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19-MED-02-0119  
39827

**COLLECTIVE BARGAINING AGREEMENT**

between

**THE CITY OF MARTINS FERRY, OHIO,**

and

**THE AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL  
EMPLOYEES,  
OHIO COUNCIL 8, AFL-CIO,**

on behalf of

**LOCAL UNION #1260**

**EFFECTIVE MAY 1, 2019**

through

**APRIL 30, 2022**

**SERB CASE #2019-MED-02-0119**

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## **ARTICLE 1 - PREAMBLE**

This Agreement is made and entered into by and between the City of Martins Ferry, Ohio, hereinafter referred to as the "City" or the "Employer," and the American Federation of State, County and Municipal Employees, Ohio Council 8, Local 1260, hereinafter referred to as the "Union."

The purpose of this contract is to provide an orderly and peaceful procedure for the resolution of grievances of bargaining unit employees. This Agreement also allows bargaining unit employees through Union representation to participate in the establishment of working terms, hours and conditions of employment in the City of Martins Ferry.

## **ARTICLE 2 - RECOGNITION**

**Section 2.1** The City recognizes the Union as the sole and exclusive representative for the purpose of establishing rates of pay, wages, hours and other conditions of employment for all the employees of the City in the bargaining unit. As used in this Contract, the term "bargaining unit" shall be deemed to include those employees employed in the classification as listed in Section 3 of Article 2, and who are regularly scheduled to work at least twenty (20) hours per week.

**Section 2.2.** New hires shall be considered to be on probation for a period of ninety (90) calendar days. During such period, the Employer shall have the sole discretion to discipline, terminate, or discharge such employee(s), and any such action shall not be appealable through any grievance or appeal procedure, or to any Civil Service Commission.

**Section 2.3.** Except as hereinafter limited, the term "employee," as used herein, shall apply to all employees defined under the term "bargaining unit" who are employed in or perform the duties within the following classifications:

Auditor's Clerk	Packer Laborer
Dispatcher	Parking Enforcement Office
Electrician	Payroll Clerk
Equipment Operator (Street)	Pipe Fitter
Floater Clerk	Relief Water Operator/Maintenance Man
Heavy Equipment Operator (Water)	Sanitation Truck Driver
Janitor	Service Department Clerk
Laboratory Technician	Sewer Maintenance/Truck Driver
Laborer (Street)	Sign Painter
Laborer/Back-up Meter Reader	Sweeper Operator
Laborer/Heavy Equipment Operator	Truck Driver (Street)
Maintenance Man (Water Department)	Truck Driver (Water)
Mechanic	Utility Office Clerk
Meter Reader	Water Operator

**Section 2.4.** Newly created classifications shall be a proper subject of negotiations between the City and the Union to determine if such classification(s) are to be included herein. If the City and

the Union cannot reach a mutual agreement relative to any such classification or position within thirty (30) days after the date they were created, then the matter shall be referred to the State Employment Relations Board (SERB).

**Section 2.5.** Job descriptions for jobs in the bargaining unit shall be written and jointly agreed on by the City and the Union.

**Section 2.6.** Any job classifications mentioned in prior SERB Amendments of Certification and prior Agreement Recognition Clauses that are not mentioned in Section 2.3 of this Agreement shall be inactive. Should the City ever reactivate those job classifications, they will remain within AFSCME Local 1260's Bargaining Unit, and the City will meet with the Union within 30 days to negotiate the classification's wage rate.

### **ARTICLE 3 – UNION SECURITY AND DUES CHECKOFF**

**Section 3.1.** The City agrees that payroll deductions of Union dues shall be made in accordance with the deduction card submitted by the Union, and the City shall comply with the provisions of said authorization card for all employees who have signed an authorization card.

**Section 3.2.** The amount to be deducted shall be certified to the City by the Union and the aggregate deductions shall be remitted to the Local Union Treasurer within two (2) calendar weeks from the date of such deductions along with an itemized statement of the deductions.

**Section 3.3.** The form of the authorization is attached hereto as Appendix "A."

**Section 3.4** It is specifically agreed that the Employer assumes no obligation, financial or otherwise, except as herein provided, and the Union hereby agrees that it will indemnify and hold the Employer harmless from any claims, actions, or proceedings by any employee arising from deductions made by the Employer pursuant to this article. Once the funds are remitted to the Union, their disposition thereafter shall be the sole and exclusive obligation and responsibility of the Union. The Employer shall not be obligated to deduct dues or fair share fees from any employee who, during any pay period involved, shall have failed to receive sufficient wages to equal the dues deductions.

**Section 3.5.** Employees who are members of the Union may revoke their union membership at any time by sending written notice to the Union of their desire to drop their union membership. Revocation of union membership does not revoke union dues authorization, which may only be revoked as set forth in Section 3.6 below.

**Section 3.6.** Any voluntary dues checkoff authorization shall be irrevocable, regardless of whether an employee has revoked union membership, for a period of one (1) year from the date of the execution of the dues checkoff card and year to year thereafter, unless the employee gives the City and the Union written notice of revocation not less than ten (10) and not more than twenty-five (25) days before the end of any yearly period. Copies of the employee's dues checkoff authorization are available from the Union upon request.



## **ARTICLE 4 – FAIR SHARE FEE**

**Section 4.1.** “Fair Share Fee” shall no longer apply. In the event that any Federal or State legislative body with authority over Ohio reinstitutes fair share fees, the Union and the City will meet and renegotiate this Article of the Agreement.

## **ARTICLE 5 – DISCRIMINATION AND COERCION**

**Section 5.1.** The City and the Union agree that both parties shall not discriminate against any employee on the basis of age, sex, color, creed, national origin, religion, political affiliation, marital status, sexual preference, genetic history, disabilities, or military status.

**Section 5.2.** ADA Compliance. The Union and the City agree this contract will comply with the American with Disabilities Act (ADA). If a City employee with a bona fide disability under the ADA makes a request for a reasonable accommodation under the Act, that employee has the right to Union representation during the process to identify the accommodation.

The City will notify the Union in advance of any reasonable accommodation it proposes to make. The notice will include information concerning the nature of the disability and the accommodation to be made. If the Union wishes to discuss the accommodation, it will make written request of the City for a meeting to discuss the matter within five (5) working days of the receipt of the notice and the parties will meet before any accommodation is made. The accommodation the City ultimately makes shall not be grievable by the Union unless the Union can demonstrate that the accommodation made was an arbitrary and/or capricious violation of a specific article or section of this Agreement.

**Section 5.3.** The City agrees that it shall not discriminate against, interfere, restrain or coerce any employee because of membership in the Union or because an employee holds Union office, nor shall it interfere with an employee's rights to become a member of the Union.

**Section 5.4.** The Union and its representatives recognize the Union's responsibility as the bargaining unit agent and agree to represent all employees in the bargaining unit without discrimination, interference, restraint or coercion. The Union agrees not to interfere or coerce any employee in an effort to recruit membership in the Union.

**Section 5.5.** The City and the Union agree that employees shall not suffer sexual harassment at the workplace. Such harassment may be considered a violation of the 1964 Civil Rights Act. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- A. Submission to the conduct is either an explicit or implicit term or condition of employment;
- B. Submission to, rejection of, the conduct is used as the basis for employment decisions affecting the person who did the submission or rejection;

- C. Such conduct has the purpose of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

## **ARTICLE 6 – MANAGEMENT RIGHTS**

Nothing in this Contract shall be construed as delegating to others the powers and responsibilities vested exclusively in the City by state laws to manage and direct the work forces including the right to hire, discipline for cause, the right to plan, to promulgate reasonable work rules, direct and control the Employer's operations, relieve employees from duty because of lack of funds, or for other legitimate reasons.

This Contract shall be construed as requiring the Employer to follow the procedure and policies prescribed herein, to the extent that they are applicable, in the exercise of the authority conferred upon them in compliance with the laws of the State of Ohio.

## **ARTICLE 7 – BULLETIN BOARDS**

The City shall provide the Union with a designated bulletin board for posting notices. The Union agrees that all bulletins posted will be simply announcements of times, places and purposes of meetings to be held and other pertinent information.

## **ARTICLE 8 – UNION REPRESENTATION AND STEWARDS**

**Section 8.1.** The City agrees that accredited representatives of the American Federation of State, County and Municipal Employees, AFL-CIO, whether local union representatives, Ohio Council 8 representatives, or International representatives shall have access to the premises of the City, except the police radio room and the lieutenant's office, at any time during normal working hours upon presentation of proper credentials. No Union representative shall, in any event, interfere with the normal work operations of the City.

**Section 8.2.** The accredited union representative shall report his presence to the appropriate official of the City when entering a City building or work area. The Union agrees to notify the City in writing as to the identity of these accredited representatives.

**Section 8.3.** The Union shall be permitted one steward in the Water Department, one for the Service Department and one for the City Hall employees, and the Union shall furnish their names to the City. The stewards shall be permitted a reasonable amount of time to investigate and process grievances without loss of pay.

**Section 8.4.** The Union agrees to provide the City with the names and offices of employees elected to Union positions. All stewards and officers of the Union are subject to all of the rules and regulations regarding the conduct of employees on the Employers premises, and it is understood and agreed that they are employed to perform full-time productive work for the City except when performing those duties specified in this Contract. It is understood and agreed by the parties that each will cooperate with the other in reducing to a minimum the actual time spent by the stewards and officers in investigating, presenting and adjusting grievances or disputes. In

the investigation, presenting and adjusting of grievances or disputes shall be done during work hours and shall be limited to one hour per day. Additional time may be granted upon mutual agreement of the Union and the City.

**Section 8.5.** All employee records in respect to sick leave accumulation, vacation time status, overtime hours worked and other similar work-related records shall be available in the Auditor's office or the personnel office to the accredited stewards or officers in the performance of their official duties.

**Section 8.6.** Union Leave. Union officers and elected delegates of the Union shall be granted ten (10) days of Union leave per year to attend conventions, training seminars and other events of the Union. Wages and benefits will be the responsibility of AFSCME; however, the employee may use any paid leave to which he is entitled to cover the unpaid portion of such leave. Requests for the use of union leave shall be made no later than two (2) calendar days in advance of such use. These requests shall not be unreasonably denied.

In 2022, up to four (4) members of the Union bargaining team will be allowed up to eight (8) hours of paid release time to meet with a Union Staff Representative in Martins Ferry, Ohio, for the purposes of bargaining preparation.

In addition, two (2) Union officers (or their designees) will be allowed eight (8) hours of paid release time to attend AFSCME meetings and trainings at the Youngstown Regional Officer per year. Union officers must submit proof of attendance at the meetings and trainings to the City within that pay period.

## **ARTICLE 9 – HOURS OF WORK**

**Section 9.1.** Except for employees engaged in a continuous operation, who shall be covered by department work rules, the normal work week shall be five (5) consecutive eight (8) hour days, Monday through Friday inclusive of a minimum thirty (30) minute lunch period every day.

**Section 9.2.** The "work day" shall begin at the employee's starting time thereto and end twenty-four (24) hours later. The "work week" shall begin on Sunday at 12:01 o'clock a.m. or the nearest starting time thereto.

**Section 9.3.** Employees paid in excess of eight (8) hours in a work day or more than forty (40) hours in a work week shall be paid at the rate of one and one-half (1 1/2) times their regular rate of pay for all overtime hours worked. Overtime payments shall not be duplicated for the same hours worked.

**Section 9.4.** The City shall give the Union a two (2) work day advance notice of temporary schedule changes if it is needed. The two (2) work day advance notice may be waived by the Union.

**Section 9.5.** Work Assignments for Cemetery. Work assignments in the Cemetery shall be made according to an employee's seniority in the Service Department. Such assignments shall



normally be given to the Laborer(s) with the least seniority within the Department. More senior employees may exercise their departmental seniority for the purpose of choosing these work assignments.

- A. Overtime. Should a burial be scheduled on a weekend (Saturday or Sunday) or a holiday, the work shall be offered first to the employees normally assigned, provided that they are qualified to perform the necessary work; and then to other qualified employees in accordance with Article 21 of this Agreement.
- B. Payment for the assignments outlined in "A" above shall be at the appropriate overtime rates for the actual hours worked.

**Section 9.6.** Call out Pay. Call out time is defined as being recalled to work after the employee has completed his regular work day and has left the department. Pay for such call outs shall be as follows:

If an employee works two (2) hours plus, he shall be paid for four (4) hours at one and one-half (1 ½) times the employee's regular rate.

If an employee works under two (2) hours, he shall be paid for two (2) hours at one and one-half (1 ½) times the employee's regular rate.

Except in the case of a bona fide emergency, employees who are called out under this Section 9.6 shall be required to remain at work until such time as all work related to the call out has been completed.

## **ARTICLE 10 – SENIORITY DEFINED**

**Section 10.1.** Seniority shall be a full-time employee's uninterrupted length of continuous service with the City, department, or job classification, depending upon the question involved. An employee shall have no seniority for the probationary period but completion of the probationary period shall result in seniority commencing retroactively to the date of hire. For the purpose of this article, "full-time employee" shall be defined as per Article 2, Section 2.1, of this Agreement. This Article shall in no way effect any employee's seniority status as of the effective date of this Agreement May 1, 1992.

**Section 10.2.** The City shall post both a Department and a Total seniority roster in the various departments of the City covering the employees in such departments.

**Section 10.3.** There shall be three (3) types of seniority:

- A. "City-Wide Seniority," which is the total cumulative service with the City;
- B. "Department Seniority," which is the total length of service an employee has been employed in a department;



C. "Classification Seniority," which is the total length of time employed in a classification.

**Section 10.4.** For the purpose of vacations, holidays, paid sick leave, promotions, job bidding, and layoffs (bumping), seniority shall apply as provided herein, subject to the provisions of this Contract.

**Section 10.5.** An employee may accumulate seniority in only one department at a time. When an employee promotes or transfers from one department to another department, he shall be placed at the bottom of the seniority list in that department to which he has been transferred or promoted.

**Section 10.6, Seniority During Disability Leave.** An employee who is unable to work due to a "service-connected" disability or illness shall continue to accumulate seniority during such period of sickness or disability.

**Section 10.7. Seniority During Personal Leave and Layoff.** Except as otherwise provided in this Contract, any employee absent on an authorized leave in compliance with the terms of this Contract shall continue to accumulate seniority during this period of absence.

**Section 10.8.** Department Seniority shall be used to determine vacation preference periods.

**Section 10.9.** Seniority shall be broken (or terminated) when an employee:

- A. Quits or resigns;
- B. Is discharged for just cause;
- C. Is laid off for a period in excess of thirty (30) months.
- D. Is absent without leave five (5) consecutive work days and fails to give proper excuse or notice of the reasons for such absence unless the failure to give notice was beyond the reasonable control of the employee; or
- E. Fails to report for work when recalled from layoff within ten (10) working days from the date on which the City sends the employee notice by certified mail (to the employee's last known address as shown on the City's record).

## **ARTICLE 11 – DEFINITIONS**

**Vacancies.** The term "vacancies" used in this Contract shall be defined as a job opening (1) where the City has increased the number of jobs in a particular classification or (2) where an opening occurs in an existing job as the result of a promotion, transfer, quit, discharge or other termination of employment, or (3) a new job is created.

The term "Department" as used herein shall be defined as follows: Water Department; Service Department, which shall include Sewer Division, Street Division and Sanitation Division and Clerical Department.

Classification Seniority. The continuous length of service in a classification as determined from the date of initial appointment to a specific classification.

Department Seniority. The continuous length of service within a Department as determined from the date of initial appointment to a specific Department.

City-Wide Seniority. The total cumulative service with the City.

In the event two (2) or more employees have identical classification seniority dates, departmental seniority shall prevail. In the event two (2) or more employees have identical department seniority dates, then City-wide seniority will prevail. In the event two (2) or more employees have identical City-wide seniority dates, then the issue will be decided by the casting of lots in each instance in which the question may arise.

## **ARTICLE 12 – FILLING TEMPORARY DEPARTMENT VACANCIES**

**Section 12.1.** For purposes of filling temporary "Department" vacancies to a higher rated position, "Department" seniority shall prevail. Such promotion shall be made on the basis of "Department" seniority from the most senior employee in the next lower classification, provided however, that the employee(s) must have the immediate ability to perform the duties entailed in the vacant position. This provision shall be used to replace employees on vacation or sick leave. Daily work assignments shall be made on the basis of classification seniority.

**Section 12.2.** Temporary and Seasonal Employees. Local 1260 recognizes that the City of Martins Ferry may hire employees on a temporary basis to fill in for regular employees who are on long term leaves (i.e., ten [10] days or more). Such leaves shall include vacation, sick leave, personal days, use of compensatory time, worker's compensation, and for seasonal work.

**Section 12.3.** Temporary employees hired to fill in those positions indicated in the previous paragraph may become eligible for regular full-time employment in the event the employee being filled in for does not return to City employment. It is understood that the temporary employee will only be hired until the regular employee returns or notifies the City that he/she will not return. Employees hired under these circumstances will not be subject to any of the provisions of the Contract.

**Section 12.4.** The City will not hire temporary employees to replace full-time employees in an attempt to reduce the bargaining unit in any way. All temporary employees shall be laid off before any layoffs occur within the regular employee's status.

## **ARTICLE 13 – POSTING OF JOB OPENINGS**

**Section 13.1.** The City agrees to post all positions vacated by current employees. If no bargaining unit employees bid on the vacancy or if an entry level position becomes vacant, the City will determine whether there is a need to fill that position. The City reserves the right to make a temporary appointment limited to fifteen (15) working days until a selection may be made from such qualified individuals who make application thereof.

**Section 13.2.** Whenever there is a job opening in the exclusive bargaining unit covered by this Contract, a notice of the opening will be posted for five (5) working days in all departments of the City and a copy of the notice will be sent to the Union. All City employees will have a five (5) working day period in which to bid for the job by submitting the application to the Service Director's Office. The City will provide a written receipt to those employees who personally apply for a position. The notice shall contain the job classification title, rate of pay, department, area of vacancy, shift and brief job description. If any employee is on leave when a job goes up for bid, the City will notify the employee.

**Section 13.3.** All applications timely filed shall be reviewed by the City and the job will be awarded within five (5) working days. The job will be awarded in accordance with the following preference schedule:

- A. Most senior qualified employee based on department seniority;
- B. Most senior qualified employee within the bargaining unit based on City-wide seniority.

If qualifications are relatively equal, the job will be awarded to the most senior employee. The City further agrees to post a notice within ten (10) working days after the closing of the bid period showing the individual's name that was appointed or if no individual was appointed.

**Section 13.4.** Temporary vacancies shall be filled by department seniority as in Section 13.3 above.

**Section 13.5.** No employee shall be eligible for promotion or transfer who has not satisfactorily completed the required probationary period as provided in this Contract.

**Section 13.6.** The City does hereby agree that an employee may return to his former position during the first half of his probationary period.

**Section 13.7.** An employee awarded a promotion under these provisions shall be given reasonable help and supervision and shall be allowed a reasonable period of time to qualify provided such qualifying time does not exceed thirty (30) working days. The employee shall be considered to have qualified on the new job when he can satisfactorily perform the required duties with no more supervision than is required of other qualified employees on the same or similar job and when his work record as to the quality and quantity of work meets the standards applicable to the job. If, in the opinion of the City, the employee cannot qualify for the position,



the matter shall be discussed with the employee and the Union representative before he is returned to his former position.

**Section 13.8.** An employee shall be paid at a rate of pay of the job he is assigned to at the time of his promotion for the duration of the qualifying time of thirty (30) working days. Once the employee is considered to have qualified he shall receive the rate of pay assigned to that job classification.

#### **ARTICLE 14 – TEMPORARY PAY RATE**

**Section 14.1.** Any employee assigned to a position with a higher rate of pay than his own shall receive the rate of pay of such assigned position beginning from the first hour of such assignment, and such higher rate shall continue at least for the remainder of the employee's regularly scheduled shift.

#### **ARTICLE 15 – LAYOFF AND RECALL**

**Section 15.1.** Whenever it becomes necessary to layoff bargaining unit employees because of lack of funds, or lack of work, the employees shall be laid off in the following order.

- A. All federal or state subsidized employees, i.e., P.I.C. workfare, those doing bargaining unit work, bargaining unit positions;
- B. Part-time and seasonal employee(s), those doing bargaining unit work, bargaining unit positions;
- C. Temporary new hire(s);
- D. Employee(s) who have not completed their probationary period;
- E. Employee(s) who have completed their probationary period.

**Section 15.2.** When it becomes necessary to affect a layoff within a City department, the City will determine which classification(s) must be reduced.

The employee(s) with the least departmental seniority within the affected job classification(s) shall be reassigned to the occupation presently being utilized within the department that they have the ability to "walk up and do." This procedure shall be repeated with all affected employee(s) until the excess employee(s) have been reassigned as Laborer(s) within the affected department.

If no Laborer position exists in the affected department, the displaced employee(s) would be reassigned to the lowest classification within the department that is being utilized provided the displaced employee can "walk up and do the job" as determined by department supervision.

The number of laborers within the respective department will be reduced to the required manning by regressing out of the department with the employee(s) with the least department seniority date.

Employee(s) being displaced in a department will be assigned as Laborer(s) in another department displacing employee(s) with less City-wide seniority.

In the event employee(s) have the same department seniority date, City-wide seniority shall prevail.

The number of assigned laborers over the required manning will be placed on layoff based on City-wide seniority date.

**Section 15.3.** The following communications will be made by the City prior to any layoff affecting bargaining unit employee(s):

- A. The City will meet with the Union and review specific employee(s) that will be affected by the planned layoff.
- B. The Union will receive copies of all layoff notices. When possible, all affected regular full-time employee(s) shall be given a minimum of fourteen (14) calendar days advance written notice of their layoff, by certified mail at their last known address.
- C. The City hereby agrees to not use any subsidized, donated or work relief, etc., during layoff in any bargaining unit positions.

**Section 15.4.** In the event employee(s) are laid off, they may, upon request, receive payment for earned but unused vacation benefits for a one-year period as quickly as possible. The City agrees that such payment will not be later than thirty (30) days after the layoff. Any laid off employee who has earned but unused vacation benefits, which he wasn't compensated for per the above paragraph, shall receive the same vacation balance upon his return to work or be paid for such time thirteen (13) months after the layoff date.

## **ARTICLE 16 – RECALL FROM LAYOFF**

**Section 16.1.** When it is necessary to increase the work force in job classification(s) or department(s) which were affected by layoff, the employee(s) displaced from that job classification(s) or department(s) will be eligible for recall; most senior employees being recalled first. In the event that vacancies occur in Laborer classification(s) the most senior employee(s) laid off, based on City-wide seniority, would be the first recalled.

**Section 16.2.** Employee(s) on layoff will be given fourteen (14) calendar days' notice of recall from the date on which the City sends the recall notice to the employee(s) by certified mail (to their last known address as shown on City records). The fourteen (14) calendar day period may be waived by mutual agreement.

**Section 16.3.** No new employee shall be hired until all employee(s) on layoff status from that job classification have been recalled or are offered recall.

**Section 16.4.** Unless otherwise provided for in this Contract, employees shall not be eligible for benefits when on layoff status.

**Section 16.5. Seniority Status of Local Union Officers Effective January 1, 1987**

When the City decides that the work force in any department or departments is to be reduced, the Chief Steward will be retained at work provided he can perform the work of the job to which he is demoted. The intent of this provision is to retain in active employment the Chief Steward for the purpose of continuity in the administration of the labor Contract in the interest of employees so long as a work force is at work. This provision shall apply also to employees who hold any of the following offices in the Union: President, Vice-President, Secretary and Treasurer.

**Section 16.6.** For purposes of reduction of forces and/or layoffs, the City will consider that two (2) specific groups of employees may exist in the respective departments:

- A. Operation and Maintenance employees;
- B. Clerical employees.

It is understood between the parties that for purposes/of reduction of forces and/or layoffs only, these above identified groups of employees will be handled separately. For the purposes of clerical employees, the pool position shall be recognized as clerk.

**ARTICLE 17 – DISCIPLINE AND DISCHARGE**

**Section 17.1.** Whenever the City determines that an employee may be suspended, reduced, or terminated for just cause, a pre-disciplinary conference will be scheduled to offer the employee an opportunity to an explanation of the alleged conduct.

**Section 17.2.** Discipline. The City shall not discipline or reduce any employee except for just and proper cause. Disciplinary action may be taken in progressive order for related violations as provided herein. Disciplinary action for related violations shall include the following:

- 1. Oral Reprimands:                      Only in presence of Steward.
- 2. Written Reprimands:                State reason for reprimand and send copy of letter to Union.
- 3. Suspension:                            Notice to be given in writing, stating charges, with copy to Union.

Before any of the above stated actions may be taken, the Union must first be advised and have either the Union Steward or other Union representative present while such action is being taken.



**Section 17.3.** Discharge. The City shall not-discharge any employee without just and proper cause. If, in any case, the City feels there is just cause for dismissal, the employee and his Steward will be notified in writing that the employee has been discharged and the reason for the discharge set forth.

**Section 17.4.** The Union shall have the right to take said suspension, dismissal or discharge as a grievance at the second step of the Grievance Procedure and the matter shall be handled in accordance with this procedure through the arbitration step, if deemed necessary.

**Section 17.5.** Any employee found to be unjustly suspended or dismissed shall be re-employed with full compensation for all lost time and restoration of all other rights, benefits and conditions of employment

**Section 17.6.** Reprimands and disciplinary action taken by the City shall be placed in an employee's personnel file. These notices of disciplinary action shall be removed from the file by the following schedule:

- |   |                         |
|---|-------------------------|
| 1. Verbal reprimand   | Six (6) months          |
| 2. Written reprimand  | Twelve (12) months      |
| 3. Suspension of three (3) days or less                         | Twenty-four (24) months |
| 4. Suspension of more than three (3) days                       | Thirty-six (36) months  |
| 5. Suspension of ten (10) or more days for an egregious offense | Ninety-six (96) months  |

## **ARTICLE 18 – GRIEVANCE AND ARBITRATION PROCEDURE**

**Section 18.1.** Any grievance or dispute which may arise between the parties regarding the meaning, application or interpretation of the Contract shall be settled in the manner outlined herein.

**Section 18.2.** Any employee grievance may be submitted to the appropriate step in the grievance procedure that has the authority to adjust the grievance or dispute.

**Section 18.3.** Grievances involving alleged violations affecting a substantial number of employees and/or grievances in which the Union alleges a violation of this Agreement shall be submitted to Step 2 of the Grievance Procedure.

**Section 18.4.** By mutual agreements between the City and the Union, a grievance may be moved to any step of the procedure and further, by mutual consent, time limits referred to in any step may be extended. Any reference to "days" in this article shall be construed as "working days."

**Section 18.5.** Failure of the City to respond in the specified time in any step of the grievance/arbitration procedure shall be deemed a denial of the grievance and shall permit appeal to the next step.

## **Section 18.6. Grievance Procedure.**

**Step 1.** The employee, with his departmental steward, shall present the grievance in writing to the Service Director within ten (10) days of the alleged grievance or within ten (10) work days of his knowledge of said grievance. The Service Director or his designee shall hold a hearing on the grievance within five (5) work days. The Director shall submit an answer to the Union within three (3) work days.

**Step 2.** If a satisfactory solution is not reached at Step 1, the grievance may be appealed to the Mayor who shall meet with the grievant, Ohio Council 8 or International Union Representative, or his designee, and the Steward involved within five (5) days from the date that the answer from Step 1 is due. A written decision from the Step 2 meeting shall be given within seven (7) days from the date of meeting.

The Union may request mediation of any grievance not resolved at Step 2. The request must be made within ten (10) working days after the Step 2 response is issued. The City has ten (10) working days to respond to the request for mediation. If the City declines mediation, the Union must file a notice of intent to arbitrate within thirty (30) working days as stated in Step 3. If the City agrees to mediate the grievance, the time for appealing to arbitration is extended to ten (10) working days after mediation is complete.

**Step 3.** If the grievance is still unsettled, the Union may, within thirty (30) work days after the reply from the Mayor is due, by written notice, request arbitration.

The Union may file for arbitration with the Federal Mediation and Conciliation Service within the time as set forth in Step 3.

The grievance procedure provided herein shall be the exclusive method to resolve labor disputes between the City, the Union, and all employees of the bargaining unit regarding the meaning, application, or interpretation of this Contract.

The rules of the Federal Mediation and Conciliation Service shall govern the procedures and both parties shall be bound thereby. The decision of the arbitrator and all pre-arbitration settlements shall be final and binding upon the City, the employees and the Union. The filing fees and costs of the arbitration shall be borne equally by both parties. Each party shall bear its own costs relating to preparation and presentation of its case at arbitration. The arbitrator shall not have jurisdiction or authority to:

- Nullify, in whole or in part, any provisions of this Contract.
- Add to, detract from, or alter in any way provisions of this Contract.

## **ARTICLE 19 – HEALTH AND SAFETY**

There is hereby established a joint Safety and Health Committee which shall consist of two (2) members appointed by the Mayor and two (2) bargaining unit members appointed by the Union.

The purpose of the Committee is to recommend safe and healthful working practices in the City and to encourage all employees to follow said recommended practices.

## **ARTICLE 20 – REPORTING ALLOWANCE**

An employee who is scheduled or notified to report for overtime and who does in fact report for work shall be provided with and assigned to a minimum of four (4) hours of work on the job for which he/she was scheduled or notified to report or in the event such work is not available shall be assigned or reassigned to another job of-at least equal job class for which he/she is qualified. In the event that when he/ he reports for work no work is available, he/she shall be released from duty and credited with a reporting allowance of two (2) hours.

## **ARTICLE 21 – OVERTIME DISTRIBUTION**

**Section 21.1.** Overtime opportunities shall be distributed equally to employees working within the same job classification within the department to which the employees are normally assigned. All overtime hours worked or charged shall be counted regardless of the department in which such hours are worked or charged. If an employee does not accept this assignment, he will be charged for eight (8) working hours and so posted on the overtime work scheduled.

**Section 21.2.** On each occasion, the opportunity to work overtime shall be offered to the employee within the job classification (within a division) who has the least number of overtime hours to his credit at the time, provided however the employee is able to perform the duties for which such assignment is made.

**Section 21.3.** Overtime will be offered to qualified full-time employees within a job classification and within a shift. Employees may refuse scheduled overtime. If a sufficient number of employees do not voluntarily accept, the City shall assign the scheduled overtime to qualified employees within the classification(s) involved in the inverse order of their classification seniority and employee(s) shall be required to work.

**Section 21.4.** Department Shop Stewards shall be permitted to examine the time cards of employees in their respective departments at least once each month.

**Section 21.5.** If overtime occurs on a job that is in progress before quitting time, the employee on the job at the time shall first be offered the overtime.

**Section 21.6.** Bargaining unit dispatchers shall be given the first opportunity to work overtime for the coverage of compensatory days, sick days personal days funeral leave vacation (of five [5] working days or less) and any other period of short-term absences. Coverage for long term absences (more than five [5] working days) shall be in accordance with Article 12 of this Agreement and these additional turns shall be filled with an auxiliary dispatcher at the regular dispatcher (Deskman) rate of pay or if an auxiliary is not available by a regular dispatcher. In the instance of an employee leaving work more than two (2) hours into a shift, the employer shall not be obligated to call out a dispatcher to fill the remainder of the shift unless the filling of the turn results in overtime or an extra shift for any other employee of the City.



**Section 21.7.** An overtime board shall be displayed in the Service Department and overtime shall be distributed equally to employees working within the same job classification. The distribution of overtime shall be equalized annually at the end of the calendar year. All overtime hours worked or charged, shall be counted regardless of the department in which such hours are worked or charged. If an employee does not accept this assignment, he will be charged for eight (8) working hours and so posted on the overtime work schedule.

**Section 21.8.** On each occasion of scheduled overtime, the opportunity to work overtime shall be offered to the employee within the job classification within the department who has the least number of overtime hours to his credit at the time, provided however the employee is able to perform the duties for which such assignment is made.

**Section 21.9.** On each occasion of unscheduled overtime, the opportunity to work overtime shall be offered to the employee within the department who has the least number of overtime hours to his credit at the time, provided however the employee is able to perform the duties for which such assignment is made.

**Section 21.10.** Employees who are on vacation shall be offered scheduled overtime on the weekend preceding and following the vacation period provided the employee has worked the last scheduled work day prior to the vacation. The employee shall not be charged for eight (8) hours for refusal. An employee on vacation need not be called for unscheduled overtime during his vacation period, however if he is called and refuses, he will not be charged for it. With approval of the Service Director the City may waive the requirement to work the last work day.

**Section 21.11.** Overtime for pump operators will be maintained separate from the outside maintenance crew with the exception of the relief pump/laborer who is eligible for both overtime opportunities in accordance with the preceding steps.

**Section 21.12.** It shall be the policy of the City that only in extreme situations shall an employee be required to work longer than twenty-four (24) continuous hours. In the event this does occur, the employee shall earn time and one half pay for all hours over and beyond the first eight hours worked until the employee is relieved of his duties. All other provisions of this contract shall apply such as holidays, etc.

## **ARTICLE 22 – VACATION SCHEDULE**

The vacation schedule for employees of the bargaining unit shall be as follows:

<b>Length of Service (Years)</b>	<b>Length of Vacation</b>
1 year but less than 5 years	2 weeks
5 years but less than 10 years	3 weeks
10 years but less than 15 years	4 weeks
15 years but less than 20 years	5 weeks
20 years or more	6 weeks

This vacation schedule shall be effective upon the signing of this Agreement May 1, 1992, and nothing contained in this article shall be used to modify any existing vacation schedule enjoyed by bargaining unit members hired prior to the execution of this Agreement.

Except for emergencies, vacation periods for employees shall be January 1 through December 31 of each year. No later than December 31 of each year preceding the vacation year, employees shall select their preferences for vacation periods in order of their departmental seniority, i.e., most senior selecting and being given preference first. Employees shall continue making these selections until such time as the departmental list is exhausted. Employees may leave one-week (five [5] working days) of vacation unscheduled and may take such unscheduled time in minimum increments of eight (8) hours. Requests for the use of such time shall be on a "first come" basis and simultaneous requests for the same period shall be awarded in accordance with seniority. Use of these single "unscheduled" days of vacation shall be governed by the "three (3) employee rule" contained in this section and the employee shall notify the immediate supervisor five (5) work days prior to the use of such days. The five (5) work days advance notice may be waived by management.

The Employer shall make every reasonable effort to ensure the vacation periods selected by the employees and shall not cancel or change such periods except in the case of an extreme operational emergency and with seven working days advance notice. Employees who have made advance reservations for travel and/or lodging may not be required to change their vacation schedules.

No more than three (3) employees shall be on vacation in each division of the City at one time. In the event of uncontrolled emergencies, and with the approval of the Service Director, employees may carry over their vacation into the following year.

### **ARTICLE 23 – HEALTH AND WELFARE BENEFITS**

The City shall contribute sixty-four dollars (\$64.00) per month on behalf of each bargaining unit employee to the Ohio AFSCME Care Plan for selected benefits under the Plan which shall include the following:

- |    |                       |         |
|----|-----------------------|---------|
| A. | Dental Care Level III | \$56.00 |
| B. | Hearing Care          | \$0.50  |
| C. | Life Insurance        | \$7.50  |

### **ARTICLE 24 – MEAL TICKETS**

Employees required to work in excess of twelve (12) hours in any work day shall be furnished a meal ticket with a value of ten dollars (\$10.00).

## **ARTICLE 25 – SICK LEAVE**

**Section 25.1.** Sick leave shall be accumulated at the rate of four and six-tenths (4.6) hours for each eighty (80) hours of pay and such accumulation shall be unlimited.

**Section 25.2.** Employees who retire from employment with the City of Martins Ferry shall receive payment for their accumulated but unused sick leave in accordance with the following schedule:

10 years of service but less than 15 years	240 hours
15 years of service but less than 25 years	480 hours
25 years of service or more	720 hours

Excessive use of sick leave in the twelve-month period prior to an employee's retirement date may disqualify the employee from receiving the severance pay outlined in this Section.

Any employee hired prior to May 1, 1998, who elects to retire during the term of this Agreement, shall receive, upon retirement, no less than fifty percent (50%) of the accumulated but unused sick leave up to a maximum payment of sixty (60) days (i.e., four hundred eighty [480] hours). The maximum amounts listed above shall apply to employees with more than twenty-five (25) years of service.

**Section 25.3. Family and Medical Leave.** Employees who have worked a minimum of twelve (12) months and twelve hundred fifty (1250) hours over the previous twelve (12) month period shall be entitled to Family and Medical Leave in accordance with the following provisions:

- A. An employee shall be entitled to a leave of absence not to exceed twelve (12) weeks for the following:
  - 1. Birth and/or care of a newborn child, or placement for adoption or foster care if such leave occurs within twelve (12) months of the birth or placement.
  - 2. To care for the employee's family member (spouse, sibling[s], child[ren], parents[in-law], guardian or an individual who stands in loco parentis or an individual for whom the employee stands en loco parentis) who has a serious health condition (illness, injury, impairment, or physical or mental condition which requires either inpatient care or continuing treatment by a Certified Health Care Provider and for a period of more than three [3] work days).
  - 3. For a serious health condition which makes the employee unable to perform the duties of his/her job.
- B. For the duration of all such leaves as outlined in this Section 25.4 employees may utilize any or all of the following combinations of leave:



1. Accrued but unused sick leave;
2. Accrued but unused vacation;
3. Leave without pay

Nothing in this article shall mandate the employee to exhaust paid leave prior to being granted an unpaid leave as outlined in this section.

- C. During the term of any leave outlined in subsection A above, employees shall be treated as if they were in regular payroll status and shall suffer no loss of any benefit which shall exist as a term or condition of employment except that the employee shall not be compensated at his regular hourly rate of pay for that period which is requested as unpaid nor shall an employee accrue sick hours for the unpaid portions of such leave.
- D. When requesting such leave, employees shall provide the City with as much advance notice as possible and shall provide a minimum of fourteen (14) days' notice prior to returning from such leave.
- E. The Employer may require an employee's request for medical leave be supported by a certificate issued by the health care provider of the employee or of the individual for whom the employee is requesting leave to care for. The certificate should include the date on which the serious health condition commenced, the estimated duration of the condition, and the appropriate medical facts, within the knowledge of the health care provider, regarding the condition. Such certificate is attached as Appendix C of this Agreement. In the case of the employee requesting leave under subsection A3 above, the Employer may have the employee examined by a physician of the Employer's choice. Should there be a difference of medical opinions a third opinion shall be obtained from a physician mutually selected by the Employer and the employee. This third opinion shall be binding on the parties. The cost of such examination(s) shall be borne by the Employer.
- F. Upon return from any leave outlined above, the employee shall be placed in the classification and department from which they left, or in the same or similar position if the prior position no longer exists, and shall suffer no loss of any benefit which shall arise as a part of their employment or as a term or condition of this Agreement.
- G. Employees may be granted additional leave for the purposes outlined in Subsection A above not to exceed six (6) months in duration, provided that any request for additional leave is made in writing to the Employer not less than fourteen (14) days prior to the expiration of the original leave. Any additional leave shall be subject to the general provisions of this section; however, the employee shall be responsible for any health care premiums for any period in which coverage would lapse during an unpaid leave.

- H. For the purposes of this Section 25.3 a serious health condition is defined as an illness, injury, impairment or physical or mental condition which requires either inpatient care or continuing treatment, as certified by a health care provider, for a period of more than three (3) days.

**Section 25.4.** Attendance Incentive. Effective 12/1/01, bargaining unit employees with more than one (1) year of service will earn a sick leave attendance incentive for non-use of sick leave. The amount of the attendance incentive shall be paid according to the following:

0 hours used	\$400
.25 to 8 hours used	\$350
8.25 to 16 hours used	\$300
16.25 to 32 hours used	\$200
32.25 to 40 hours used	\$100
More than 40 hours used	\$0

The attendance year shall run from December 1 of each year through November 30 of the next year. Attendance incentive shall be paid in the first pay period of December of each year.

**Section 25.5.** Granting of Sick Leave. An employee eligible for sick leave may be granted such leave with full normal pay when absent for the following reasons:

- A. Personal illness, physical incapacity, or pregnancy-related condition;
- B. Illness of the employee's immediate family;
- C. Exposure to a contagious disease;
- D. Personal illness, physical incapacity, or pregnancy-related condition of members of the employee's immediate family where the employee's presence is reasonably necessary for the health and welfare of the employee or the affected family member.

**Section 25.6.** Employee's Responsibility. Call off two (2) hours before regular start time whenever possible. For an absence of three (3) days or more, the employee is required to provide a doctor's slip.

**Section 25.7.** Fraction of a Day. Absences are charged in not less than one-quarter (1.4) hour increments.

**Section 25.8.** Immediate Family. For the purposes of sick leave, an employee's family shall be defined as an employee's spouse, parents, children, spouse's children, stepchildren, grandparents, siblings, grandchildren, mother-in-law, father-in-law, or legal guardian, or other persons who stand in place of a parent and either reside with or are a direct responsibility of the employee. Children are those under the age of eighteen (18).

**Section 25.9.** Improper Use of Sick Leave. Falsification of information on the sick leave form or abuse of sick leave is reason for disciplinary action up to and including termination.

## **ARTICLE 26 – SHIFT DIFFERENTIAL**

The City shall pay to all employees of the bargaining unit required to work any hours on the afternoon or night shift a shift differential. Such employees required to work hours during the afternoon shift shall be paid, in addition to the normal hourly rate to which they would be entitled for their work, the sum of twenty cents (\$0.20) per hour for hours worked during the afternoon shift. Such employees required to work hours during the night shift shall be paid, in addition to the normal hourly rate to which they would be entitled for their work, the sum of thirty cents (\$.30) per hour for hours worked during the night shift. Shift differential, however, is not to be included when computing overtime rates.

## **ARTICLE 27 – WITNESS AND JURY LEAVE**

An employee will be granted a leave of absence for required jury duty and when subpoenaed as a witness and will receive eight (8) hours pay at his applicable hourly rate, less any jury or witness duty compensation. Evidence of service and compensation received must be presented to the City prior to payment. Should the time required for jury duty and/or witness duty leave be less than four (4) hours, and the employee is scheduled for work, and by reporting for work can work more than four (4) hours, the employee is required to report to work for the remainder of the day.

## **ARTICLE 28 – HOLIDAY PAY**

**Section 28.1.** In addition to the regular holiday pay of eight (8) hours, employees shall be paid one and one-half (1 ½) times their regular hourly rate of pay for the first eight (8) hours actually worked on a holiday. Employees who work more than eight (8) continuous hours on a holiday shall be compensated at the rate of two and one-half (2 ½) times the regular rate of pay for each hour worked in excess of eight (8) hours. In order to qualify for holiday pay, employees must be work the last scheduled day prior to and first scheduled day following a holiday or be in an excused absence status for those periods of time.

**Section 28.2.** All employees observing a legal holiday must be on the payroll for a period of sixty (60) days prior to a holiday to be eligible for holiday pay.

**Section 28.3.** All paid holiday hours shall be counted as hours worked for the purpose of computing overtime pay.

**Section 28.4.** If any of the holidays fall on an employee's regularly scheduled day of rest, the next succeeding regularly scheduled working day for the employee shall be considered the holiday with respect to the employee and he shall be entitled to all the benefits of this section with respect to such holiday on the next succeeding regularly scheduled working day. The exception to this would be the Monday after Easter—Monday is not a holiday.



**Section 28.5.** Employees in continuous operations who are assigned to duty and actually working on the afternoon and midnight shift on December 24 and December 31 shall be paid one and one-fourth (1 ¼) times their regular rate of pay for all hours worked in addition to their regular pay.

Other employees who are required to work overtime on the aforementioned dates shall receive compensation at two (2) times their regular rate of pay for all overtime hours worked.

## **ARTICLE 29 – HOLIDAYS**

**Section 29.1.** The following days are hereby declared to be legal holidays to be observed by the employees in the bargaining unit.

- A. The first day of January, known as New Year's Day,
- B. Martin Luther King, Jr. Day;
- C. The third Monday of February, known as President's Day
- D. The Friday preceding Easter Sunday, known as Good Friday;
- E. Last Monday in May, known as Decoration Day or Memorial Day;
- F. Fourth of July, known as Independence Day;
- G. First Monday in September, known as Labor Day;
- H. Eleventh day of November, known as Veterans Day.
- I. Fourth Thursday in November, known as Thanksgiving Day;
- J. Friday after Thanksgiving;
- K. The twenty-fourth day of December, known as Christmas Eve (½ day)
- L. Twenty-fifth day of December, known as Christmas Day.
- M. The thirty-first day of December, known as New Year's Eve (½ day)

## **ARTICLE 30 – HOSPITALIZATION**

**Section 30.1.** The Employer shall provide single and family hospitalization, including diabetic supplies, prescription, and vision coverage for full-time employees. The Employer shall pay eighty eight percent (88%) of the monthly cost of the hospitalization and prescription benefits for each employee who enrolls in the plan. Each employee shall pay the remaining twelve percent (12%) of the monthly cost through payroll deduction. The Employer shall enroll in an IRS Section 125 Plan.

For employees hired on or after May 17, 2016, the Employer shall pay eighty percent (80%) of the monthly cost of the hospitalization and prescription benefits for each employee who enrolls in the plan. Each employee hired on or after May 17, 2016, shall pay the remaining twenty percent (20%).

**Section 30.2.** Waiver of Coverage. Employees may, at their option and with proof of alternative insurance coverage, elect to waive the hospitalization coverage provided by the City. Employees electing this option shall receive a four hundred-dollar (\$400.00) cash payment for each month the employee elects to waive the insurance coverage.

Employees eligible for family hospitalization electing to waive family hospitalization in favor of single hospitalization coverage shall receive a two hundred fifty-dollar (\$250.00) payment for each month the employee elects to waive the insurance coverage.

Employees who are single and elect to waive single coverage hospitalization shall receive three hundred-dollar (\$300.00) payment for each month the employee elects to waive the insurance coverage.

Only a life changing event (i.e. divorce, death of spouse, marriage) shall permit an employee to restart hospitalization coverage.

**Section 30.3. Health Care Committee.** The parties agree to establish a Health Care Committee (HCC) made up of three (3) representatives from AFSCME and two (2) representatives from each of the City's other labor unions, and an equal number of members from management. Beginning on or about December 1, 2007, the HCC shall meet on a quarterly basis and be charged with monitoring and evaluating the health insurance coverage provided to bargaining unit and non-bargaining unit employees of the City. The HCC will be chaired by the Mayor of the City or his/her designee.

To carry out its tasks, the HCC will meet as needed with third party administrators, insurance brokers, and others to carry out its charge to investigate and make recommendations relating to health insurance providers, costs, coverage and plan options, with a particular focus on feasible cost-containment and cost-reduction strategies.

Recommendations of the HCC will be formally submitted to City Council on an as-needed basis for its review and consideration. The HCC and the Union will make a good faith effort to maintain current levels and costs of coverage to employees and the City, or in the alternative, contain future costs to the extent practicable.

**Section 30.4.** Employees employed on or after May 1, 1992, shall be offered hospitalization with the City picking up the cost of the hospitalization based upon the percentage of time per day (based upon full-time employment) the employee is regularly scheduled to work. To be eligible for hospitalization, the employee must be employed for a minimum of ninety (90) calendar days. Coverage by the hospitalization plan shall commence on the first day of the month in which the employee completed probation, if the completion of probation is prior to the sixteenth (16th) day of the month. If the probation period is completed after the fifteenth (15th) of the month, coverage shall commence on the first day of the next subsequent month following the completion of the probationary period.

**Section 30.5.** In the event of a layoff all full-time employees with at least one (1) year of seniority shall receive hospitalization benefits described above for a period of six (6) months.

### **ARTICLE 31- FUNERAL LEAVE**

An employee shall be granted paid leave in the event of the death of any member of the employee's immediate family. For the purposes of this article "immediate family" is defined as

the employee's: spouse, child, step-child, mother father, step-parents, sister, brother, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandchild, aunt, uncle of the employee, and grandparents of the employee or employee's spouse. Upon request, an employee shall be granted up to three (3) consecutive scheduled days with pay, one day of which shall include the day of the funeral. No funeral leave shall be granted for time beyond the date of the funeral except that one day following the date of the funeral may be used for travel if the funeral is held at a place which is one hundred or more miles in distance. For the death of all other family members, the employee shall be granted one (1) day of paid leave to attend the funeral.

### **ARTICLE 32 – PERSONAL LEAVE DAYS**

**Section 32.1.** Employees of the City in the bargaining unit shall be granted five (5) personal leave days annually, not chargeable to their accumulated sick leave.

**Section 32.2.** Newly hired employees shall be granted personal leave days prorated based on the time of the year in which they are hired. There will be a forty-eight (48) hour notice required to use a personal day that can be waived by management.

Proration:

Hired on or before March 31	Five (5) days
Hired after March 31 & prior to July 1	Four (4) days
Hired after July 1 & prior to September 1	Three (3) days
Hired after September 1 & prior to November 1	Two (2) days
After November 1	Zero (0) days

**Section 32.3.** Incentive for Non-Use of Personal Days. Effective January 1, 2002, employees may elect to cash out unused personal days. The payment shall be made at the employee's regular hourly rate of pay as follows:

5 days earned but not used	Hourly rate x 40
4 days earned but not used	Hourly rate x 32
3 days earned but not used	Hourly rate x 24
2 days earned but not used	Hourly rate x 16
1 day earned but not used	Hourly rate x 8

The "personal day year" shall be calculated from January 1 through December 31 of each year. Payment for unused personal days shall be made in the first pay period of January of the succeeding year of non-use.

### **ARTICLE 33 – CLOTHING ALLOWANCE**

The City will provide, at the Service Director or supervisor's discretion, one (1) pair of coveralls. The City will provide employees with appropriate work gloves, waterproof overshoes and



appropriate rain gear. These items are considered Safety Personal Protection Equipment (PPE) and must be worn during inclement winter.

Each bargaining unit employee shall receive an annual clothing allowance of six hundred (\$600) dollars per year. Said payment shall be made the first pay period of May of each year.

#### **ARTICLE 34 – NO CONTRACTING OUT**

**Section 34.1.** The City agrees that work normally performed by employees in the bargaining unit shall not be contracted to another individual or independent contractor; provided that employees in the bargaining unit are available and there is available the required equipment, and the task to be performed may be performed efficiently within the required time to complete such task or project.

**Section 34.2.** The City shall not contract work normally done by bargaining unit employees on layoff status.

#### **ARTICLE 35 – SUPERVISORY WORK**

**Section 35.1.** No supervisory personnel shall perform work when qualified bargaining unit employees are available; and/or except in the event of an extreme emergency as determined by the proper officials of the City.

**Section 35.2.** No bargaining unit employee shall perform supervisory duties.

#### **ARTICLE 36 – INCLEMENT WEATHER**

The City hereby agrees not to schedule any work that would require an employee to work in inclement weather unless there is an extreme emergency.

#### **ARTICLE 37 – COMPENSATORY TIME**

**Section 37.1.** It is agreed that compensatory time or premium pay for overtime is at the sole discretion of the employee. If compensatory time is selected the earned rate shall be at two (2) times all hours worked for the period of work selected.

**Section 37.2.** Accumulation of compensatory time shall not exceed two hundred (200) hours. All hours in excess of the maximum allowable shall automatically be converted to cash payment at the appropriate overtime rate.

**Section 37.3.** Compensatory time must be used with eighteen (18) months of earning such time or the employee will automatically be paid for such time at his current hourly rate.

**Section 37.4.** Employees using compensatory time shall give five (5) days' notice on forms provided by the City. This requirement shall be waived by the supervisor in the event of an emergency.

**Section 37.5.** Employees who have compensatory time in excess of the maximum on the date of the signing of this Agreement shall be permitted to keep that excess, however no further accumulation may occur until such time as the total amount of compensatory time is below the maximum allowable in this article. For the purposes of this section only, the eighteen (18) month time limitation shall not apply.

### **ARTICLE 38 – VOLUNTARY LAYOFF**

In the event of a layoff of bargaining unit employees, the employee(s) may request a voluntary layoff. Said layoff shall not affect the employee's seniority, and he shall be returned to his job classification upon fourteen (14) calendar days' notice to the City.

### **ARTICLE 39 – LABOR/MANAGEMENT MEETINGS**

**Section 39.1.** In the interest of sound labor management relations the parties agree to meet no more than once a month on regularly scheduled work time unless otherwise mutually agreed to for the purpose of discussing those matters as outlined in Section 2 below.

**Section 39.2.** The parties shall prepare and exchange written agendas of specific matters to be discussed at least three (3) working days in advance of the scheduled meeting. At the same time the Union shall notify the Employer of the names of those committee persons who will be in attendance. If neither party has prepared an agenda, the meeting shall be waived for that month. Only items on the agenda will be discussed. The parties shall consider alternately the consecutively placed items from both lists. Minutes will be prepared and disseminated to the parties.

The purpose of such meeting shall be to:

- A. Discuss the administration of this Agreement;
- B. Disseminate general information of interest to the parties;
- C. Discuss grievances which have not yet been processed beyond step three of the grievance procedure by mutual agreement of the parties;
- D. Give the Union representatives the opportunity to share the view of their members and/or suggestions on subjects of interest to their members;
- E. Discuss ways to improve efficiency and work performance;
- F. Consider and discuss health and safety matters.

**Section 39.3.** Labor-Management meetings are not intended to be used as negotiation sessions or as a basis to alter or amend the basic Agreement.

## **ARTICLE 40 – WAGES**

**Section 40.1.** The wage rates for each bargaining unit classification are set forth in Appendix B.

Effective May 1, 2019, the hourly rates for each of the bargaining unit classifications shall be increased fifty cents per hour (\$.50/hr). In addition, each bargaining unit member shall receive a two hundred seventy-five dollar (\$275) one-time lump sum payment, payable in the first pay period in May 2019.

Effective May 1, 2020, the hourly rates for each of the bargaining unit classifications shall be increased sixty cents per hour (\$.60/hr).

Effective May 1, 2021, the hourly rates for each of the bargaining unit classifications shall be increased seventy-five cents per hour (\$.75/hr).

**Section 40.2.** Employees who attain State Certifications shall be compensated for each certification according to the following schedule:

**EPA Water Operator (cumulative)**

Class 1 – additional \$1.00/hr

Class 2 – additional \$2.00/hr

Class 3 – additional \$3.00/hr

Lab Certification - \$.75/hr

**CDL License**

\$.75/hr

**Sewer Baiter**

\$.75/hr

**Water Dist. & Wastewater Collection (cumulative)**

Class 1 – additional \$1.00/hr

Class 2 – additional \$2.00/hr

**ASE Cert./Freon Recovery**

\$1.00/hr      \$.50/hr

**Backflow & Chlorination Cert.**

\$.75/hr

**Notary**

\$.25/hr

**Electrical License**

\$1.50/hr

Should an employee elect to resign his or her employment with the City, the employee shall reimburse the City for training course and license expenses using the following pro-rated scheduled:

1 to 4 months	75% reimbursement of expenses
4 to 8 months	50% reimbursement of expenses
8 to 12 months	25% reimbursement of expenses

An MOU on skilled labor shall follow with a rate of \$.30/hr to \$1.00/hr based on skills.



**Section 40.3.** Upon completion of five (5) years of service with the Employer and commencing on the first day of and employees sixth (6<sup>th</sup>) year of service, employees of the bargaining unit shall receive a longevity payment in accordance with Appendix D.

Such payments shall be paid as an additive to the hourly rate and shall be payable for all hours in pay status. It is expressly understood that longevity shall not be added to the base rate of pay for the purposes of calculating any general wage increase and is considered separate and apart from the "base rate" of pay for that purpose.

#### **ARTICLE 41 – OPERS PICKUP**

The City of Martins Ferry agrees to pick up (collect and pay) contributions to the Ohio Public Employees Retirement System (OPERS) upon behalf of the employees in the bargaining group utilizing the salary reduction method under the following conditions and time:

1. The amount to be picked up on behalf of each employee shall be one hundred percent (100%) of the employee's contribution. The employee's annual compensation shall be reduced at no cost to the City for federal, state, and local tax purposes only by an amount equal to the amount picked up and paid by the City. The City and AFSCME Local 1260 specifically agree that the City is under no obligation to pay from City funds the employee's portion of the mandated statutory contributions.
2. The pick-up percentage shall apply uniformly to all members of the bargaining unit.
3. No employee covered by this provider shall have the option to elect a wage increase or other benefits in lieu of the application of the salary reduction method.

#### **ARTICLE 42 – PEOPLE CHECKOFF**

The Employer agrees to deduct voluntary contributions to the American Federation of State, County, and Municipal Employees International Union's Public Employees Organized to Promote Legislative Equality (PEOPLE) Committee from the pay of an employee upon receipt from the Union of an individual written authorization card voluntarily executed by the employee. The contribution amount will be certified to the Employer by the Union. Monies deducted shall be remitted to the Union within fifteen (15) days of the date they are deducted. Payment shall be made to the Treasurer of the PEOPLE and transmitted to AFSCME, AFL-CIO, and P.O. Box 65334, Washington, D.C., 20035. The payment will be accompanied by an alphabetical list of names of those employees for whom a deduction was made and the amount of the deduction. This list must be separate from the list of employees who had Union dues deducted and the list of employees who had fair share fees deducted.

An employee shall have the right to revoke such authorization at any time by giving written notice to the Employer and the Union. The Employer's obligation to make deductions shall terminate automatically upon receipt off revocation of authorization, or upon termination of employment, or transfer to a job classification outside the bargaining unit.

All PEOPLE contributions shall be made as a deduction separate and apart from the dues deduction.

### **ARTICLE 43 – PROHIBIT THREATENING**

Employees are prohibited from threatening, harassing, stalking, using derogatory language, or in any way interfering with the duties of any employee of the City.

### **ARTICLE 44 – PROHIBIT WEAPONS**

No bargaining unit member will carry any weapon while on duty with the City of Martins Ferry as defined in City Ordinance 549.01. City employees who use a firearm or make comments about firearms in such a way that intimidates, harasses, coerces, or threatens another City employee will be subject to disciplinary action, up to and including discharge.

### **ARTICLE 45 – BARGAINING UNIT APPLICATION OF CIVIL SERVICE LAW**

**Section 45.1.** The parties agree that no section of the civil service laws contained in the Ohio Revised Code Sections 9.44, 124.01 through 124.56, nor any local ordinance of the City of Martins Ferry, or Rules and Regulations of the Civil Service Commission of the City of Martins Ferry, pertaining to wages, hours, terms and other conditions of employment, shall apply to bargaining unit employees where such matter has been addressed by this agreement.

**Section 45.2.** Notwithstanding the above, Section 124.388 and 124.57 ORC shall continue to apply to bargaining unit employees.

**Section 45.3.** In accordance with the provisions of Ohio Revised Code section 4117.10 (A), this agreement covers the wages, hours, and terms and conditions of employment to the extent provided herein. It is therefore the intent of the parties that the terms and conditions of this agreement specifically preempt and/or prevail over the statutory rights of bargaining unit members.

### **ARTICLE 46 – ENTIRE AGREEMENT**

**Section 46.1.** The City, employees and Union agree that this Contract, including the bargaining unit wage schedule marked as Appendix B, attached hereto and made a part of this Contract, is the entire Contract, and terminates all prior contracts and concludes all collective negotiations during its term except as provided herein. No party hereto will during the term of this Contract, seek to unilaterally modify its terms.

**Section 46.2.** The parties herein acknowledge that they have fully negotiated with respect to the terms and conditions of employment and have settled them for the term of this Contract in accordance with the provisions thereof.

**Section 46.3.** Should any portion of this Contract be subject to change because of any law or regulation now in effect or hereinafter enacted, the parties hereto shall meet to renegotiate those

specific articles, sections or portions affected, with the remainder of the Contract remaining in full force and effect. Either of the parties shall have the right to demand the renegotiation of affected parts of this Contract by the giving of written notice to the other party at the address stipulated herein, at least the ten (10) days prior to the date when renegotiations are to begin. Only those portions of the contract affected by changes in the law or regulations shall be renegotiated.

#### **ARTICLE 47 – SUCCESSOR CLAUSE**

This agreement shall be binding upon the successors and assignees of the parties hereto in accordance with applicable law.

#### **ARTICLE 48 – TERMINATION OF CONTRACT AND WAGE REOPENING DATE**

This Contract shall be effective as of May 1, 2019 and shall remain in effect up through midnight April 30, 2022.

Should either party desire to modify or amend this Agreement it shall give written notice of such intent no earlier than ninety (90) calendar days no later than sixty (60) calendar days prior to the expiration date of this Agreement.

Any notice to be given under this contract shall be by registered mail and is to be sent, if by the City, to the following address:

AFSCME Ohio Council 8  
150 S. Four Mile Run Road  
Youngstown, Ohio 44515


And if by the Union, it shall be addressed to the Mayor of the City of Martins Ferry, City Hall, Martins Ferry, Ohio 43935. Either party may, by written notice receipted in writing by the other party, make a change of address.




**EXECUTION PAGE**

This agreement is executed this 16<sup>th</sup> day of APRIL, 2019, in the City of Martins Ferry, Ohio.


FOR MARTINS FERRY CITY

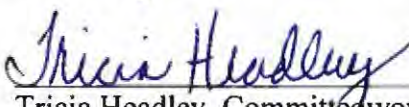
  
Mayor Bob Krajnyak

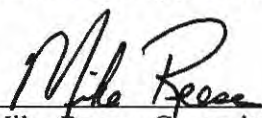
  
Scott Porter, Service Director

FOR AFSCME LOCAL #1260

  
Jeremy Shrodes, President

  
Bernie Donahue, Committeeman

  
Tricia Headley, Committeewoman

  
Mike Reese, Committeeman

FOR AFSCME OHIO COUNCIL 8

  
Dominic D. Saturday, Representative

### **SIDE LETTER – DIGITAL SECURITY CAMERAS**

AFSCME Local 1260, AFL-CIO and The City of Martins Ferry agree that digital security cameras are installed throughout City properties for the purpose of safety and security. The Union and the City agree that footage from the security cameras will not be used as evidence for disciplinary or arbitration purposes. However, the City may use video surveillance evidence or information for disciplinary purposes if the evidence or information reveals a criminal act or criminal offense committed by a City employee.

### **SIDE LETTER – DURATION OF MOUS & SIDE LETTERS**

AFSCME Local 1260, AFL-CIO and The City of Martins Ferry agree that all terms, conditions, and provisions of now-existing MOUs and Side Letters between the Union and the City shall remain in full force and effect.

### **SIDE LETTER – UTILITY DEPARTMENT HOURS**

The parties agree that, for no more than 2 days each week on a trial basis, the City will coordinate with one employee from the Utility Department to flex their schedule to keep the office open until 5 P.M. A management level employee will also stay in the office until 5 P.M. on days when it stays open late.

### **SIDE LETTER – VACATION CARRY OVER**

If, due to an emergency, vacation leave is denied an employee; such days may be rescheduled during the vacation year. In the event the vacation cannot be scheduled during the vacation year, said unrescheduled days may be carried over to the following year, or the employee may request payment for the vacation days that were denied and upon approval of the Service Director, payment shall be made in the first pay period in December. In addition to the aforementioned carry over or payment provision, an employee may each December elect to carry over to the next year or request payment in the following pay period of up to a maximum of eighty (80) hours of accrued and unused vacation.

## APPENDIX A – DUES CHECKOFF CARD



PUBLIC SECTOR

### MEMBERSHIP AUTHORIZATION

LOCAL \_\_\_\_\_, AMERICAN FEDERATION  
OF STATE, COUNTY AND MUNICIPAL EMPLOYEES, AFL-CIO



I request and hereby accept membership in the American Federation of State, County and Municipal Employees, AFL-CIO (herein called AFSCME) and the appropriate subordinate body(s) (the Union) and authorize the subordinate body(s) to act as my exclusive bargaining representative for purposes of collective bargaining with respect to rates of pay, wages, hours and all other terms and conditions of employment with my employer. I agree that my membership shall be in accordance with the provisions of the Constitution of AFSCME and its subordinate bodies. It is further agreed that my membership may be revoked by me by giving written notice of my desire to withdraw from union membership to a subordinate body. I understand that my membership authorization is separate from my checkoff agreement and that I may only revoke dues authorization in accordance with the procedure set forth below.

Print Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Employee Signature \_\_\_\_\_ Date \_\_\_\_\_



### AUTHORIZATION/ AGREEMENT FOR PAYROLL DEDUCTION



Effective immediately, I hereby voluntarily authorize and direct my employer to deduct from my wages each pay period, or such other period as set forth in the applicable collective bargaining agreement, the amount of dues, initiation fees or assessments certified by the Union and as they may be adjusted periodically by the Union which shall be remitted to a subordinate body of AFSCME. This voluntary authorization and assignment shall be irrevocable, regardless of whether I am or remain a member of the Union, for a period of one year from the date of execution and for year to year thereafter, unless I give the Employer and the Union written notice of revocation not less than ten (10) days and not more than twenty five (25) days before the end of any yearly period; provided however, if the applicable collective bargaining agreement specifies an annual revocation window period of longer than fifteen (15) days, then only that longer period shall apply. The applicable collective bargaining agreement is available upon request.

This Agreement supersedes any prior checkoff agreement/card I signed. I recognize that my authorization of dues deductions, and the continuation of such authorization from one year to the next, is voluntary and not a condition of my employment. I understand that I have a right to retain employment without joining the union or paying union dues.

**Payments to the Union are not deductible as charitable donations for federal income tax purposes. However, they may be tax deductible as ordinary and necessary business expenses.**

Print Name \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_

State \_\_\_\_\_ Zip Code \_\_\_\_\_ Home # ( ) \_\_\_\_\_ Personal Cell\* ( ) \_\_\_\_\_

Personal Email \_\_\_\_\_ Last 4 Digits of Your Social Security No. \_\_\_\_\_

Employer \_\_\_\_\_ Job Title \_\_\_\_\_

Worksite/Building \_\_\_\_\_ Shift \_\_\_\_\_

Signature \_\_\_\_\_ Date \_\_\_\_\_

\* By providing my cell phone number, I understand that the Union and its affiliates may use automated calling technologies and/or text message me on my cell phone on a periodic basis. The Union will not charge for text message alerts; carrier message and data rates may apply to such texts.

(Revised 12/18) (Council)



## **APPENDIX B – WAGES**

<b>CLASSIFICATION</b>	<b>5/1/19</b>	<b>5/1/20</b>	<b>5/1/21</b>
Auditor's Clerk	\$18.78	\$19.38	\$20.13
Dispatcher	\$18.87	\$19.47	\$20.22
Electrician	\$20.80	\$21.40	\$22.15
Equipment Operator (Street)	\$19.17	\$19.77	\$20.52
Floater Clerk	\$18.78	\$19.38	\$20.13
Heavy Equipment Operator (Water)	\$19.17	\$19.77	\$20.52
Janitor	\$17.91	\$18.51	\$19.26
Laboratory Technician	\$19.66	\$20.26	\$21.01
Laborer (Street)	\$18.21	\$18.81	\$19.56
Laborer/Backup Meter Reader	\$18.21	\$18.81	\$19.56
Laborer/Heavy Equipment Operator	\$18.21	\$18.81	\$19.56
Maintenance Man (Water)	\$18.76	\$19.36	\$20.11
Mechanic	\$19.21	\$19.81	\$20.56
Meter Reader	\$18.97	\$19.57	\$20.32
Packer Laborer	\$18.43	\$19.03	\$19.78
Parking Enforcement Office	\$16.68	\$17.28	\$18.03
Payroll Clerk	\$18.78	\$19.38	\$20.13
Pipe Fitter	\$19.46	\$20.06	\$20.81
Relief Water Operator/Maintenance Man	\$18.76	\$19.36	\$20.11
Sanitation Truck Driver	\$19.17	\$19.77	\$20.52
Service Department Clerk	\$18.78	\$19.38	\$20.13
Sewer Maintenance/Truck Driver	\$19.40	\$20.00	\$20.75
Sign Painter	\$19.14	\$19.74	\$20.49
Sweeper Operator	\$19.17	\$19.77	\$20.52
Truck Driver (Street)	\$18.59	\$19.19	\$19.94
Truck Driver (Water)	\$18.59	\$19.19	\$19.94
Utility Office Clerk	\$18.78	\$19.38	\$20.13
Water Operator	\$18.76	\$19.36	\$20.11

## **APPENDIX C – CERTIFICATION OF PHYSICIAN OR PRACTITIONER**

### **(Family and Medical Leave Act of 1993)**

1. Employee's Name;
2. Patient's Name (If other than Employee);
3. Diagnosis;
4. Date condition commenced;
5. Probable duration of condition;
6. Regimen of treatment to be prescribed (indicate number of visits, general nature and duration of treatment including referral to other providers of health services; include schedule of visits or treatment if it is medically necessary for the employee to be off work on an intermittent basis or to work less than the employee's normal schedule of hours per day or days per week.);
  - a. By a Physician or Practitioner
  - b. By another provider of health services if referred by a Physician or Practitioner.

IF THIS CERTIFICATION RELATES TO CARE FOR THE EMPLOYEE'S SERIOUSLY ILL FAMILY MEMBER, SKIP ITEMS 7, 8 AND 9 AND PROCEED TO ITEMS 10 TT-MU 14. OTHERWISE, CONTINUE BELOW.

Check Yes or No on the lines below as appropriate.

- | Yes | No |   |
|-----|----|---|
| 7.  |    | Is inpatient hospitalization of the employee required?  |
| 8.  |    | Is employee able to perform work of any kind?<br>(If "No" skip Item 9.)   |
| 9.  |    | Is employee able to perform the functions of employee's position?<br>(Answer after reviewing statement from Employer of essential functions of the employee's position, or if none provided, after discussing with employee.) |

FOR CERTIFICATION RELATING TO CARE FOR THE EMPLOYEE'S SERIOUSLY ILL FAMILY MEMBER. COMPLETE ITEMS 10 THRU 14 BELOW AS THEY APPLY TO THE FAMILY MEMBER AND PROCEED TO ITEM 15.

Check Yes or No on the lines below as appropriate.

- |  | Yes | No |  |
|--|-----|----|--|
| 10.  |     |    | Is inpatient hospitalization of the patient (family member) required?  |
| 11.  |     |    | Does (or will) the patient require assistance for basic medical, hygiene, nutritional needs, safety or transportation?   |
| 12.  |     |    | After review of the employee's signed statement (See Item 14), is the employee's presence necessary or would it be beneficial for the cure of the patient? (This may include psychological comfort.) |
| 13. Estimate the period of time care is needed or the employee's presence would be beneficial: |     |    |  |

**ITEM 14 IS TO BE COMPLETED BY THE EMPLOYEE NEEDING FAMILY LEAVE**

14. When Family Leave is needed to care for a seriously ill family member, the employee shall state the care he or she will provide and an estimate of the time period during which this care will be provided, including a schedule if leave is to be taken intermittently or on a reduced leave schedule:

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Physician/Practitioner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Type of Practice (Specialization)

\_\_\_\_\_  
Date



#### **APPENDIX D – LONGEVITY SCHEDULE**

Starting at year 6	\$.30 per hour
Starting at year 11	\$.40 per hour
Starting at year 16	\$.50 per hour
Starting at year 21	\$.60 per hour
Starting at year 26	\$.70 per hour

## **APPENDIX E – CDL LICENSURE**

During the term of this agreement, the Employer shall reimburse an employee who is required to maintain a CDL the difference between the cost of renewal of his regular driver's license and the renewal cost of the CDL. Employees who want to bid on a job that requires a CDL must be at least 21 years old. Eligible employees shall provide a receipt of payment to their immediate supervisor for such reimbursement; it is understood the reimbursement described herein is payable once during the term of this agreement.

In the event a bargaining unit employee obtains a CDL during his employment with the City, he will be reimbursed the cost of obtaining the CDL provided the following conditions are met:

- The affected employee bids and is awarded a full-time position with the City that requires a valid CDL, Class B;
- The affected employee provides the proper documentation to verify the cost of obtaining the valid CDL, Class B.

## **MEMORANDUM OF UNDERSTANDING ON ALCOHOL AND DRUG TESTING**

### **Section 1. General Provisions**

The provisions of this article are intended to comply with the Omnibus Transportation Act of 1991 and relevant U.S. Department of Transportation Regulations and applies to all safety sensitive employees as outlined in Federal Highway Regulations (49 CFR Parts 382, 391, 392, 395). These regulations apply to every person who operates a commercial motor vehicle (CMV) in interstate or intrastate commerce and who is subject to commercial driver's license (CDL) requirements. A CMV is a vehicle that weighs over 26,000 thousand pounds, has a gross combination weight over 26,000 thousand pounds inclusive of a towed unit with a gross weight of over 10,000 pounds, is designed to transport 16 or more passengers, or is used to transport hazardous materials. In addition to CDL licensed employees, the following classifications shall be considered safety sensitive employees for the purposes of this Memorandum: Truck Drivers, Heavy Equipment Operators, Pump Operators, Lab Technicians, Dispatchers (including part-time and auxiliaries) and Supervisors in the Service and Water Departments. All the above listed "safety sensitive" employees shall be placed in the same random drawing pool each time a random selection is made. Such safety sensitive employees are subject to random, post-accident, reasonable suspicion, return to duty testing as outlined below. Certain provisions of this policy (i.e., reasonable suspicion, post accident return to duty and follow-up testing) shall apply to all employees.

#### **A. Pre-Employment**

Prior to commencing employment with the City, newly hired employees shall be required to pass a drug and alcohol test. Further, prior to performing a safety sensitive function for the first time, any current employee must pass a drug and alcohol screening as outlined in the Federal Highway Administration regulations listed above.

#### **B. Random Testing**

A scientifically valid method shall be used to randomly select employees for testing. Such testing for drugs and alcohol shall be conducted when (1) the employee is performing a safety sensitive function, (2) just before the employee is to perform a safety sensitive function or (3) just after the employee has ceased performing such functions. An employee selected for random testing must proceed immediately to the testing site. Commencing January 1, 1996, twenty-five per cent (25%) of all affected employees shall be tested for alcohol and fifty per cent (50%) of all affected employees shall be tested for drugs in each calendar year. These percentages may be raised or lowered in subsequent years, depending on the annual rate of positive tests for all employees covered by this rule.

#### **C. Post Accident Testing**

Testing will be required following all accidents. Testing will be conducted for each surviving driver if the accident involved a loss of human life or a driver receives a citation for a moving violation under state or local law. A collision or occurrence meets the definition of an "accident"



when the incident involves a motor vehicle operating on a public road which results in: a death; bodily injury to a person who immediately receives medical treatment away from the accident; or one or more vehicles is disabled and must be towed from the scene. Other employees may be tested if it is determined, based on the best information available at the time of the accident, that such employee's actions could have contributed to the accident.

**D. Reasonable Suspicion Testing**

1. Employees who are observed, by at least one trained supervisor or employee, demonstrating evidence of alcohol or controlled substance impairment shall be subject to testing. Reasonable suspicion must be based on specific, contemporaneous and articulable observation concerning the appearance, behavior, speech or body odors of the employee.
2. Testing under this Section 1(D) must be administered promptly and in no case later than eight (8) hours after a determination of reasonable suspicion is made. The person who makes the determination of reasonable suspicion shall not conduct the alcohol test.
3. The observing supervisor or employee must document, in writing, the grounds for his reasonable suspicion within twenty-four (24) hours of making the determination, but at a time not later than before the results of the test are released, whichever is sooner.
4. Employees designated to determine whether reasonable suspicion exists must receive at least one (1) hour of training on alcohol and drug misuse and indicators of probable misuse.

**E. Return to Duty Testing**

1. An employee who has tested positive for a controlled substance or an alcohol concentration of 0.04 or above , in any of the above testing and is not discharged by the City, shall not be permitted to perform any safety sensitive function until he has been evaluated by a substance abuse professional, completed any recommended rehabilitation or course of treatment and has a verified negative test result for controlled substances if the conduct involved controlled substances or must undergo a return to duty alcohol test with a resultant alcohol concentration of less than 0.02, if the conduct involved alcohol.
2. An employee who tests positive for alcohol with an alcohol concentration of 0.02 but less than 0.04 shall not be permitted to perform any safety sensitive function until he undergoes a return to duty alcohol test with a resultant alcohol concentration of less than 0.02.

**F. Follow-up Testing**

Safety sensitive employees who test positive, and are not discharged by the City shall be required to participate in follow-up testing for twelve (12) months following the employee's return to work. The employee shall be required to submit to a minimum of six

(6) unannounced follow-up tests in the first twelve (12) months following the employee's return to work. The number and frequency of the follow-up testing shall be determined by a substance abuse professional (SAP). After the first year, the substance abuse professional may terminate this requirement or continue the follow-up testing for an additional forty-eight (48) months.

#### **G. Refusal to Submit Required Testing**

A refusal to submit to a drug or alcohol test shall be treated as a positive test. In the case of post-accident testing and the inability of the employee to voluntarily submit to required testing, the City may substitute a test for use of drugs or alcohol administered by police or other public safety officers under separate authority, in lieu of conducting its own testing.

### **Section 2. Testing Procedures**

The following procedures shall be used in testing for controlled substances and alcohol:

#### **A. Controlled Substance Testing**

1. Testing for controlled substances will be by urinalysis only and will be performed by a Department of Health and Human Services certified laboratory. Split samples of all specimens are required under the Act.
2. Specimens may only be tested for the covered drugs and the specimen may not be used to conduct any other analysis or test. Covered drugs under the Act are limited to (1) Amphetamines, (2) Cocaine, (3) Marijuana, (4) Opiates, and (5) Phencyclidine. The City may only test for other controlled substances if approved by the DOT, and if there is a DIMS approved testing protocol for that substance.
3. Preparation for Testing. A standard drug testing custody and control form must be used. A statement on the form will inform the Employee that if there is a positive test, the Medical Review Officer (MRO) will contact the employee about prescription and over-the-counter medications. The employee may list medications only on the employee's copy of the form. The employee is not to provide any information about prescription or over-the-counter medication to the employer or the laboratory.

#### **4. Specimen Collection Procedures**

- a. Urine specimens shall be collected at a collection site which complies with the procedures set forth in the Act and related regulations and which conforms to DOT protocols.
- b. The collection area must be secure and the chain of custody form must be completed and shipped with the specimen.
- c. The collection site person is the individual that insures the urine specimen is collected according to the required procedures. An employee's direct supervisor may not serve

as the collection site person unless it is impracticable for any other person to perform this function.

- d. Collection of urine specimens must allow individual privacy unless there is reason to believe that a particular person may alter or substitute the specimen. If specimen collection is directly observed by a non-medical person, the observer must be of the same gender as the employee. The following circumstances are the only grounds to believe a person may alter or substitute a specimen:
- The urine specimen is outside the normal temperature range (32.5 deg. C/90.5 deg-99.8 deg F) and the employee will not allow an oral body temperature to be taken, or the Oral body temperature is 1 deg. C/1.8 deg F different from the temperature of the specimen;
  - The collection site person observes behavior that clearly indicates an attempt to alter or substitute a specimen; or
  - The employee has previously been determined to have used a controlled substance and the test is a follow-up test after return to duty.
- e. A "split sample" of urine is collected in this procedure. In the split sample method the urine specimen is divided into two containers. The purpose of the split sample is to allow the employee the opportunity to have the specimen retested at a different certified laboratory.
- f. An employee must provide at least 45 ml (milliliters) of urine. Failure to provide an adequate amount of urine is considered a refusal to submit to a controlled substance test and the employee is considered to have engaged in prohibited actions. If the employee is unable to provide the minimum amount of urine, the collection site person will have the employee drink up to twenty-four (24) ounces of fluid and try to provide a sample within two (2) hours. If the employee is still unable to provide a complete sample, the test will be stopped and the employee will be sent for a medical evaluation to determine if there is a legitimate reason for the failure to provide a specimen or if there is a refusal to submit a specimen.

## **5. Laboratory Analysis Procedures**

The initial test of the specimen is to be performed by an immunoassay test. The cutoff levels are listed below and are expressed in nanograms per milliliter (ng/ml):

Amphetamines	1,000 ng/ml
Cocaine metabolites	300 ng/ml
Marijuana metabolites	50 ng/ml
Opiate metabolites	300 ng/ml
Phencyclidine	25 ng/ml



A conformation test will be performed on all initial positive tests. The conformation test must be performed by gas chromatography/mass spectrometry (GC/MS) and this is the only authorized conformation test. The cutoff levels for the conformation test are:

Marijuana metabolites	15 ng/ml
Cocaine metabolites	50 ng/ml
<b>Opiates</b>	
Morphine	300 ng/ml
Codeine	300 ng/ml
<b>Amphetamines</b>	
Amphetamines	500 ng/ml
Methamphetamine	500 ng/ml
Phencyclidine	25 ng/ml

The laboratory must retain the sample in frozen storage for a minimum of one (1) year. The Medical Review Officer will notify the employee of any positive test result. After notification the employee will have seventy-two (72) hours in which to request that the MRO have the specimen tested in a different certified laboratory.

## **6. Reporting and Review of Results**

A Medical Review Officer. [MAO) will examine all confirmed positive test results to determine if there is an alternative explanation for the positive test result. Before making a final decision as to whether a positive test is valid, the MRO will provide the employee with the opportunity to discuss the test result. If the MRO determines there is a legitimate medical explanation for the positive test result, the MRO will report to the employer that the test is negative.

### **B. Alcohol Testing Procedures**

#### **1. Testing Devices**

Tests for alcohol will be conducted with evidential test devices (EBTs) approved by the National Highway Traffic Safety Administration (NHTSA).

#### **2. Screening Tests**

- a. A Breath Alcohol Technician will administer the test. The employee's supervisor may not administer the test unless that employee's supervisor is the only available qualified BAT.
- b. An individually sealed mouthpiece must be opened in view of the employee and attached to the EBT. The employee will blow forcefully into the mouthpiece for at least six (6) seconds or until an adequate amount of breath has been obtained

- c. If the result is below 0.02 the BAT will record the result and no further testing will be performed.

### **3. Confirmation Tests**

- a. If the result of the screening test is above 0.02 a confirmation test will be conducted. The confirmation test will be conducted at least fifteen (15) minutes but no more than twenty (20) minutes after the screening test.
- b. Before the confirmation test, a test (air blank) will be run to ensure the EBT is working properly.
- c. If the screening and confirmation test results are different, the confirmation test result will be used.

### **4. Inability to Provide an Adequate Amount of Breath**

In the event an employee does not provide an adequate amount of breath for the test, he will be sent to a physician who will evaluate the employee's medical ability to provide the required amount of breath. If the physician is unable to find a medical explanation for the employee's failure to provide an adequate amount of breath, the employee will be considered to have refused to submit to a test.

### **C. Confidentiality**

Test results will be confidential to the extent required by law. The cost of any required testing shall be paid by the City.

## **Section 3. Positive Test Results**

The following shall apply when an employee tests positive for alcohol or controlled substances pursuant to any of the above testing.

### **A. Driver and Employment Eligibility**

- 1. Any safety sensitive employee who, pursuant to any of the required testing above, is found to have an alcohol concentration of 0.02 but less than 0.04 shall be prohibited from performing safety sensitive functions for a minimum of twenty-four (24) hours and until the employee has passed a return to duty test with an alcohol concentration of less than 0.02. Such an employee shall be placed on appropriate leave (paid or unpaid) until he/she has met the requirements of this sub-section A I.
- 2. Any safety sensitive employee who, pursuant to any of the required testing above, is found to have an alcohol concentration of greater than 0.04 shall be prohibited from performing safety sensitive functions for a minimum of forty-eight (48) hours, and until

he has been evaluated by a substance abuse professional, followed any recommended course of treatment and has passed a return to duty test with an alcohol concentration of less than 0.02. Such an employee shall be placed on appropriate leave (paid or unpaid) until he/she has met the requirements of this sub-section A 2. Employees who are not permitted to drive during this period shall be placed in an equivalent or lower rated (paid) non-safety sensitive position if available. If no position is available, the employee shall be placed in appropriate leave status until a non-safety sensitive position is available or until such time as he/she may return to his/her former position.

3. Any safety sensitive employee who, pursuant to any of the required testing above, is found to have engaged in the prohibited use of a controlled substance shall be prohibited from performing safety sensitive functions until he has been evaluated by a substance abuse professional, followed any recommended course of treatment and has passed a return to duty test for controlled substances. Such an employee shall be placed on appropriate leave (paid or unpaid) until he/she has met the requirements of this sub-section A 3. Employees who are not permitted to drive during this period shall be placed in an equivalent or lower rated (paid) non-safety sensitive position if available. If no position is available, the employee shall be placed in appropriate leave status until a non-safety sensitive position is available or until such time as he/she may return to his/her former position.

## **B. Discipline**

1. In addition to the above mandatory consequences for a positive test result, the City may discipline an employee, up to and including discharge, for violations of the Act, this policy and/or misconduct or poor performance resulting from an alcohol or substance abuse problem and in accordance with Article 17 of the Collective Bargaining Agreement between the parties. However, any discipline shall be mitigated by the willingness of the employee a rehabilitation program recommended by a substance abuse professional, if the offense is not of such a nature which warrants discharge. In no event shall the City be obligated to provide more than one chance at rehabilitation. Failure to complete or participate in a prescribed rehabilitation program may result in the employee's discharge. The cost of rehabilitation services will be paid by the employee except that the employee may use the benefits provided under the City's health insurance plan.
2. Employees who test positive as result of a follow-up or return to duty test shall be subject to discipline in accordance with Article 17 of the Collective Bargaining Agreement between the parties.
3. Employees offered rehabilitation services under this section will be notified of all available resources for evaluation and treatment.

## **Section 4. Use of Alcohol or Controlled Substances**

1. The parties agree that the workplace should be free from the risks posed by the use of alcohol and controlled substances. The unlawful manufacture, distribution, being under