, but less than full-time	75%
.50% FTE or greater, but less than,75% FTE	50%

NOTE: Employer contribution for health insurance premium costs for part-time employees shall be pro-rated based on the total cost of the health insurance premium, as is current practice.



Section 3. Life Insurance

The City shall increase the life insurance benefit on all employees from \$10,000 to \$30,000. If CIS does not allow a change mid-plan year, this increase will take effect January 1, 2023.

Section 4. Long Term Disability Insurance (LTD)

The City will continue to provide at no cost to the employee Long Term Disability Insurance.

Section 5. Joint Insurance Committee

The City will establish a joint Employer/Employee Medical Insurance Committee for the purpose of monitoring the current insurance program. The committee shall be a standing committee convened as necessary by the City Administrator or designee. The committee shall establish its own rules and timetable for meetings and will make a recommendation on the insurance program to the City Administrator. The committee will be composed of employee representatives from each department. AFSCME Local 350-3 shall be entitled to appoint up to three (3) representatives to this committee.

Section 6. Retirement

The City agrees to enroll eligible employees in the Oregon State Public Employees Retirement System (PERS) the Oregon Public Service Retirement Plan (OPSRP) or their successors. The City shall contribute the required employer contribution and pay a six percent (6%) employee pick-up contribution as designated to the applicable plan.

Upon retirement, fifty percent (50%) of an employee's unused accumulated sick leave shall be applied as provided for under ORS 238.350 and regulations established by PERS in the form of increased retirement benefits. For the purposes of this Article, "unused accumulated sick leave" shall be capped at a maximum of nine hundred forty (940) hours for full time employees, prorated based on part time status. Accrual greater than this maximum shall be subject to forfeiture.

Section 7. IRS Section 125 plan

The employer shall provide employees the option of participating in an IRS 125 plan.

## **ARTICLE 15 – COMPENSATION**

### **Section 1. Wages (Overtime Article 23)**

Employees in the bargaining unit shall be paid in accordance with the attached Salary Schedule Appendix A, effective July 1, 2022 which reflects a 2% cost of living (COLA) adjustment over the previous fiscal year. In addition to this COLA, all employees in the bargaining unit will receive a one-time, employee recognition award in an amount equal to that negotiated with the Police Association, minimum \$2500. The award, while taxable, will be paid the week this agreement becomes effective and is done to recognize this bargaining unit's dedication and perseverance during the pandemic.

Increased base pay ranges have been identified for several classifications based on results of a recent survey of the City's recognized comparators: Canby, Fairview, Happy Valley, Milwaukie, Oregon City and West Linn:

Nutrition Caterer will be moved from Range 13-A to Range 15-A to be consistent with the classification of Program & Services Coordinator. The existing employee in this classification will be moved from their current pay range and step to their classification's new pay range, and to the step closest to or above their current base pay.

A new classification of Utility Worker III will be created and placed into Range 18-A. This classification will require a CDL and three (3) years of relevant experience.

The existing Utility Worker-Journey classification which requires a CDL and four (4) years of relevant experience along with certifications within one year of hire will be moved from Range 18-A to Range 19-A. The new position will require a CDL and the relevant years of experience will be increased to five (5) years and include the requirement of at least one certification. The existing employees in this classification will be moved from their current pay range and step to their classification's new pay range, and to the step closest to or above their current base pay. This is a 5% increase to the range which will eliminate the 1.5-3% certification pay that the three existing employees are currently being paid.

- A. Effective July 1, 2023, the salary schedule in Appendix A shall be increased by four percent (4%).
- B. Effective July 1, 2024, the salary schedule in Appendix A shall be increased by three percent (3%).

*Note: Appendix A, wage scale, represents a monthly annualized salary. Hourly rates are computed by the annual salary divided 2080 hours*

### **Section 2. Step Increases (Probationary Periods Article 26)**

Employees shall normally be hired at Step One (1). Upon completion of the employee's probationary period, the employee will be eligible for advancement to the next step of the salary schedule based upon merit and ability. Regular step increases will be awarded every twelve (12) months from the date of successful completion of the

probationary period on merit and ability as determined by the City and reflected in the employee's Performance Evaluation which is based on the employee's classification description.

### Section 3. Longevity/Career Recognition

All employees will receive career recognition pay. Career recognition pay will be implemented as follows:

After five (5) years of service, the employee shall receive an additional one percent (1%) of base wage monthly.

After ten (10) years of service, the employee shall receive an additional two percent (2%) of base wage monthly.

After fifteen (15) years of service, the employee shall receive an additional three percent (3%) of base wage monthly.

After twenty (20) years of service, the employee shall receive an additional four percent (4%) of base wage monthly.

After twenty-five (25) years of service, the employee shall receive an additional five percent (5%) of base wage monthly.

The five (5), ten (10), fifteen (15), twenty (20) and twenty-five (25) years percentages are not cumulative.

### Section 4. Licensing and Certification

Employees in the classification of Utility Worker II who already possess or obtain a Commercial Driver's License (CDL) will be paid a 5% premium the date this Agreement becomes effective. The cost of CDL driver training will be the employee's responsibility. Also, after the date this Agreement becomes effective, the City will cover the cost of the initial CDL medical exam and will reimburse the employee for the cost of a successful CDL written and driving test. Reimbursements are dependent upon employee presentation of receipts and a copy of documents verifying issuance of a commercial driver's license to the City.

Employees in the classification of Utility Worker II and Utility Worker III J are encouraged to gain state certification in Water Distribution and Wastewater Collection equivalent to the state level required for the size of the City's system (currently Level II) as well as certifications pertinent to the City's operation as determined by the City. The City will allow an employee four (4) hours of duty time to attend testing which is only offered during duty time and will reimburse the employee the cost of education and testing if the employee receives a passing grade. Employee is responsible for submitting receipts and a certificate of completion to their supervisor

Section 5. Language Proficiency

For qualifying positions as determined by the department manager/director, employees who demonstrate oral proficiency in Spanish language or oral proficiency in any other language as designated by the department manager/director shall qualify for an additional three percent (3%) computed on the employee's base salary. This proficiency shall be determined by a standard set by Human Resources.

Section 6. Gear Provision/Reimbursement

The City will supply Public Works field personnel all OSHA/OR OSHA required safety equipment as well as raingear, rubber boots, gloves, a winter coat or jacket, and coveralls which will be replaced on an "as needed" basis as determined by the supervisor. The City will also provide each employee a City hat, five (5) shirts (long and short sleeve) each fiscal year. Employees are required to wear the supplied equipment, gear and clothing.

The City will reimburse Public Works field personnel up to \$65 per pair for up to three (3) pairs (additional pairs may be purchased within the \$195.00 maximum) per fiscal year for the purchase of work pants upon presentation of a receipt to their supervisor. After employee purchase, the work pants must be submitted to the City so that the City's logo can be affixed; these items will remain property of the City.

Public Works field personnel are required to wear steel or composite toe safety boots. Employees shall be reimbursed up to \$200 per fiscal year for such boots upon presentation of a receipt to their supervisor.

The City shall make available laundering facilities for all gear and clothing supplied and for contaminated clothing per current practice.

The provision and reimbursement of the gear under this section will be prorated for new hires based upon the month of the fiscal year in which hired.

Section 7. Meal Expenses

When an employee is eligible for per diem meal expenses, requests must be accompanied by the completed appropriate paperwork. The City will reimburse meals based upon a per diem schedule for employees traveling fifty (50) miles per day or more. Per diem rates are as following for travel within Oregon:

Breakfast: \$ 16.00  
Lunch: \$ 18.00  
Dinner: \$ \$32.00

For travel outside Oregon, the City will follow the rates according to the US General Services Administration (GSA) appropriate fiscal year schedule.

Section 8. Fitness Club Membership

Employees are eligible to receive a \$50.00 monthly or \$600.00 annual taxable reimbursement towards their membership fee to a health and fitness center. Any initial or annual service fee will be the employee's responsibility. Reimbursement will be processed upon presentation to the City of a receipt or proof of the employee's monthly or annual payment.

**ARTICLE 16 – WORKING OUT OF CLASSIFICATION & CALL BACK**

Section 1. Working out of Classification

Whenever an employee is assigned by management to work for eight (8) or more hours in a classification above that in which the employee is normally classified, the employee shall be paid for the duration of such work in the pay range of the higher class at either the first step of the higher class or at a rate one (1) step higher than their regular rate of pay, whichever is more. The provisions of this Section shall not apply to training opportunities provided to employees.

Section 2. Lead Work

Whenever an employee is assigned Lead Work, they shall be compensated by premium pay in the amount of five percent (5%) base wage for all hours worked in such capacity as assigned.

Lead worker assignments shall be in writing and with clearly articulated duties as determined by the department manager/director.

Section 3. Call Back Pay

Employees who are called back to work outside of their regular shift shall be paid a minimum of three (3) hours at one and one-half (1 ½) times their regular rate unless the callback is within two (2) hours prior to their regular shift, in which event the pay will be for a minimum of two (2) hours. Employees required to perform overtime duties as a continuation of their shift are not subject to call-back pay.

Section 4. Stand-by Pay

Stand-by duty is defined as whenever an employee is required to be available to receive emergency phone calls or to respond onsite (if needed) during evenings and/or weekends outside their normal working hours. The City shall provide the stand-by employee with a cell phone.

- A. Stand-by Assignments: The City shall ask for volunteers from those employees it determines are qualified to work stand-by duty. Stand-by duty assignments will be determined on a semi-annual basis. If less than three (3) employees volunteer, the

City shall meet with employees to discuss coverage before assigning employees to stand-by duty.

- B. An employee on stand-by may either accrue ten (10) hours of (straight-time) comp time or receive ten (10) hours of pay at the employee's regular rate per week of stand-by duty. The ten (10) hours per week are based on one (1) hour per scheduled workday (usually Monday – Friday) and two and a half (2.5) hours per scheduled day off (weekend days). Paid leave call-in during an assigned week will cause the loss of the day(s) pager hours' calculation.
- C. Employees will receive four (4) additional hours for each day of assigned stand-by on an actual holiday. For weeks that contain a holiday, employees will receive fourteen (14) hours. Employees may also select straight-time comp time accrual in lieu of pay.
- D. Stand-by pay is in addition to Call Back Pay in Section 3.
- E. Stand-by employees must respond by phone within ten (10) minutes and/or be onsite within forty-five (45) minutes if required.

## ARTICLE 17 – MANAGEMENT RIGHTS

The City retains all the rights, decision-making functions, and authority, 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.

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

- A. To direct and supervise all operations, functions and policies in the departments involved 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 to relocate, reorganize or combine the work of divisions, operations or facilities;
- C. To determine the need for a reduction or increase in the work force;
- D. To establish, revise and implement standards for hiring, classification, promotion, quality of work, safety, materials, equipment, uniforms, methods and procedures;
- E. To assign and distribute work;
- F. To assign shifts, work days, hours of work and work locations;
- G. To introduce new duties and to revise job classifications and duties within the unit;
- H. To determine the qualifications of new employees.
- I. Court ordered labor. The parties to this contract recognize the concept of court ordered community service labor. The City will screen prospective court ordered community-service labor in such a manner as to exclude any individuals who might present a threat to City employees or to City property.
- J. To discipline or discharge an employee for just cause;
- K. To determine the need for additional educational courses, training programs, on-the-job training, cross training;
- L. To determine the need for overtime and the classification to work such overtime.

The exercise of the management function or right which is not specifically limited by this Agreement is retained by the City.

## **ARTICLE 18 – WORKERS’ COMPENSATION**

All eligible employees shall be covered under the provisions of a statutorily required industrial accident insurance plan for industrial accidents and diseases (occupational injuries or illness that occur on the job). When an employee is absent from work because of an on-the-job injury, the employee shall notify the City which system of time loss payments the employee chooses to receive (i.e. (A) or (B)). Time off will not be charged to sick leave, which will continue to accrue, except as provided below. The employee may select one of the following options:

- A The employee may elect to receive only workers' compensation payments and no sick leave will be deducted during the period covered by the workers' compensation payments; or
- B The employee may voluntarily turn in their first and all subsequent workers' compensation payments and will, in turn, receive their regular paychecks and benefits.
  - 1 For the first twelve (12) months, no sick leave will be permanently deducted from the employee's accruals when the employee turns their workers' compensation payments over to the City. The City will restore the sick leave balance, temporarily deducted, after receipt of the employee's workers' compensation check.
  - 2 After the expiration of twelve (12) months, only that portion of sick leave needed to make-up for the difference between the workers' compensation payments and the employee's regular paycheck will be permanently deducted from the employee's accruals when the employee turns their workers' compensation payments over to the City. The City will restore the sick leave balance, temporarily deducted, after receipt of the employee's workers' compensation check.
- C At such time that the employee no longer has accrued sick leave and/or vacation time, the employee shall receive only those benefits provided by SAIF or Workers' Compensation.



## ARTICLE 19 – PERSONNEL RECORDS

### Section 1. Requesting Personnel Files

An employee may, upon request, inspect the contents of their official City personnel file. Grievance materials shall be kept in a separate file after the grievance has been resolved. No material of an adverse nature may be used against an employee unless introduced into their personnel file as described in this Article, except as provided in Article 4 related to corrective actions. Employees will be provided written/electronic copy of matters placed in their official personnel file. Employer may maintain supervisory files for the purposes of yearly evaluations or to record counseling measures. Evaluation materials placed in a supervisory file will be purged after each evaluation. Record of counseling measures or record of corrective action as provided in Article 4 in an employee's supervisory file will be purged after twenty-four (24) months from when the corrective action was given.

### Section 2. Critically Reflecting Materials

No information reflecting critically upon an employee shall be placed in the employee's official personnel file that does not bear the signature of the employee. The employee shall be requested to sign such material to be placed in their official 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.”

If the employee is not available within a reasonable period of time, or the employee refuses to sign the material, the Employer may place the material in the file, provided a statement has been signed by two management representatives and a copy of the document was e-mailed or mailed to the employee at their address of record with a copy provided to the Union.

### Section 3. Written Explanation

If the employee believes that any of the above referenced material is incorrect or is 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 official personnel record until the material is removed.

### Section 4. Materials in Personnel File

An employee may include in their official personnel file, copies of any relevant materials they wish, such as letters of favorable comment, licenses, certificates, college course credits, or any other materials which relate creditably on the employee. Material reflecting caution, consultation, warning, admonishment or reprimand shall be removed upon the mutual consent of the employee and their supervisor provided to Human Resources

Section 5. File Copies

An employee may, upon request, review and obtain copies of any of the contents of their official personnel file.

Section 6. Number of Personnel Files

There shall be only one (1) official personnel file residing with Human Resources.

**ARTICLE 20 – EXISTING PRACTICES**

Only such existing and future work rules and benefits as are expressly and specifically covered by the terms of this Agreement shall be affected by the recognition of the Union and the execution of this Agreement. It is jointly recognized that the City must retain authority to fulfill and implement its responsibilities and may do so by work rules, oral or written, existing or future. It is agreed that no work rules will be promulgated or implemented which are contrary to the terms of a specific provision of this Agreement. All written work rules, existing or future, will be furnished to affected employees. The City agrees to reduce major changes in work rules to writing and provide the Union with such changes.

## **ARTICLE 21 – CONTRACTING/SUBCONTRACTING**

### **Section 1. Right to Contract/Subcontract**

The Union recognizes that the City retains the right to contract and subcontract work provided that, if work that is presently and regularly performed by members of the bargaining unit results in the displacement of a bargaining unit employee, the City agrees to afford an opportunity to the Union to make a presentation to the City Administrator on the effect of such action on the employment of the bargaining unit prior to the City finalizing and implementing a decision.

### **Section 2. Notice**

The City agrees to provide twenty (20) days' notice to the Union and its Local President that it is considering contracting or subcontracting presently and regularly performed bargaining unit work that will result in the displacement of a bargaining unit employee. The City will provide the Union with all relevant information warranting this consideration and afford the Union an opportunity to provide an alternative option(s) presentation during said notice period. Such agreement by the City to allow a presentation shall constitute full and complete satisfaction of any City duty to bargain the decision and/or impact on employees of subcontracting required under ORS 243.

### **Section 3. Consideration and Information**

The City agrees to give full consideration to all information and recommendations submitted by the Union in a timely manner, prior to making a final decision. Under no circumstances will the City make a final decision to contract out bargaining unit work without allowing such presentation and considering any Union input.

### **Section 4. Displaced Employees**

If the City makes a decision to contract out bargaining unit work which results in bargaining unit employees being displaced by said contracting, the City will place affected employees in vacant City positions, provided in the City's judgment, they meet the qualifications established by the City.

## **ARTICLE 22 – WAIVER AND SCOPE OF BARGAINING**

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter appropriate for collective bargaining, and that the understandings and agreements arrived by the parties after the exercise of that right and opportunity are set forth in this Agreement. During the life of this contract, however, the parties may bargain collectively about the terms of successor collective bargaining agreements.

## **ARTICLE 23– OVERTIME**

### **Section 1. Overtime/Compensatory Time**

Time assigned by the City in excess of an eight (8) or ten (10) hour day (where the City has initiated a 4/10 work schedule) or forty (40) hours in a workweek shall be considered as overtime and shall be compensated at one and one-half (1 ½) times the employee's regular rate of pay as shown on the salary schedule. The City may at its option compensate in the form of compensatory time off on a one and one-half (1 ½) hour for each hour worked basis up to the first one hundred sixty (160) hours of overtime worked for full time employees, prorated based on part time status.

### **Section 2. Overtime Calculation**

Overtime shall be computed to the nearest fifteen (15) minutes, either way. However, personal clean-up time shall not count for purposes of overtime compensation, unless the employee was not provided the reasonable opportunity to personal clean up as provided by Article 6.4

### **Section 3. Assigned Overtime**

An employee may be directed and assigned by the City to work in addition to the employee's regular work schedule. However, the City will attempt to assign overtime to qualified volunteers first, and will, whenever possible, equally distribute overtime assignments among those employees who volunteer for the time and are qualified to perform the necessary work.

## **ARTICLE 24 – SAVINGS CLAUSE**

Should any article, section or portion thereof, of this Agreement and appendices be in violation of State or Federal Law or held unlawful or unenforceable by an opinion of the Attorney General of the State of Oregon or by any court of competent jurisdiction, or any administrative agency of the State of Oregon having jurisdiction over the subject matter, such decision shall apply only to the specific article, section or portion thereof, directly specified in the decision. Upon issuance of any such decision, the parties agree to meet to negotiate a substitute, if possible, for the invalidated article, section or portion thereof. All other portions of this Agreement, and the Agreement with appendices as a whole, shall continue without interruption for the term hereof.

## **ARTICLE 25 – CITY SECURITY**

For the purpose of this Agreement, the word “strike” shall be defined as any interruption or cessation of services or other sanctions brought by the Union which the City, in its judgment, decides affects the operations of the City.

During the term of this Agreement, the Union and the employees, as individuals or as a group, guarantee they will not authorize, initiate, cause, aid, condone, permit, participate or join in any strike, work stoppage, slowdown, sick-out, picketing (except informational picketing), or any other concerted interruptions of City operations and services by employees.

In the event of a violation of this Article by the Union and/or the employees, the City may selectively, in addition to other lawful remedies, discipline such employees, up to and including discharge.

Employees shall not be entitled to any benefits or wages whatsoever while they are engaged in a strike, work stoppage, slowdown, observance of a picket line, picketing, or any other interruption of work.

In the event a dispute over a reclassification request remains unresolved, the above provisions of this Article shall not apply.

## ARTICLE 26 – PROBATIONARY PERIODS

### Section 1. Initial Appointments

All initial appointments shall be tentative and subject to a probationary period of not less than six (6) consecutive months' service. Promotional appointments shall be subject to a probationary period of three (3) months.

### Section 2. Extending Probationary Period

In unusual cases where the responsibilities of a position are such that a longer period is necessary to demonstrate an employee's qualifications, the probationary period may be extended; however, no initial probationary period shall be extended beyond nine (9) months total and no promotional period shall be extended beyond six (6) months total. The employee shall be notified in writing of any extension and the reasons therefore.

### Section 3. Vacation

During the initial probationary period, the employee shall not be eligible for vacation benefits, but they shall earn vacation credits to be taken at a later date.

### Section 4. Completing Probationary Period

Upon satisfactory completion of the probationary period, the employee shall be considered as having satisfactorily demonstrated qualifications for the position, shall gain regular status, and shall be so informed by the appropriate supervisor. Upon completion of the employee's probationary period, the employee will be eligible for advancement to the next step of the salary schedule based upon merit and ability.  
(copied from Article 15)

### Section 5. Termination

During the initial probationary period, an employee may be terminated at any time without appeal. In the case of promotional appointment, the promoted employee may be demoted at any time during the probationary period, without appeal, provided the employee be reinstated to the classification from which the employee was promoted.

## **ARTICLE 27– EMPLOYEE CONDUCT**

### **Section 1. Personal Business**

Personal business shall not be conducted during working hours.

### **Section 2. Monies Owed**

Employees shall be responsible to make timely payment of any monies owed to the City.

## **ARTICLE 28 – RESIGNATION**

To resign in good standing, an employee shall give their supervisor or their designee no less than ten (10) working days' prior notice of such resignation unless the City agrees to permit a shorter period of notice because of extenuating circumstances. The notice of resignation shall be in writing and shall contain the reasons for leaving the City service. In the event an employee is considering retirement, two (2) months advance notice to the employee's supervisor is required to retire in good standing.

Employees will be given twenty-four (24) hours to withdraw a resignation once submitted. Withdrawals must be in writing and provided to the employee's supervisor or designee. Resignations are considered accepted and valid after twenty-four (24) hours from receipt.

Failure to comply with this Section shall be entered in the employee's official personnel file and may be cause for denying future employment with the City.

## **ARTICLE 29 – LABOR/MANAGEMENT COMMITTEE**

A Labor Management Committee consisting of Management representatives and up to three (3) AFSCME members will meet every two (2) months, upon request of either party or more often by mutual agreement, to discuss issues, subjects of concern, or other topics brought forward by either party. The meetings may be cancelled by mutual agreement if neither party has any items for discussion. The Committee is limited to recommendations only.

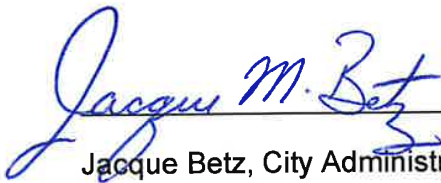
**ARTICLE 30- TERM OF AGREEMENT**

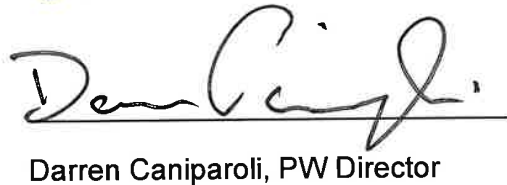
This Agreement shall be effective July 1, 2022 and shall continue in full force and effect until the 30th day of June, 2025. This Agreement shall remain in full force and effect during the period of negotiations or until notice of termination of this agreement is given by either party.

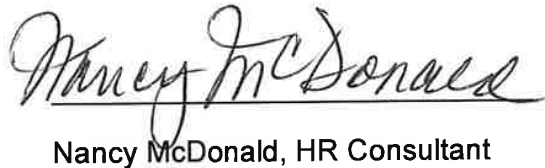
At the expiration of the contract on June 30, 2025 it shall be automatically renewed from year to year thereafter unless one of the parties notifies the other in writing by January 31<sup>st</sup> of the expiring year of intent to negotiate a successor agreement. In the event that such notice is given, negotiations shall begin no later than three (3) months prior to the anniversary date.

IN WITNESS WHEREOF, the parties hereto have set their hand this \_\_\_\_\_ day of \_\_\_\_\_, 2022

FOR THE CITY:

  
Jacque Betz, City Administrator

  
Darren Caniparoli, PW Director

  
Nancy McDonald, HR Consultant

FOR THE UNION:

  
Ross Kiely, AFSCME

  
Chris Mott, AFSCME

  
Hayley Kratz, AFSCME



**APPENDIX "A"**

**CITY OF GLADSTONE  
AFSCME REPRESENTED  
MONTHLY SALARY SCHEDULE  
7/1/2022 to 6/30/2023**

<b>RANGE</b>	<b>CLASSIFICATION</b>	<b>STEP 1</b>	<b>STEP 2</b>	<b>STEP 3</b>	<b>STEP 4</b>	<b>STEP 5</b>
<b>13-A</b>	Tram Driver (Hourly)	3751 21.64	3938 22.72	4135 23.86	4342 25.05	4559 26.30
<b>14-A</b>	Account Clerk I	3938	4135	4342	4559	4787
<b>15-A</b>	Program & Serv. Coord. Nutrition Caterer (Hourly) Utility Worker II	4135 23.86	4342 25.05	4559 26.30	4787 27.62	5026 29.00
<b>16-A</b>	VACANT	4342	4559	4787	5026	5277
<b>17-A</b>	Account Clerk II Court Clerk Office Assistant II	4559	4787	5026	5277	5541
<b>18-A</b>	Utility Worker III	4787	5026	5277	5541	5818
<b>19-A</b>	Account Clerk III Office Assistant III Public Works Project Inspector Utility Worker - Journey	5026	5277	5541	5818	6109
<b>20-A</b>	Engineering Technician (Inactive)	5277	5541	5818	6109	6414
<b>21-A</b>	Accountant (Inactive)	5541	5818	6109	6414	6735

**APPENDIX "B"**

***City of Gladstone*  
DRUG AND ALCOHOL TESTING POLICY  
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### **Policy Statement**

The City of Gladstone (City) is strongly committed to providing a safe, drug-free workplace. In addition, an employee substance abuse testing program is mandated for all entities regulated by the Department of Transportation (DOT). For these reasons, the City is implementing a substance abuse testing policy which applies to all applicants for, and employees who hold, "covered driver" positions.

The City recognizes each individual's value and contribution to the services we provide to the public. Therefore, this Policy includes assistance to employees who wish to overcome an alcohol or drug dependency problem (see "Employee Assistance Program and Self-Referral").

This Drug and Alcohol Testing Policy ("Policy") is intended to comply with FHWA regulations, changes in which will supersede specific policy provisions.

### **Who Will Be Tested and When**

Covered drivers are defined as those who are required to hold commercial driver's licenses for their jobs. Such applicants and employees fall under the Federal Highway Administration (FHWA) drug and alcohol testing regulations ("Controlled Substances and Alcohol Use and Testing," 49 CFR Part 382). Generally, covered drivers are operators of commercial motor vehicles which 1) are greater than 26,000 pounds GVWR, 2) carry hazardous materials in placardable quantities, or 3) carry 16 or more passengers, including the driver.

Covered drivers may be tested for drugs or alcohol whenever they are on duty. For the purposes of this Policy, "on duty" is defined as any time an individual is on the job and ready to perform safety-sensitive functions. Time spent in association with drug testing specimen collection and/or alcohol testing shall be considered "on-duty" time.

### **Education and Training**

The City will distribute information to employees on the Drug and Alcohol Testing Policy; the dangers of drug and alcohol abuse in the workplace; and drug counseling, rehabilitation, and employee assistance resources. Employees will be required to sign a form acknowledging receipt of this information.

At the time of hire, new covered drivers will receive specific information regarding the City's Drug and Alcohol Testing Policy and be informed of their responsibilities with respect to compliance with federal drug and alcohol testing regulations.

Supervisors of covered drivers who may be required to make "reasonable suspicion" determinations will receive training on recognition of the physical, behavioral, speech and performance indicators of probable alcohol and controlled substances use. The duration of the training will be at least sixty minutes each for 1) alcohol and 2) controlled substances use recognition, with additional follow up training to be provided, to maintain and increase supervisory proficiency.

### **Employee Assistance Program and Self-Referral**

The City will support treatment efforts for covered drivers with drug/alcohol problems who, prior to official discovery, voluntarily seek assistance.

Employees seeking treatment for drug and alcohol abuse will be treated under the City's current Union Labor Agreement.

An employee who voluntarily puts forth information to the City that they have a drug or alcohol related problem will provide the City with appropriate return to duty documentation from a Licensed Substance Abuse Professional.

The City Recorder/Human Resources Manager will provide information about existing leave and medical benefits provided under employment policies applicable to the driver at that time.

### **Prescription Medications**

Under the City's own authority, covered drivers are required to notify their immediate supervisors when they are taking prescription medications with warning labels (for example, relating to the operation of vehicles, heavy equipment, or machinery).

The City does not request information about the condition for which medication is prescribed, only that it has been prescribed. In some cases, it may be necessary to temporarily re-assign covered drivers until the course of medication is completed.

If a driver is in doubt about a medication's effect on work performance, they should ask the prescribing physician or pharmacist for clarification.

### **Prohibitions**

F.H.W.A regulations specify the following prohibitions:

- 1) Covered drivers must not use alcohol within four (4) hours prior to reporting for duty ("pre-duty use").
- 2) Covered drivers are prohibited from possessing alcohol while on duty; from using alcohol while on duty; and from having alcohol present in their systems at a level of 0.02 g/210 L<sup>1</sup> or greater while on duty. Those with levels of 0.02 or greater as demonstrated by breath alcohol testing are subject to immediate removal from duty for a minimum of 24 hours (see also "Discipline".)
- 3) Covered drivers are prohibited from using alcohol after an on-the job accident until:
  - a. The Human Resources Department has determined that alcohol testing is not required, OR

---

<sup>1</sup> Breath testing results are given in grams of alcohol per 210 liters of breath (g/210L)

- b. A breath alcohol test has been completed, OR
  - c. Eight (8) hours have passed since the accident.
- 4) Covered drivers must not show evidence of the use of controlled substances without a valid prescription.
  - 5) Refusal by a covered driver to submit a urine or breath specimen when required by federal regulations will have the same consequences as a positive drug test result, or a breath alcohol test result of 0.04 or greater, (see "Discipline" section), and result in the immediate removal of the employee from duty. In addition, refusal of a test after a fatal accident may result in more severe penalties under Federal law.

### **Investigation of Previous Testing**

As a condition of employment, applicants for covered driver positions will be required to authorize previous employers to release specific information regarding previous alcohol and drug tests.

No pre-employment drug test will be required if an applicant for a covered driver position can document:

- 1) Participation in a drug testing program which meets FHWA requirements during the (30) thirty days prior to application  
AND
  - 2) a negative drug test within the (6) six months prior to application,  
OR
    - a. Participation in a random drug testing program for (12) twelve months prior to application.
- AND
- 3) No violation of alcohol or controlled substance prohibitions within the six months prior to application.

The City reserves the right to require applicants to undergo pre-employment drug and/or alcohol testing, whether or not such documentation is provided.

### **Types of Drug and Alcohol Testing Required**

The following are occasions for drug and alcohol testing under this policy:

#### *1. Pre-employment Testing*

Pre-employment drug testing is required for all covered driver positions, except as noted above ("Investigation of Previous Testing"). A notice will be posted that drug testing is a requirement of the application process. Anyone who does not wish to proceed with the application may withdraw without question.

A drug test result which is verified as positive for unauthorized use of controlled substances will disqualify the applicant for the covered driver position.

## 2. Random Testing

*Definition of Random Test.* A random test is a test that is unannounced, and where every person in the random selection "pool" has an equal chance of being selected for testing each time a selection occurs. Random testing is considered to be an effective deterrent to substance abuse. Covered drivers are required to be randomly tested under DOT regulations.

*Method of Random Selection:* The City has contracted with an outside drug testing management service (see Appendix D) to perform computerized random selections on its covered employees. Selections occur quarterly on a randomly selected date. Selections are therefore spread reasonably throughout each 12-month period.

A number of drug tests equal to at least 50% of the number of individuals in the program will be completed annually, as required by DOT drug testing regulations; a number of alcohol tests equal to at least 25% of the number of individuals in the program will be completed annually.

### *Procedure for Notification and Specimen Collection/Testing:*

- 1) The drug testing management service will maintain a secure data base of individuals covered by the Federal Highway Administration's drug and alcohol testing regulations.
- 2) On a randomly selected date, the service will transmit a coded list of individuals who have been selected for testing to the Human Resources Department.
- 3) The Human Resources Department or their designated representative will notify the individual in person or by telephone that the employee has been selected to provide a urine and/or breath specimen for testing. The date and time of notification will be recorded on the transmitted, coded list.
- 4) Immediately after being notified, each individual selected for testing must proceed to a specimen collection and/or alcohol testing facility. If the individual is in a remote location, the Human Resources will arrange for the employee to go to a local clinical facility so that specimen collection and/or breath testing are completed expeditiously.

### *Reasonable Suspicion Testing*

"Reasonable suspicion" means that an individual has given a supervisor or other responsible manager reason to believe that the employee may be impaired, intoxicated, or under the influence of a controlled substance or alcohol.

A reasonable suspicion test will be required under the following conditions:

- 1) The City shall require a driver to submit to an alcohol test when the City has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning alcohol. The City's determination that reasonable suspicion exists to require the driver to undergo an alcohol test must be based on specific, contemporaneous, particularly observations concerning the appearance, behavior, speech or body odors of the driver.
- 2) The City shall require a driver to submit to a controlled substances test when the City has reasonable suspicion to believe that the driver has violated the prohibitions of this policy concerning controlled substances. The City's determination that there is sufficient reasonable suspicion requiring the driver to undergo a controlled substances test must be based on specific, contemporaneous, particularly observations concerning the appearance, behavior, speech or body odors of the driver. The observations may include indications of chronic or withdrawal effects of controlled substances.

The "reasonable suspicion" behavior should be witnessed by at least two supervisors, if possible. But only one observation is required. Those who make a decision to test an employee will be trained in identifying appearance or conduct that indicate the possible use of controlled substances or misuse of alcohol.

Any "reasonable suspicion" incident will be documented as soon after the incident as possible. The City will ensure that the employee involved is immediately removed from the workplace and is escorted by a supervisor to a urine specimen collection, or alcohol-testing site. The employee will NOT be allowed to proceed to the site unaccompanied.

Employees will have access to union representation if requested at every step of the "reasonable suspicion" testing procedures, except during specimen collection.

#### *Post-Accident Testing*

A reportable accident under Federal Highway Administration regulations is defined as an accident in which a covered driver was operating a commercial motor vehicle and in which:

- 1) A fatality occurred; or
- 2) The driver received a citation for a moving traffic violation AND a person involved in the accident needed medical care away from the scene of the accident; or
- 3) The driver received a citation for a moving traffic violation AND one or more vehicles involved in the accident needed to be towed from the scene of the accident.

\*\*Covered THE CITY drivers see Section E.

Under FHWA regulations, employees involved in a reportable accident are required to be:

- Tested for alcohol as soon as possible, but in no case later than 8 hours after the incident.
- Drug tested as soon as possible, but in no case later than 32 hours after the incident.

The City will ensure that the employee involved in a reportable accident will be immediately removed from duty, and escorted to a collection/testing site. A union representative shall be notified immediately upon the request of the employee. This representation shall not delay established testing procedures. A list of qualified union representatives will be provided to the City.

An employee who is seriously injured and cannot provide a specimen for testing may be requested to authorize the release of relevant hospital reports and other documentation that would indicate whether there were any controlled substance(s) in their system at the time of the incident.

The City will provide its covered drivers with any necessary information and procedures to enable them to meet federal requirements for post-accident testing.

#### *Return to Duty and Follow-up Testing*

FHWA regulations and this Policy require return to duty and follow-up drug and alcohol testing when a covered driver has been evaluated by a Substance Abuse Professional and has been found to need assistance with resolving their drug abuse and/or alcohol misuse problem. Under these conditions, a negative drug and/or alcohol test is required prior to return to duty and at least six (6) follow-up tests are required during the twelve (12) months following return to duty. Follow-up testing may continue for no longer than sixty months following return to duty. THE CITY will comply with these mandated testing requirements.

Please refer to "Return to Duty Procedures "and" Disciplinary Action and Procedures" for additional information.

#### *Costs of Testing*

The City will be responsible for payment of all pre-employment, pre-duty, post-accident, random, and reasonable suspicion tests.

The City will be responsible for payment of any requested split tests, return to duty, and follow-up tests with a test result of negative, or canceled.

The employee will be responsible for payment of any requested split tests, return to duty, and follow-up tests with a positive result. The City agrees to pay for the test and then collect from the employee.



## **DRUG AND ALCOHOL TESTING PROCEDURES**

### *Drug Testing 42*

- 1) Urine specimen collection for drug testing will be performed by qualified individuals in conformance with current standards of practice, using chain of custody procedures specified by DOT regulations (49 CFR Part 40) and with respect for the privacy and dignity of the person giving the specimen. Drug test specimens will be collected to provide at least 30 mL of urine in a "primary specimen" shipping bottle and at least 15 mL of urine in a "split specimen" shipping bottle, as described in Appendix B.
- 2) Drug testing will be performed only by laboratories certified by the Substance Abuse and Mental Health Administration (SAMHSA) of the U.S. Department of Health and Human Services (previously "NIDA"). The City's primary drug testing laboratories are given in Appendix D.
- 3) When an initial screening test for drugs is positive, a second, confirmatory test will automatically be performed. Confirmatory positive drug tests will be reported by the testing laboratory to the MRO for verification (see "Drug Test Results Review").
- 4) As a quality assurance measure, The City's drug testing management service will submit at least (3) three blind samples to the certified laboratory for every 100 applicant/employee samples submitted as required by DOT regulations (49 CFR Part 40). A summary of the results of this quality assurance program will be provided to the City annually.

### *Breath Alcohol Testing*

- 1) Breath alcohol testing will be performed only by qualified Breath Alcohol Technicians (see Appendix C). Testing will be conducted using evidential breath alcohol testing devices listed on the Conforming Products List of the National Highway Traffic Safety Administration.
- 2) Breath alcohol tests with results below 0.02 require no further action.
- 3) Tests with results of 0.02 or above will be confirmed as follows:
  - a. The individual being tested is instructed not to smoke, use mouthwash, drink, or eat for a period of 15 minutes.
  - b. Within 20 minutes of completion of the initial screening test, a confirmatory breath test is conducted per 49 CFR Part 40. The result is recorded in the "Confirmation Test Results" section of the Alcohol Test Form.
- 4) If the result of the confirmed breath alcohol test is 0.02 or greater, the Breath Alcohol Technician must immediately notify the Human Resources Manager, which will arrange for transportation of the individual from the alcohol testing

site. The Breath Alcohol Technician will then forward a copy of the Alcohol Test Form to the Human Resources Manager.

### **DRUG TEST RESULTS REVIEW**

A drug test result on a covered driver will be considered positive ONLY if it has tested positive initially, been confirmed positive by gas chromatography-mass spectrometry (GC-MS), and been reviewed and verified by the Medical Review Officer (MRO).

A positive drug test result is defined as the detection of any one or more of the substances listed in the table shown below.

<b>Substance or Class</b>	<b>Initial Screening Cut-off</b>	<b>Confirmation Cut-off</b>
Amphetamines	1000 ng/mL	500 ng/mL
Cocaine	300 ng/mL	150 ng/mL <sup>1</sup>
Marijuana (THC)	50 ng/mL	15 ng/mL <sup>2</sup>
Opiates	300 ng/mL	300 ng/mL
Phencyclidine (PCP)	25 ng/mL	25 ng/mL
<sup>1</sup> as benzoylecgonine		
<sup>2</sup> as delta-9-THC		

A confirmed positive test from a certified laboratory does not automatically identify an employee or applicant as having used drugs in violation of a DOT regulation. The MRO brings detailed knowledge of possible alternate medical explanations to their review of the test results. This review is performed by the MRO prior to the transmission of results to the City.

#### *Medical Review Officer Role*

The MRO is a consulting physician who is a licensed doctor of medicine or osteopathy with knowledge of substance abuse disorders, symptoms, treatment, and toxicology. The MRO's primary function is to review, interpret and report positive test results of the applicant or employee. The MRO or the authorized representative will also report negative test results.

Before reporting a positive drug test result on a covered employee to the company, the MRO will give the "donor" (applicant or employee) a chance to discuss it. If a prescription drug is involved, the donor will be asked to provide the name of the medication and the prescribing doctor's name for verification. The MRO may review the employee's medical history, any relevant biomedical factors, and medical records made available by the employee to determine whether a positive test resulted from legally prescribed medication before verifying a test result as "positive" or "negative."

The MRO may communicate a positive result on a covered donor to the City if:

- 1) The donor has told the MRO or the authorized representative that they do not wish to discuss the results of the test; or

- 2) The MRO has spoken with the donor, and has concluded that the positive drug test result indicates unauthorized use of a controlled substance; or
- 3) The MRO can't reach the donor, and has asked the Human Resources Department to contact the donor and relay the message to contact the MRO; but the donor has not responded within (5) five days of documented receipt of the message.

NOTE: If a test is verified positive under the latter circumstances, the donor may give the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented from contacting the MRO. On the basis of this information, the MRO may re-open the verification, allowing the donor to present information concerning a legitimate explanation for the positive test. If the MRO concludes that there is a legitimate explanation, the MRO shall verify the test as negative.

Upon verifying a test result as positive, the MRO will inform the donor of the option for having the "split" portion of their specimen tested. The donor must notify the MRO of a desire to exercise this option within 72 hours of being notified of the positive result.

The MRO will not delay reporting of a verified positive test result pending "split" specimen testing. If a donor requests testing of the "split" specimen but none is available, the MRO will cancel the test.

#### *Communication of Results*

The MRO or the designated representative will report test results ONLY to individuals authorized by the City to receive them. Confidentiality will be strictly maintained. If the result is positive, the MRO or the authorized representative will report the identity of the controlled substance.

Employees and applicants may obtain copies of their test results by requesting them in writing from the MRO within 60 days of being notified of the results.

### **FAILURE TO COOPERATE**

Failure to cooperate with any aspect of this Policy, including but not limited to falsifying or attempting to falsify test results or specimens or refusing to cooperate in testing will subject the employee to progressive discipline, up to and including discharge. Any covered driver who refuses to take a drug or alcohol test to comply with FHWA regulations (49 CFR Part 382) will be immediately removed from duty as required by these federal regulations.

### **DISCIPLINARY ACTION AND PROCEDURES**

- 1) An otherwise qualified applicant for a covered driver position whose drug test results are negative and who has documented satisfactory participation in a previous employer's drug and alcohol testing program, will be considered qualified for the position offered. Applicants with verified positive drug test results will be considered ineligible for the position.

- 2) Any covered driver found to be in violation of this Drug and Alcohol Testing Policy will be removed from duty and will be subject to progressive discipline, up to and including discharge. Violations include:
  - a. Alcohol possession or use in violation of the prohibitions stated in this Policy (e.g. pre-duty, post-accident; see page 2)
  - b. An alcohol test result of 0.04 or greater
  - c. A verified positive drug test result
  - d. Refusal to test or to cooperate
  
- 3) A covered driver determined to have evidence of alcohol in their system below 0.04 will be subject to progressive discipline.
  - a. On the first occasion in any two-year period in which a covered driver has a breath alcohol test result of 0.02 or greater, but less than 0.04, they will be immediately removed from work for the remainder of their shift. The covered driver would have the option of returning to work at the start of their next regularly scheduled shift but would remain in a non-duty status until 24 hours had elapsed since the time of their test. The time away from work may be considered vacation time or personal leave time, if such is available; otherwise, it will be considered leave of absence without pay. No further alcohol testing will be required prior to resuming work at the end of the 24-hour period. This occurrence shall be considered a violation of this Policy, and will subject the employee to progressive discipline.
  - b. The second and any subsequent occasion in any two-year period in which a covered driver has a breath alcohol test result of 0.02 or greater, but less than 0.04, they will be immediately removed from work for a period of at least 24 hours. The time away from work may be considered vacation time or personal leave time, if such is available; otherwise, it will be considered leave of absence without pay. No further alcohol testing will be required prior to resuming work at the end of the 24-hour period. These occasions will be considered violations of this Policy, and will subject the employee to progressive discipline.
  
- 4) Covered drivers who have come forward and voluntarily entered into drug and/or alcohol evaluation and treatment programs shall not have that admission used as a step against them in progressive disciplinary proceedings.
  
- 5) Any combination of verified positive drug and confirmed alcohol tests shall be treated under the drug discipline procedures.
  
- 6) Under the City's own authority, any covered driver who has had a confirmed alcohol result of 0.04 or above shall be subject to progressive disciplinary procedures. Before returning to duty, they must agree to the following conditions:

- a. First Incident
  - i) Meet all return to duty requirements of the FHWA
  - ii) In the event the Substance Abuse Professional does not specify any follow-up testing, shall undergo two (2) periodic unannounced drug and/or alcohol tests at the discretion of the Human Resources Department within one (1) year of returning to duty. These tests will be conducted under City authority, in addition to any other required tests.
  
- b. Second Incident
  - i) Meet all return to duty requirements of the FHWA
  - ii) In the event the Substance Abuse Professional does not specify any follow-up testing, shall undergo six (6) periodic unannounced drug and/or alcohol tests at the discretion of the Human Resources Department within one (1) year of returning to duty. These tests will be conducted under City authority, in addition to any other required tests.
  - iii) Enter into a pre-dismissal hearing including a last chance agreement.
  
- c. Third Incident
  - i) Termination (a pre-dismissal hearing will be allowed.)
  
- 7) Under the City's own authority, any covered driver who has had a verified positive drug test shall be subject to progressive disciplinary procedures. Before returning to duty, they must agree to the following conditions:
  - a. First Incident
    - i) Meet all return to duty requirements of the FHWA
    - ii) In the event the Substance Abuse Professional does not specify follow-up testing, the employee shall undergo six (6) periodic unannounced drug tests at the discretion of the Human Resources Department within one (1) year of returning to duty. These tests will be conducted in addition to any other required tests.
  
  - b. Second Incident
    - i) Meet all return to duty requirements of the FHWA
    - ii) Enter into a pre-dismissal hearing including a last chance agreement
  
  - c. Third Incident
    - i) Termination (a pre-dismissal hearing will be allowed)

## **RETURN TO DUTY PROCEDURES**

The following statements reflect the return to duty and follow-up testing requirements of the FHWA:

- 1) Covered drivers who have had alcohol test results of 0.04 or greater must be evaluated, undergo treatment, if required, and be recommended for return to work by the Substance Abuse Professional. A "return to duty" alcohol test with a result less than 0.02 is required prior to resumption of safety-sensitive or covered driving functions.
- 2) Covered drivers who have had verified positive drug tests must be evaluated, undergo treatment, if required, and be recommended for return to work by the Substance Abuse Professional. A negative "return to duty" drug test is required prior to resumption of safety-sensitive or covered driving functions.
- 3) Covered drivers may be subject to periodic unannounced follow-up alcohol and/or drug testing as determined by the Substance Abuse Professional who evaluated the employee. If the driver was found to need assistance in resolving their alcohol misuse or drug abuse problem, a minimum of six (6) such follow-up tests must be conducted during the twelve (12) months following the driver's return to duty.

## **RECORD KEEPING PROCEDURES**

The City's Human Resources Department will maintain drug testing records in a secure filing system, separate from the City Personnel files, with information available only on a "need to know" basis.

A driver is entitled, upon written request, to obtain copies of any records concerning their use of alcohol or controlled substances. Requests for such information may be directed to the Human Resources Department or to the City drug testing management service (see Section D)

Information regarding an individual's drug test results or rehabilitation may be released only upon written consent of the individual, except:

- 1) Such information must be released to the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the employer or any of its drivers.
- 2) Such information may be disclosed in a lawsuit, grievance, or other proceeding initiated by or on behalf of the covered driver and arising from an alcohol test and/ or a verified positive drug test or from The City's determination that the driver engaged in conduct prohibited by FHWA regulations.
- 3) When requested by the National Transportation Safety Board as part of an accident investigation, The City will disclose information regarding post-accident alcohol and/or drug testing.

The City shall release information regarding a covered driver's records to a subsequent employer upon receipt of a specific written request authorizing release of the records to an identified person.

*Record Retention*

The following schedule of record keeping will be maintained by the Human Resources Department and their authorized agents:

- Negative and canceled drug test records; records of alcohol test results less than 0.02 1 year
- Specimen collection/alcohol test records; records of supervisor training 2 years
- Records of verified positive drug test results; alcohol test results of 0.02 or greater; refusals to be tested for drugs and/or alcohol; SAP evaluations and referrals 5 years
- Documentation of EBT calibration 5 years
- Calendar year record of total number of employees tested and the results of tests 5 years

**INFORMATIONAL RESOURCES**

Information on this Policy and associated procedures is available Monday through Friday, from 8 a.m. until 5 p.m. from:

*Human Resources Department  
Telephone: (503) 722-3426*

Questions may also be addressed directly to The City's drug testing management service (see Section D).

## **Section A: Definition of Terms**

For the purposes of this Policy, the following definitions apply.

### **Accident:**

Reportable accident (covered drivers): An accident involving a commercial motor vehicle in which:

- a. A fatality occurred; OR
- b. The driver received a citation for a moving traffic violation AND a person involved in the accident needed medical care away from the scene of the accident; OR
- c. The driver received a citation for a moving traffic violation AND one or more vehicles involved in the accident needed to be towed from the scene of the accident; OR
- d. As described in Appendix E for The City's covered employees.

**Alcohol:** Ethyl alcohol or ethanol

**Human Resources Manager:** Designated Manager with responsibility for implementing The City's Drug and Alcohol Testing Policy.

**Blind Sample:** A urine specimen submitted to a laboratory for quality control testing purposes, with a fictitious identifier, so that the laboratory cannot distinguish it from employee specimens, and which is spiked with known quantities of specific drugs or which is blank, containing no drugs.

**Breath Alcohol Technician:** An individual who has been trained to proficiency in the operation of the evidential breath testing device the employee is using as required under 49 CFR Part 40.

**Breath Alcohol Testing Site:** A location which affords visual and aural privacy for the performance of breath alcohol testing. No unauthorized person shall be permitted access to the breath alcohol testing site when the evidential breath testing device is unsecured or at any time when testing is being conducted. In unusual circumstances, e.g. after an accident when a test must be conducted outdoors, the breath alcohol technician must provide visual and aural privacy to the greatest extent practicable.

**CFR:** United States Code of Federal Regulations

**Chain of Custody:** Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory be used from time of collection to receipt by the laboratory.



**Collection Site:** A designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

**Collector:** A person who instructs and assists applicants and employees through the urine specimen collection process.

**Confirmation Test:** A second analytical drug testing procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC-MS) is the only authorized confirmation method for DOT mandated drug testing.

**Controlled Substances:** Substances listed on Schedules I through V in 21 U.S.C. 802 as they may be revised from time to time (21 CFR 1308). Controlled substances include illicit drugs and drugs which may be authorized for use by a physician or dentist for certain medical uses, but which are subject to misuse or abuse.

**City:** City of Gladstone

**Covered Driver:** Individual who is required to hold a Commercial Driver's License (CDL) for their job with The City and who is subject to drug testing under Federal Highway Administration, Department of Transportation regulations (49 CFR Parts 40 and 382).

**DOT:** United States Department of Transportation

**The City:** The City of Gladstone

**FHWA:** Federal Highway Administration

**GVWR:** Gross Vehicular Weight Rating; size criterion for determining classification of a commercial motor vehicle under federal regulations.

**Initial or Screening Test:** An immunoassay screen to eliminate "negative" urine specimens from further consideration.

**Medical Review Officer (MRO):** A licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders and drug testing who is responsible for reviewing and verifying drug testing results prior to their communication to the Human Resources Department.

**Negative Drug Test:** A test in which initial or confirmation testing under DOT procedures did not show evidence of a prohibited drug in an employee's or applicant's system above established levels; OR, a test which is verified as negative by the MRO (e.g. review showed positive test was due to prescription medication or other authorized use of controlled substance).

**NIDA:** National Institute on Drug Abuse. Formerly the agency under the U.S. Department of Health and Human Services responsible for certifying laboratories to perform federal

workplace drug testing. This function is now performed by the Substance Abuse and Mental Health Services Administration (SAMHSA).

**On Duty:** Under this policy, a covered driver is “on duty” when they are at work and ready to perform safety-sensitive functions, e.g. qualified and available to drive a commercial motor vehicle.

**Positive Drug Test:** A urine drug test result which indicates the presence of controlled substances beyond the cut-off levels specified by 49CFR Part 40.

**Confirmed Positive Drug Test:** A positive drug test which has undergone an initial “screening” test AND a confirmation test which validates the first result. Drug tests are confirmed by the SAMHSA certified laboratory which performs the analyses.

**Verified Positive Drug Test:** A confirmed positive drug test (see above) after investigation by the MRO, who has determined that no legitimate explanation exists for the presence of the controlled substance that was detected.

**Prohibited Drugs:** Marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.

**Random Testing:** Computerized random selection and testing for drugs in which each person in the computer data base has an equal chance of selection each time a selection occurs, in accordance with regulatory requirements.

**Reasonable Suspicion:** Observations of an employee’s condition or performance that indicate possible drug or alcohol use. Examples include deteriorating work performance, poor attendance, tardiness, appearance (including, for example, noticeable odor of an alcoholic beverage), behavior, or speech of the employee.

**Refusal to Submit:** Refusal by an individual to provide a urine or breath specimen after receiving notice of the requirement to be tested in accordance with this Policy.

**Safety Sensitive Functions:** Ready to perform, performing, or just finished performing, the following duties: waiting to be dispatched, inspecting equipment, driving, loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate a vehicle, repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

**SAMHSA:** Substance Abuse and Mental Health Services Administration, a division of the US Department of Health and Human Services (DHHS) which is responsible for certifying laboratories to perform federal workplace drug testing. Formerly, the National Institute on Drug Abuse (NIDA).

**Screening or Initial Test:** immunoassay screen to eliminate “negative” urine specimens from further consideration.

**Split Specimen Collection Procedure:** A collection procedure in which a urine specimen is divided or “split” between two shipping bottles, both of which are transported to the testing laboratory.

**Split Test:** If the results of the initial screening and confirmation tests of the “primary” specimen are positive, the “split” specimen may be tested at another qualified laboratory.

**Substance Abuse Professional:** Under DOT regulations, individuals who may serve as substance abuse professionals include:

- \* licensed physicians (Medical doctors or Doctors of Osteopathy) or
- \* Licensed or certified psychologists, social workers, employee assistance professionals, or addiction counselors (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

Under this Policy, the Human Resources Department will inform employees or applicants who are found to have violated the alcohol prohibitions or who have had verified positive drug tests of qualified Substance Abuse Professionals in the local area.

## **Section B: Uneventful Collection Scenario**

Under this Policy, drug testing specimens will be collected according to federal workplace drug testing requirements (49 CFR Part 40). The following is a brief summary of the collection procedure. Further details are available from the City drug testing management service (see Section D).

This process is for a standard collection with no unusual situations or anomalies. The collector should complete this standard collection utilizing the Federal Custody and Control Form. A summary of the collection procedures is listed below.

### **Preliminary Steps 49 CFR 40.61**

- Positively identify the employee to be tested.
- Provide collector identification to the employee, if requested.
- Explain the basic collection procedure to the employee and show the employee the instructions on the back of the CCF.
- Direct the employee to remove outer clothing (coveralls, jacket, coat, and hat) and leave these garments and briefcase, purse or other personal belonging with the collector or in a mutually agreeable location.
- Direct the employee to empty their pockets and display the items in them.
- Instruct the employee not to list medications that they are currently taking on the CCF.

### **Collection Steps (Prior to Collecting the Urine Specimen) 49 CFR 40.63**

- Complete Step 1 of the CCF.
- Instruct the employee to wash and dry their hands and instruct the employee not to wash their hands again until after delivering the specimen to the collector.
- Select, or allow the employee to select, an individually wrapped or sealed collection container. Either the collector or employee, with both present, must unwrap or break the seal of the collection container.
- Direct the employee to go into the room used for urination, provide a specimen of at least 45 mL, not flush the toilet and return to the collector with the specimen as soon as the void is complete.

### **Checking the Urine Specimen 49 CFR 40.65**

- Sufficiency of specimen – Ensure that the specimen contains at least 45 mL of urine.
- Temperature – Check the temperature of the specimen no later than 4 minutes after the employee is given the specimen to ensure it is within the acceptable range of 90-100 degrees Fahrenheit. Mark the “yes” box on the CCF (Step 2) to indicate the specimen is within the acceptable range.
- Signs of tampering – Inspect the specimen for unusual color, presence of foreign objects or materials, or other signs of tampering.

### **Preparing the Specimens 49 CFR 40.71**

- Check the box on the CCF (Step 2) to indicate a split specimen collection.
- Pour at least 30 mL of urine from the collection container into one specimen bottle, to be used for the primary specimen. (The specimen bottles must be unwrapped in the employee’s presence).
- Pour at least 15 mL of urine from the collection container into the second specimen bottle, to be used for the split specimen.
- Place and secure the lids/caps on the bottles.
- Seal the bottles by placing the tamper-evident bottle seals.
- Write the date on the tamper-evident bottle seals.
- Ensure that the employee initials the tamper-evident bottle seals for the purpose of certifying that the bottles contain the specimens they provided.

### **Completing the Collection Process 49 CFR 40.73**

- Direct the employee to read and sign the certification statement on Copy 2 (Step 5) of the CCF and provide date of birth, printed name and day and evening contact telephone numbers (See attached sample CCF for reference).
- Complete the chain of custody on the CCF (Step 5) by printing your (the collector’s) name (this may be pre-printed), recording the time and date of the collection, signing the statement, and entering the name of the delivery service transferring the specimen to the laboratory (See attached sample CCF for reference).
- Ensure that all copies of the CCF are legible and complete.
- Remove the Copy 5 of the CCF and give it to the employee.
- Place the specimen bottles and Copy 1 of the CCF in the appropriate pouches of the plastic bag.
- Secure both pouches of the plastic bag.
- Advise the employee that they may leave the collection site.
- Prepare the sealed plastic bag for shipment to the laboratory by placing it in a shipping container and sealing the container, or prepare it for shipment as directed by the courier service if a laboratory courier will hand-deliver the specimen from the collection site to the laboratory.

- Send Copy 2 of the CCF to the MRO and Copy 4 to the DER within 24 hours or during the next business day. Retain Copy 3 for at least 30 days, unless otherwise specified by DOT agency regulations.
- Ensure that the specimen is shipped to the laboratory within 24 hours or during the next business day.

### **Section C: Breath Alcohol Testing Procedures**

Under this Policy, breath alcohol testing will be performed according to federal workplace alcohol testing requirements (49 CFR Part 40). The following is a brief summary of the breath testing procedure.

- 1) **Timing of Breath Alcohol Tests:** Alcohol testing may occur any time a covered driver is on duty (see Appendix A for definitions of these terms). Testing will also be performed as part of the application process; applicants will be given adequate notice of this requirement prior to testing. Testing will occur at breath testing sites designated by the Wolfgang Assoc., drug testing management service (see Appendix D).
- 2) **Scope of Breath Alcohol Tests**
  - a. Breath alcohol testing procedures will conform to federal workplace alcohol testing requirements (49 CFR Part 40).
  - b. Testing will be performed only by qualified Breath Alcohol Technicians (see Appendix A, "Definition of Terms") using evidential breath alcohol testing devices listed on the Conforming Products List of the Nation Highway Traffic Safety Administration.
  - c. Testing locations will afford visual and aural privacy to the employee being tested, and unauthorized persons will be excluded from the testing area. Under post-accident conditions, privacy will be provided to the greatest extent practicable.
- 3) **Employee Signatures Required:** Employees will be required to sign the Breath Alcohol Test Form prior to and following the completion of the alcohol test. Refusal to sign Step 2 of the Form will be considered refusal to test.
- 4) **Screening Alcohol Test**
  - a. The Breath Alcohol Technician (BAT) will show the employee the test number associated with their test on the display of the Evidential Breath Testing device (EBT) prior to performing the test. (The BAT will also show the employee the test result on the EBT display after the test.) The BAT will follow DOT requirements (49 CFR Part 40) in handling any discrepancies between the displayed and printed test information.
  - b. Each breath test will be conducted with a new, individually-sealed mouthpiece. The employee will be instructed to take a deep breath and to blow into the mouthpiece of the EBT until the BAT says to stop.
  - c. The test result will be printed on, or attached to the back of, the Alcohol Test Form.

- d. If the employee is unable after repeated attempts to provide an adequate breath sample, the BAT will document their efforts to conduct the test and notify the Human Resources Department or their designated representative by telephone.
- e. If the screening alcohol test result is less than 0.02, no further testing will be conducted. The result will be reported to the Human Resources Department by a copy of the Breath Alcohol Test Form.
- f. Any screening alcohol test with a result of 0.02 or above will be confirmed by a confirmatory breath test.

5) **Confirmatory Test**

- a. The BAT will instruct the individual being tested not to smoke, use mouthwash, drink, eat, or otherwise put any object or substance in their mouth for a period of 15 minutes.
- b. Within 20 minutes of the completion of the screening test, the BAT will conduct a confirmatory breath test in the same manner as described above ("Screening Test"), except that an "air blank" must be conducted prior to the test. The result will be printed on, or attached to the back of, the Alcohol Test Form.
- c. If the confirmatory alcohol test result is less than 0.02, no further testing will be conducted. The test results will be reported to the Human Resources Department by a copy of the Breath Alcohol Test Form.
- d. If the confirmatory alcohol test result is 0.02 or greater, the BAT will immediately notify the Human Resources Department or their designated representative by telephone. A copy of the Alcohol Test Form will then be forwarded to the Human Resources Department.

- 6) **Results Reporting:** All test results will be transmitted in a confidential manner, with safeguards to prevent the disclosure of information to unauthorized persons.

Further details concerning the procedures for performing breath alcohol testing are available from the drug testing management service and/or the Human Resources Manager (see Section A and Section D).



## **Section D: Service Providers**

**The City needs to verify the following information is correct for drug testing. If not, then the current information should be inserted before execution and the person who is preparing the signature agreement should make these changes before the December Council Meeting**

### **DRUG AND ALCOHOL TESTING MANAGEMENT SERVICE**

The City's drug testing management service is:

WorkSAFE Service, Inc.  
744 Hawthorne Avenue NE  
Salem, OR 97301-4657  
(503) 391-9363

This organization is responsible for overseeing compliance of agents of The City with federal regulations, including interacting with specimen collection and alcohol testing agents, designated drug testing laboratories and Medical Review Officers. It also performs random selections, submits blind specimens on behalf of the City, and maintains records as required by federal regulations.

### **MEDICAL REVIEW OFFICERS**

Medical Review Officer services are provided through WorkSAFE Services, Inc. at the address shown above. The physicians with whom employees would speak in the event of a positive drug test result are:

**Dr. Kirby Griffin**

### **DRUG TESTING LABORATORIES**

THE City will use drug testing laboratories which are SAMHSA-certified, as required by federal drug testing regulations. The primary laboratory on the effective date of this Policy is:

**Oregon Medical Laboratory**

The City drug testing management service may arrange for the services of a different certified drug testing laboratory in order to best serve the interests of the City.

### **SUBSTANCE ABUSE PROFESSIONALS**

Under this Policy, covered employees who refuse testing, have alcohol test results of 0.04 or greater, and/or have verified positive drug test results must be referred by the Human Resources Department to a Substance Abuse Professional for evaluation. The City will maintain a list of such qualified individuals in its geographic area and make this list available to covered drivers as needed.

The City drug testing management service will assist the City in locating Substance Abuse Professionals in the driver's community upon request.

### **Section E: Post-Accident Testing**

Under the City's own authority, any covered driver, employed by the City, directly involved in an injury accident on the job (an injury of a serious nature requiring professional medical care) or is involved in an accident while operating City equipment (resulting in property damage in excess of \$400.00) may be required to undergo drug and /or alcohol testing. Data derived from this test will be used as a tool in the overall evaluation of the incident.

Determination of when testing is necessary shall be made by the Human Resources Manager. All post-accident testing and procedures shall be consistent with FHWA Regulations.