

# City Council Orientation Handbook

## Milwaukie, Oregon



November 2018

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Office of the City Recorder – Milwaukie Oregon



## TABLE OF CONTENTS

### **1. Administration**

- 1.1. Milwaukie Acronym Dictionary – MAD
- 1.2. City Charter
- 1.3. City Council Roster
- 1.4. NDA Rosters
- 1.5. Milwaukie Municipal Code (MMC) Title 2 – Administration and Personnel
- 1.6. Council Goals
- 1.7. Mayor/Council Communication Agreement
- 1.8. Council Member Role
  - 1.8.1. \*Municipal Law 101
  - 1.8.2. \*Handbook for Oregon City Councilors
- 1.9. Public Meetings Law and Executive Sessions
- 1.10. Council/Staff Communications Policy
- 1.11. Council Agenda Forecaster
- 1.12. The Organization
  - 1.12.1. Department Missions and Functions
  - 1.12.2. Organizational Chart
  - 1.12.3. Department Heads Contact Information & Photos

### **2. City Maps**

- 2.1. General City Map
- 2.2. Neighborhood District Associations (NDA) Map
- 2.3. City-Owned Property
- 2.4. Land Use
- 2.5. City Zoning
- 2.6. Zoning – Resource Overlays
- 2.7. Zoning – Urban Growth Management Area (UGMA)
- 2.8. Water Service Areas
- 2.9. Police Patrol Map
- 2.10. Bike Map

### **3. City Manager's Office**

- 3.1. City Events
- 3.2. CIP Tracking/Management Committee
- 3.3. Rights of Way (ROW) Usage Fees
- 3.4. Potential Update to Solid Waste Code
- 3.5. Parks

## **4. Community Development**

- 4.1. Milwaukie Housing Affordability Strategy (MHAS) Action Plan
- 4.2. Opportunity Sites
  - 4.2.1. Coho Point at Kellogg Creek
  - 4.2.2. Harrison/Main
  - 4.2.3. Sparrow Site
  - 4.2.4. TriMet Remnant Lot
  - 4.2.5. Milwaukie Marketplace
- 4.3. Economic Development
  - 4.3.1. Milwaukie Community Facts
  - 4.3.2. Enterprise Zones
  - 4.3.3. Brownfields Resources
  - 4.3.4. Downtown Development Standards
  - 4.3.5. EB-5 Investment Program
  - 4.3.6. Parklets
  - 4.3.7. South Downtown
  - 4.3.8. Milwaukie Station Food Carts
  - 4.3.9. New Market Tax Credits
  - 4.3.10. NMIA Development Standards
  - 4.3.11. Strategic Investment Program
  - 4.3.12. Urban Renewal
  - 4.3.13. Vertical Housing Tax Credit
- 4.4. Wayfinding
- 4.5. Construction Excise Tax Program

## **5. Planning**

- 5.1. Key Documents
  - 5.1.1. \*Comprehensive Plan
  - 5.1.2. \*Land Division Ordinance
  - 5.1.3. \*Sign Ordinance
  - 5.1.4. \*Zoning Ordinance
  - 5.1.5. \*Transportation System Plan
- 5.2. Milwaukie's Community Vision
- 5.3. Downtown Design Guidelines

## **6. Engineering**

- 6.1. Rights of Way (ROW) Permitting/Standards
- 6.2. Safe Access for Everyone (SAFE)
- 6.3. Integrated Transportation Plan Project and Bond
- 6.4. Public Improvement Standards

- 6.5. Construction Pavement Index
- 6.6. Construction Boilerplate Specifications
- 6.7. Clay Pipe Replacement
- 6.8. Meek Street Storm Pipe Rights of Way Acquisition
- 6.9. Washington Street Storm System Replacement and Green Street
- 6.10. Kronberg Park Path
- 6.11. Monroe Street Greenway Project
- 6.12. Railroad Multi-Use Path

## **7. Public Works**

- 7.1. Master Plans and Programs
  - \*Stormwater Master Plan
  - \*Wastewater Master Plan
  - \*Water Master Plan
  - \*Street Surface Maintenance Program
- 7.2. Single-Use Plastic Bag Ban and Polystyrene Foam Ban
- 7.3. Climate Action Plan
- 7.4. Urban Forest Plan and Tree Code
- 7.5. EV Chargers
- 7.6. Downtown LED Streetlight Conversion
- 7.7. Well #2
- 7.8. Water and Wastewater Rate Studies
- 7.9. SCADA Master Plan – Draft
- 7.10. Stanley Tank Reservoir Improvement Project
- 7.11. City Hall Renovations

## **8. Finance**

- 8.1. Local Budgeting in Oregon
- 8.2. Business Travel Policy
- 8.3. Mileage Reimbursement Policy
- 8.4. Key Documents
  - \*Adopted Budget – 2019/2020 Biennium
  - \*Comprehensive Annual Financial Report – Fiscal Year Ended June 30, 2017 (*FY18 to be completed in December 2018*)
  - \*Popular Annual Financial Report – Fiscal Year Ended June 30, 2017

## **9. Police**

- 9.1. Organizational Chart and Staff Details
- 9.2. Current Issues Affecting the Police Department
- 9.3. Local Partnerships
- 9.4. Community Outreach and Programs

## **10. Ledding Library**

- 10.1. History
- 10.2. Library District and Progress Report
- 10.3. Library Expansion Project
- 10.4. Clackamas County Library District Distribution Formula
- 10.5. Ledding Library Budget FY 2018 – FY 2019
- 10.6. Library Expansion Task Force (LETf)
- 10.7. Programs for 2017-2018

## **11. Human Resources**

- 11.1. AFSCME Contract
- 11.2. MPEA Contract
- 11.3. City Manager's Contract
- 11.4. Department Heads' Contract

## **12. Municipal Court**

- 12.1. Overview and Judge Bio
- 12.2. Personal Services Agreement for Municipal Court Judge Services
- 12.3. Personal Services Agreement for City Prosecutor Services



## **9. Police**



CITY OF MILWAUKIE PUBLIC SAFETY BUILDING

CITY OF MILWAUKIE PUBLIC SAFETY BUILDING

9.1.

# Organizational Chart and Staff Details

# Milwaukie Police Department

Currently budgeted for 36 police officers and 5 non-sworn support staff.

Additionally, 1 full-time code enforcement officer and a half-time parking officer work out of the police department as well.

Currently service 4.5 square miles with a population of approximately 20,000 citizens.

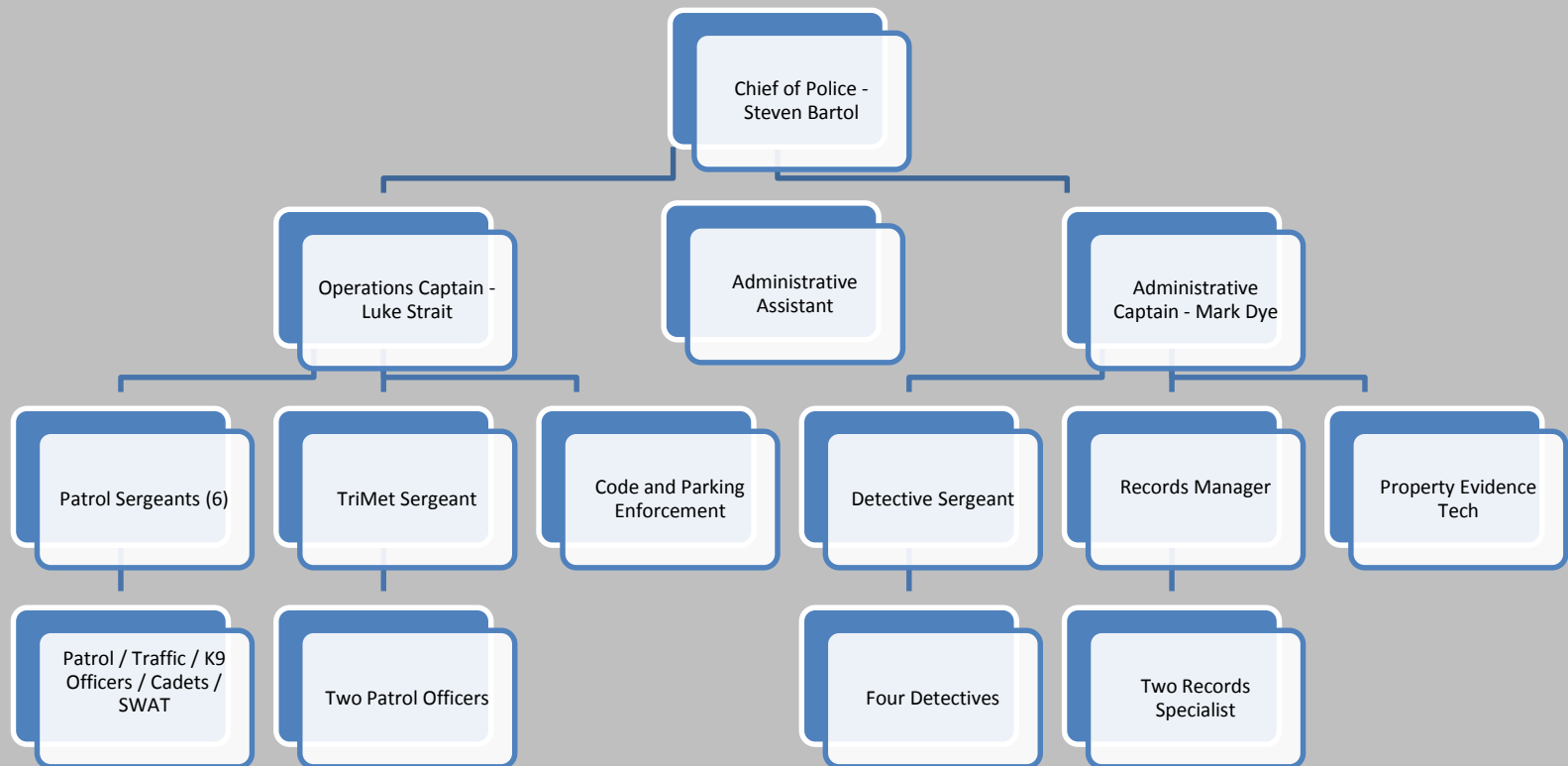
In 2017 we handle approximately 23,000 calls for service and took 4,934 case numbers.

Milwaukie PD is Accredited through the [Oregon Accreditation Alliance](#).





# MPD Organizational Chart



# How do we use our resources?

36 Total Officers

3 Command Staff

7 Sergeants (6 Patrol / 1 Detective)

4 Detectives (3 general assignment / 1 Forensics)

2 Traffic Officers (*Program*)

1 School Resource Officer (*Program*)

2 Officers and 1 Sergeant at TriMet (*Program - Salaries paid by TriMet*)

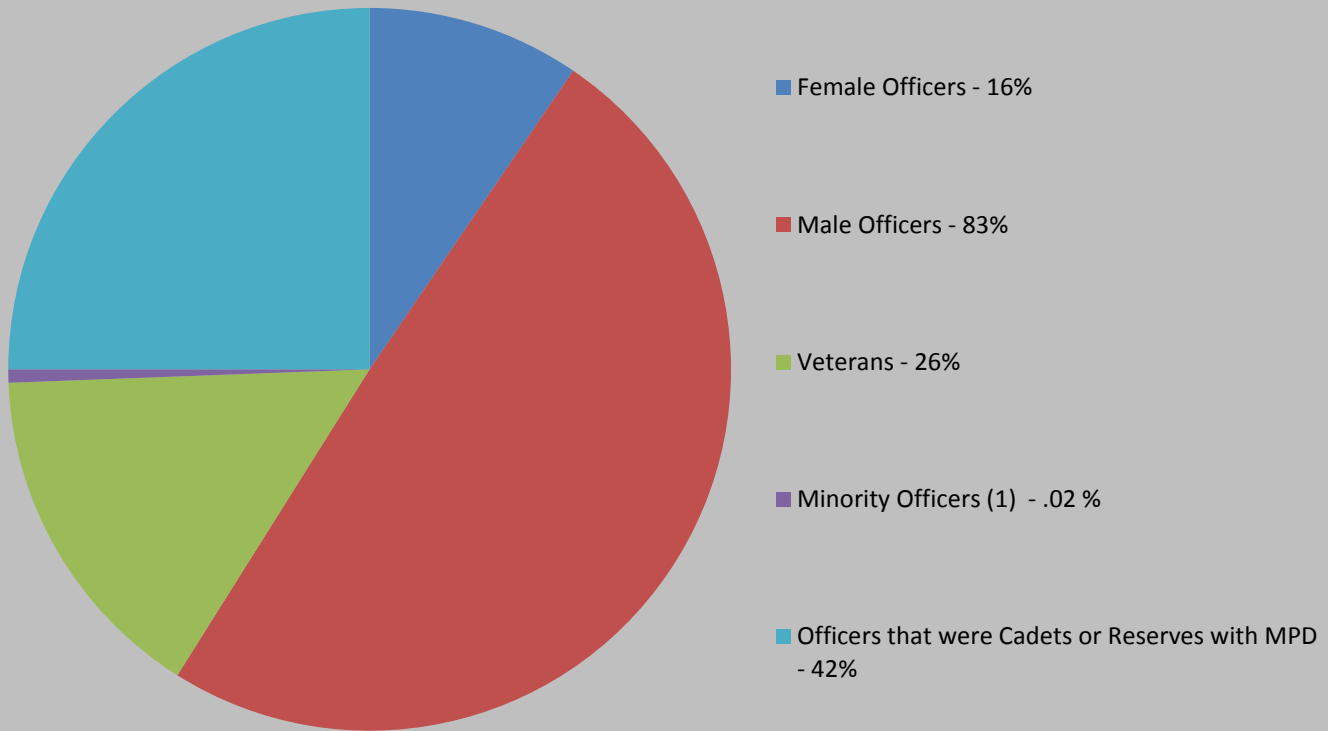
Leaves 16 Officers for patrol (With 6 Sergeants added – 22)

*\*Patrol is the backbone of the Police Department. When significant shortages occur, those positions assigned to non-essential Programs are folded back into patrol so that there are sufficient officers to respond to calls for service.*

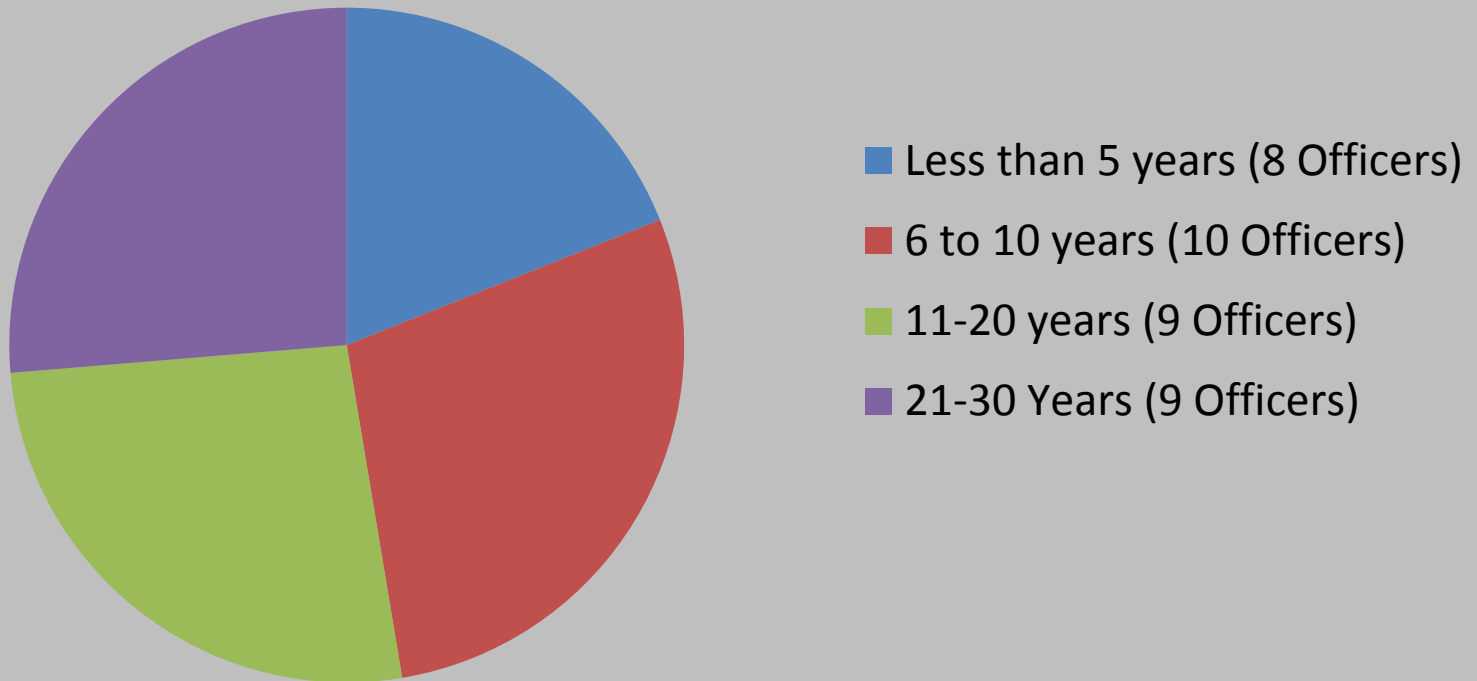
*Currently one of the traffic positions is still unfilled while new officers are in training.*

# MPD Demographics

Percent of Sworn Officers



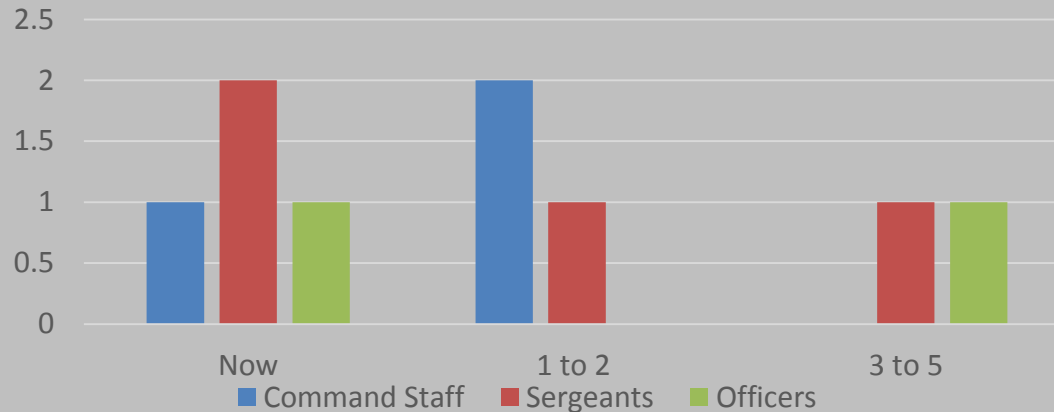
## Overall Tenure



Over the last four years we have hired 11 officers to fill vacancies created by funding issues and/or natural attrition. These 11 officers account for almost a third of the department. As a result, approximately 18% of the department has less than five years experience. That said, 50% of the department has in excess of 10 years with 25% of the officers having in excess of 20 years experience. This gives us a good balance of experience and expertise.



## Numbers of Officer Eligible for Retirement in Years



While having an experienced work force benefits us, it also presents some problems in the near future. Approximately 10% of our staff are currently eligible for retirement. Within five years, an additional 13% will become eligible. Recognizing this, succession planning and career development have been a priority over the last two years. These efforts include sending two sergeants to the Southern Police Institutes (SPI) Administrative Officers Course with dedicated funding to send a third in this biennium. SPI is a three month leadership course at the University of Louisville and is considered one of the top three law enforcement leadership schools in the nation. Additionally, we sent four officers to the regional sergeant academy to prepare them for upcoming promotional processes and gave three officers the opportunity to serve as acting sergeants while sergeants were at SPI.

9.2.

# Current Issues Affecting the Police Department

# Current Issues Affecting Police Department

Individuals in mental health crisis and addiction continues to be a drain on public safety regionally. While mental illness and addiction are both illnesses and not crimes in and of themselves, their symptoms create public safety issues resulting in law enforcement interaction. Recognizing that the best solution is to treat the disease thereby preventing the negative outcomes, we partner with other agencies to help provide alternatives that reduce law enforcement interaction. One example of this is the Behavioral Health Unit ran out of Clackamas County Health, Housing and Human Services (H3s). In this program, clinicians are available to respond to a crisis in the field to assist law enforcement with the interaction, transportation to medical facilities and treatment. Training our officers in mental health first aid and advance Crisis Intervention Techniques (CIT) continues to be a priority for the Milwaukie Police Department.

Heroin and Methamphetamine addiction also has a significant impact on public safety issues. In 2017, we had 16 heroin overdoses in the City of Milwaukie, three of which were fatal. In 10 of those cases first responders administered Naloxone, a spray administered nasally to reverse the affect of opioids. Without the Naloxone program, many of these cases would have been fatal. Every police officer in Milwaukie is trained in the use of Naloxone.

## Current Issues Continued

### Housing Crisis / Homelessness –

Our region's housing crisis continues to be a top concern for the City of Milwaukie and affordable housing is listed as one of the top Council goals. Again, while being homeless is not a crime, law enforcement often ends up dealing with the results of homelessness. In many cases, homelessness, mental health and addiction issues are intertwined. The Milwaukie Police Department works hard at dealing with those who are in need of services in a kind and compassionate manner while still working to address the public safety issues and environmental impact to our public spaces created by long term or large scale camps. The Milwaukie Police Department has assigned one officer to act as our homeless liaison officer. However, this is an ancillary duty and not a full-time assignment. At the request of council we have recently started tracking our contacts in an effort to determine if additional resources should be dedicated to this issue.





9.3.

# Local Partnerships

# Local Partnerships Currently in Place

- Sudden large scale incidents can be very expensive – OT, equipment
- Mutual Aid Agreements allow us to share costs related to personnel and equipment. Some examples include;
  - Mobile command post (regional asset provided by OCPD and CCFD#1)
  - SWAT (Inter-Agency Team with 3 MPD Officers participating as operators/sniper and 2 as hostage negotiators)
  - Portland Police Explosive Detection Unit (EDU)
  - K9 – Tracking/Protection and drug detection –
    - Milwaukie currently has one K9 team that will be dual trained for both narcotics detection and tracking/protection.
    - We consider our dog a regional asset allowing them to respond to various communities when needed. Likewise, if we need a dog and ours is off duty, one will respond from another jurisdiction.



# Clackamas County Major Crimes Team

- Started in the early 90's as the Clackamas County Homicide Team
- Ad-hoc task force designed to help smaller jurisdictions investigate homicide cases
- Originally supervised by an OSP Detective and a Milwaukie PD Detective Sergeant
- Later became a “Major Crimes Team” and is now coordinated out of DA's Office
- When activated we can have as many as 15 detectives respond to a scene. Likewise, our detectives respond to other jurisdictions to assist when needed.





## TriMet Police Department

- Comprised of local law enforcement agencies from the greater Portland area.
- Officer's salary, OT and equipment are reimbursed (+5%) by TriMet allowing us to backfill officers we send.
- Officers trained on bus and rail system.
- Several specialty units within TPD that provide additional training and experience.
- We have one sergeant and two officers assigned to this group.

## Emergency Dispatch Services (911)

The City of Milwaukie contracts with the City of Lake Oswego for emergency dispatch services. Lake Oswego also provides emergency dispatch services for the City of West Linn.

All 911 calls in the City of Milwaukie are routed to the 911 center within the Lake Oswego Police Department (LOCOM). Police emergencies are dispatched to our officers while medical emergencies are sent to Clackamas County Communications (CCOM) for dispatch to Clackamas County Fire District #1.

The Police Department has an average response rate of 4:24 minutes from time of call to arrival on scene for priority one calls (most urgent).



9.4.

# Community Outreach and Programs

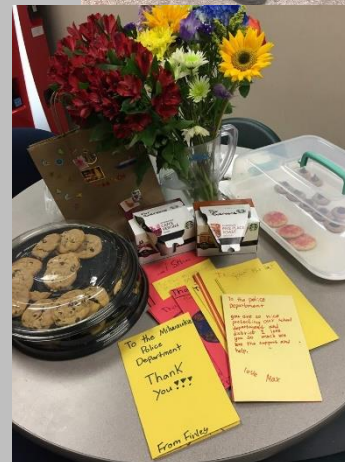


# Community Outreach

The Milwaukie Police Department is dedicated to providing the finest police services possible. The men and women of the Milwaukie Police Department are committed to the core values which include integrity, impartiality, reliability and compassion.

We believe positive relationships are key and we are constantly looking for creative opportunities to get to know those we serve.

In a 2017 Citizen survey commissioned by the City, The Milwaukie Police received an 82% approval rate with their citizens.



## Coffee with a Cop -

Coffee with a Cop is a simple concept. Cops meeting with citizens over a cup of coffee to discuss whatever comes up. We have partnered with the local coffee shops in town to host these events. Our goal is to try and hold an event at least once a quarter, rotating through the local shops who have agreed to participate. It's a great way for citizens to sit across a table with a hot cup of coffee and get to know their local police officers.





## School Resource Program -

The Milwaukie Police Department provides one full-time School Resource Officer (SRO). While their primary duty station is at the high school, the SRO assists with Rowe Middle School and the elementary schools when possible. The SRO focuses on building relationships, does some teaching and works with the schools to keep our kids safe.

Additionally, Officers participate in the High School's annual Dodge Ball tournament to help raise money for Habitat for Humanity.



## Shop with a Cop -

Shop with a Cop is another annual event that our officers participate in, many on their own time. This event pairs children who have an incarcerated parent or who's family may have experienced some other hardship, with police officers to shop for Christmas presents for their family. This event helps break down the walls and build positive relationships between officers and kids. Funds for this event are provided through the [Clackamas County Peace Officers Benevolent Foundation](#).





## Special Olympics -

Every year, our employees and their family members participate in several events that help the Special Olympics. Tip a Cop involves Officers volunteering as waiters with all tips going to Special Olympics. Officers also participate annually in the Law Enforcement Torch Run and the Polar Plunge.



## Bikes for Kids Program -

The Milwaukie Police Department's "Bikes for Kids," program was the brain child of one of our officers who was serving as a lunch buddy at Seth Lewelling School. Like many of our schools, Seth Lewelling is a Title One School (more than 40% of families are considered low income qualifying for free or reduced lunches). Realizing most of these kids could not afford a bicycle, the officer came up with a plan to refurbish bikes in our property room to give to kids just before the summer break. Since then, the program has expanded to providing bikes to kids at every school in Milwaukie. 2018 marked our 8<sup>th</sup> year of the give away.

Money to support this program is provided by donations through the [Milwaukie Public Safety Foundation](#).





# Cadet Program

One of our most successful youth outreach tools is the Cadet Program. The Cadet program is a mentoring program for kids age 16 to 21. Cadets receive training in law enforcement practices and community policing philosophies. They ride with police officers on patrol and assist with various community events throughout the city. One of their highlights is the annual summer skills competition called the Law Enforcement Challenge where they compete with Cadet Posts from all over Oregon and Washington.

The cadet program has served as a great recruiting ground for the police department with approximately 42% of the officers having participated in this program prior to becoming officers.



# 10. Ledding Library

10.1.

History

## History of Milwaukie's Public Library

In 1889, Alfred Luelling is said to have started Milwaukie's first circulation library with a few books placed in the law office of Thomas Lakin, Justice of the Peace. Later in 1910, a group of PTA women obtained permission from the City fathers to use a room in the old Milwaukie City Hall for a small library. These books were later given to the new Milwaukie Grammar School. In November 1926, a group of interested citizens set up a free library in William Perry's Pharmacy.

Then in 1934, it was learned by L.C. Stoll and School Superintendent Wilbur D. Rowe that funds could be obtained to hire a librarian, Mrs. Maggie Johnson. With the help of the Milwaukie Business Men's Club, the Milwaukie City Council and others, the Milwaukie City Public Library was officially opened on December 9, 1934, in the City Hall Council Chambers. When the new City Hall was built in 1937, there was much discussion about which should be housed there, a city jail or a library. The library proponents won.

Many individuals and groups, including the Henry Roberts family, have contributed money, books and hours of service to the furtherance of the library. The Friends of the Milwaukie Library formed in 1952 as a volunteer group representing many service and PTA groups.

The property on which the Ledding Library now stands was given to the City by Herman F. and Florence Ledding for the sole purpose of a library. Both Mr. and Mrs. Ledding were long-time friends of the library and community leaders. On March 15, 1963, Milwaukie residents passed a \$150,000 bond issue to construct a new library building. Work was begun in April, 1964, and doors of the new library were opened December 16, 1964.

On December 10, 1967, the Wilbur Rowe Children's Library opened on the ground floor of the building. Additional space was dedicated on February 21, 1987, provided by bequest of Clark King.



10.2.

# Library District and Progress Report

## Library District

The Clackamas County Library District was approved by the voters of Clackamas County on November 4, 2008. The voters in Milwaukie carried the measure, with 67% voting yes. The Libraries in Clackamas County (LINCC) share a catalog that enables patrons to access collections from any of the 13 libraries in the District. A county-supported courier service makes deliveries daily to transport materials between all the libraries. The County Network provides the technical support for the libraries' system servers, public computers, the online public catalogs and the WorkFlows software.

The participating libraries are Canby, Estacada, Gladstone, Hoodland, Lake Oswego, Ledding of Milwaukie, Molalla, Oak Lodge, Oregon City, Sandy, Sunnyside, West Linn, and Wilsonville.

The IGA setting up the District specified use of District revenue to provide public library service to all District residents on the same terms. District funds may not be used to support the general overhead or administrative costs of Cities except to the extent such overhead or administrative costs are directly related to the provision of library services and/or the operation of a public library.

The District Board shall organize and appoint a District Advisory Committee (LDAC) consisting of one nominee from each Library City consistent with the policies and procedures of Clackamas County and/or the District for advisory committees. The District Board shall appoint the individual nominated by the Library City governing body to fill the service area's representative seat.

10.3.

# Library Expansion Project

## LIBRARY EXPANSION PROJECT

The concept of an expanded Ledding Library has its roots in the 2001 Ledding Library Long Range Plan, initiated and led by the Ledding Library Board. This plan was intended to serve as a five-year plan and included the following recommendations:

- Expand or relocate the library to increase service
- Enhance library collection
- Stabilize funding
- Operations and staffing

Additional goals and objectives identified in the 2001 plan related to the expansion/relocation included enhanced services for teens and children, security and technology. Council provided direction to staff to move forward with the recommendations from the plan. However, there was no money available for any expansion at this time.

Once the voters approved the countywide library district in 2008, all LINCC libraries were to receive a one-time \$1-million contribution from the district for capital improvements. These funds included a requirement that the City undertake an analysis of how to use the funds and develop a plan for a capital improvement to the library.

On March 15, 2011, City Council authorized creation of the Library Expansion Task Force (LETf) which included representatives from City Council, Library Board, Library Foundation, Planning Commission, Budget Commission, Neighborhoods, Business, and Library staff. The LETf developed a plan for library expansion and received Council direction on October 16, 2012, to hire an outside consultant to complete a needs assessment, building area program and preliminary design concept.

The City of Milwaukie subsequently hired FFA Architecture and Interiors, Inc. to conduct this work. The FFA study focused primarily on conceptual design and programming necessary to serve the projected population in 2035. The need assessment was based on projected library use and demographic analysis and future forecasted demand. The needs assessment relied on the ideal square footage per capita recommendations from the Oregon Library Association (OLA) standards at that time and applied that factor to expected population growth to determine an ideal building size. Based on these assumptions the expected need in 2035 was an additional 22,950 square feet for a total of 35,200 square feet.

On August 6, 2013, Council received and confirmed LETfs recommendation to expand the Ledding Library up to 35,000 sq. ft. at its current site. However, there were still no funds available to do an expansion.

On February 2, 2016, City Council adopted a resolution “declaring the City’s official intent to reimburse certain expenditures from the potential proceeds of tax-exempt obligations.” Council held a discussion on moving forward with a \$9.2 million-dollar bond in May of 2016 to fund the library project. The Library Board, and the LETf concurred with this recommendation.

On June 7, 2016, Milwaukie City Council authorized a resolution to certify the election results approving the library bond measure. The Bond measure language is consistent with recommendations from the 2001 strategic plan and subsequent conceptual design and rough order of magnitude cost estimates.

In January 2017, Milwaukie City Council adopted a Resolution to form the Library Construction Task Force (LCTF) consisting of 1) two City Councilors; 2) one Library Board member; and 3) up to seven at-large community members from the library service area with one position reserved for a member from the Art Community. The selected members of the task force, selected through an interview process, are:

- Rebecca Banyas (Art)
- Angel Falconer (Council and Chair)
- Ernestina Fuenmayor
- Mark Gamba (Council)
- Ryan Healy (Library Board)
- Paul Klein
- Julie Lund

- Ervin Miller (School District)
- Melissa Perkins
- Nancy Tice

LCTF serves as an advisory body to the Project Coordination Team. It has been consulted at key milestones for input and informed recommendations for the project to move forward. The Task Force has also provided valuable input on community outreach and how to balance community aspirations with the goals of the expansion. LCTF has met as needed and are still involved in the project development.

The City hired Hacker Architects as the Project Architect and Swinerton Builders, Inc. as the Construction Management/General Contractor for the Ledding Library project.

The February 2017 comprehensive Building Assessment Report highlighted the specific complexities of the Ledding Library renovation. The assessment included a visual inspection by the Project Architect and sub consultants including Mechanical/Electrical/Plumbing Engineers, Structural Engineers and the CM/GC who conducted a complete assessment of the existing structure and systems. The team also reviewed construction documents from the major building efforts in 1964, 1986 and 1997.

Key findings from the report influenced the City's direction to evaluate new construction, including:

The current library is three stories and constructed in three phases, the original 1900s two-story house. A 1964 addition and a 1985 addition. Due in part to the different ages and construction types, a wide range of systems and building standards were found.

Renovation of structural reinforcement is essential, but would be costly and compromise the quality of the interior spaces. The building itself is not structurally adequate to resist the additional lateral forces resulting from the additions and connections between the roof/floor framing from the later additions are not adequate.

The report recommended a full replacement of the electrical system due to the age, size and voltage of the existing system.

ADA Accessibility is not fully compliant, the existing building envelope does not meet Oregon energy code requirements, and the HVAC system and all major mechanical equipment would need to be replaced.

The findings from this study provided a picture of the comprehensive renovation scope and associated costs with the proposed renovation. To better understand the cost implications, the design team conducted a massing study for a renovation, and Swinerton provided quantifiable cost considerations of renovation vs replacement of the existing library. The findings of that study illustrated that building new could be more cost effective in addition to other benefits of new construction.

This information was presented in detail and discussed with the LCTF on June 27, 2017. At their next meeting on September 6, 2017, the design team presented options analyzing opportunities and risks of a one-story versus a two-story library project. LCTF unanimously agreed to move forward with a one-story option for refinement.

Fast forward to September 2018 and the library staff is preparing to move into a temporary location so the construction of the new Ledding Library can begin. Opening of the new library will be the beginning of 2020.

## Library District of Clackamas County - Annual Progress Report

### Ledding Library of Milwaukie

For the period: 7/1/2016 through 6/30/2017

#### SECTION 1: LIBRARY BOARD COMPOSITION

##### Service area population

<u>Question</u>		<u>Count</u>	<u>Pctg of total</u>
1.1	City population	20,505	50.7%
1.2	Unincorporated pop. served	19,911	49.3%
1.3	<b>TOTAL SERVICE AREA POPULATION</b>	<b>40,416</b>	<b>100.0%</b>

##### Library Board composition (at 6/30/2017)

		<u>Count</u>	<u>Pctg of total</u>
1.4	Board members living in City	5	71.4%
1.5	Board members living in unincorp. area	2	28.6%
1.6	Vacancies	0	0.0%
1.7	<b>TOTAL BOARD MEMBERS</b>	<b>7</b>	<b>100.0%</b>

- 1.8 If you'd like to provide any additional information about your service area population or your board composition, please do so below.

**SECTION 2: FINANCIAL DATA**

City budget cycle	Biennial
If biennial, this report covers	Year 1

Library Fund Balances

<u>Question</u>		<u>Amount</u>
2.1	Starting balance of Library Fund (7/1/16)	\$ 422,000
2.2	Total revenue (7/1/16 - 6/30/17)	\$ 11,951,243
2.3	Total exp. (incl. alloc. costs & debt svc.) (7/1/16 - 6/30/17)	\$ (2,812,035)
2.4	Total transfers to reserve fund (7/1/16 - 6/30/17)	\$ -
2.5	Ending balance of Library Fund (6/30/17)	\$ 9,561,208

Revenue Detail (7/1/16 - 6/30/17)

		<u>Amount</u>
2.6	Library District revenue	\$ 1,610,721
2.7	Operational support from City/Library Service Provider	\$ 797,410
2.8	Ready to Read grant	\$ 5,611
2.9	Fines, fees, and donations	\$ 57,496

Other revenues (please specify)

2.10	Proceeds from issuance of debt	\$ 9,480,005
2.11		\$ -
2.12		\$ -
2.13		\$ -
2.14		\$ -
2.15		\$ -
2.16		\$ -
2.17		\$ -
2.18	<b>TOTAL REVENUE (should match total in 2.2)</b>	<b>\$ 11,951,243</b>



Expenditure Detail (7/1/16 - 6/30/17)

		<u>Amount</u>
2.19	Salaries, wages, and benefits	
2.20	Collection expenditures	\$ (1,605,934)
2.21	Allocated costs	\$ (154,377)
2.22	Capital expenses (not paid from Reserve Fund)	\$ (720,000)
		\$ (299,122)
2.23	Debt service (principal & interest)	\$ -
<i>Other expenses (please specify)</i>		
2.24	Other operating expenditures	\$ (32,602)
2.25		\$ -
2.26		\$ -
2.27		\$ -
2.28		\$ -
2.29		\$ -
2.30		\$ -
2.31		\$ -
2.32		\$ -
2.33		\$ -
2.34		\$ -
2.35		\$ -
2.36		\$ -
2.37		\$ -
2.38	<b>TOTAL EXPENSES (should match total in 2.3)</b>	<b>\$ (2,812,035)</b>

Library Reserve Fund Balances (if applicable)

		<u>Amount</u>
2.39	Starting balance of Library reserve fund (7/1/16)	\$ -
2.40	Total transfers to reserve fund (7/1/16 - 6/30/17)	\$ -
2.41	Total paid from reserve fund (7/1/16 - 6/30/17)	\$ -
2.42	Ending balance of Library reserve fund (6/30/17)	\$ -

2.43 Please provide a brief overview of transfers to/from the Library Reserve Fund

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Library-related Debt Service (if applicable)

		<u>Amount</u>
2.44	Starting debt balance (7/1/16)	\$ 9,480,005
2.45	New debt incurred (7/1/16 - 6/30/17)	\$ -
2.46	Principal paid (7/1/16 - 6/30/17)	\$ -
2.47	Interest paid (7/1/16 - 6/30/17)	\$ -
2.48	Ending debt balance (6/30/17)	\$ 9,480,005

2.49 Please provide a brief overview of any outstanding debt.

This is the General Obligation bond passed May 2016 for the building project.

Allocated Cost Detail (7/1/16 - 6/30/17)

	<u>Amount</u>
Operational support from City (Question 2.7)	\$ 797,410
Allocated costs (Question 2.21)	\$ (720,000)

**Since City operational support is greater than or equal to allocated costs,  
you may skip questions 2.50 to 2.63**

- 2.68 Are all allocated costs directly related to the provision of library services and/or the operation of a public library? If no, please explain.

- 2.69 If any District revenue was used for non-operational purposes, please explain.

- 2.70 If you'd like to provide information about support from Friends/Foundations, please do so

Every year our Friends group asks us what is needed by our Library. In FY17, they spent \$44,938 on materials and programs. This did not go through the city; they paid for these things directly. We are indebted to our Friends for their generosity each year.

---

**SECTION 3: SERVICE STANDARDS**

Question

3.1	Library open hours per week	66
3.2	"Threshold" open hours per IGA Attachment C	50
3.3	Does the Library Director have an MLS degree?	Yes
3.4	"Threshold" Director degree per IGA Attachment C	MLS
3.5	Total Library FTE	19.76
3.6	"Threshold" FTE per IGA Attachment C	14.15
3.7	Total staff with an MLS	6.5
3.8	"Threshold" staff with an MLS per IGA Attachment C	2.83
3.9	Vols. owned (physical and digital)	174,081
3.10	"Threshold" vols. owned per IGA Attachment C	80,832
3.11	During the reporting period, did your Library Board review the most recent OLA public library standards?	

- 3.12 If your Library Board did review OLA standards, please share any findings/outcomes of this review.

- 3.13 If you'd like to provide any additional information relating to service standards, please do so below.

Question

- 4.1 If there is any additional information you would like to provide as part of the library's Annual Progress Report, please include it here.

The community supports the Ledding Library of Milwaukie, as demonstrated by the passage of the bond measure in May 2016 for \$9.2 million to expand and improve the library. It is this kind of support that typifies this community as they are avid users. Hacker was chosen as the architect; Swinteron Builders is the construction firm. This project is moving forward with a completion date in 2020.

10.4.

Clackamas  
County Library  
District  
Distribution  
Formula

**Clackamas County Library District  
Fiscal Year 2017 - 2018 Distribution Formula  
FY 2018/2019 Estimate**

<b>Total Current Year Tax Receipts</b>	<b>\$18,323,158</b>	<b>100.00%</b>	<b>Prior Year</b>
City Assessed Value	\$9,764,411	53.29%	\$205,167
Unincorporated Population Served	\$8,558,747	46.71%	\$179,834

Prior Year Fund Balance	\$55,000
Interest Earned	\$20,000
Delinquent Tax & Interest/Penalties	\$310,000
<b>Total</b>	<b>\$385,000</b>
<b>Total Library District Revenues</b>	<b>\$18,708,158</b>

	Assessed Value	Unincorporated Population Served	Assessed Value Prior Interest & Delinquent Tax	Unincorporated Prior Interest & Delinquent Tax	Tualatin Distribution	Total Distribution	%
Canby	\$532,160	\$331,224	\$11,182	\$6,960		\$881,525	4.71%
Estacada	\$109,361	\$662,447	\$2,298	\$13,919		\$788,025	4.21%
Gladstone	\$335,896	\$403,117	\$7,058	\$8,470		\$754,541	4.03%
Happy Valley	\$1,059,439	\$1,615,036	\$22,261	\$33,935		\$2,730,669	14.60%
Lake Oswego	\$2,608,074	\$256,762	\$54,800	\$5,395	\$47,605	\$2,972,636	15.89%
Milwaukie	\$795,799	\$907,227	\$16,721	\$19,062		\$1,738,810	9.29%
Molalla	\$225,558	\$661,591	\$4,739	\$13,901		\$905,790	4.84%
Oregon City	\$1,149,271	\$1,076,690	\$24,148	\$22,623		\$2,272,733	12.15%
Sandy	\$318,320	\$694,970	\$6,688	\$14,602		\$1,034,581	5.53%
Hoodland	\$0	\$247,348	\$0	\$5,197		\$252,545	1.35%
Tualatin	\$186,500	\$0	\$3,919	\$0	-\$95,209	\$95,209	0.51%
West Linn	\$1,427,557	\$171,175	\$29,995	\$3,597	\$9,521	\$1,641,845	8.78%
Wilsonville	\$1,016,475	\$164,328	\$21,358	\$3,453	\$38,084	\$1,243,698	6.65%
*Oak Lodge	\$0	\$1,366,832	\$0	\$28,719		\$1,395,551	7.46%
<b>Total</b>	<b>\$9,764,411</b>	<b>\$8,558,747</b>	<b>\$205,167</b>	<b>\$179,834</b>	<b>\$0</b>	<b>\$18,708,158</b>	<b>100.00%</b>

Tualatin Assessed Value & Prior Year Distribution		Assessed Value	Prior Year, Interest and Delinquent Tax	Total
Tualatin	50%	\$93,250	\$1,959	\$95,209
Lake Oswego	25%	\$46,625	\$980	\$47,605
Wilsonville	20%	\$37,300	\$784	\$38,084
West Linn	5%	\$9,325	\$196	\$9,521
<b>Total</b>	<b>100%</b>	<b>\$186,500</b>	<b>\$3,919</b>	<b>\$190,419</b>



**Clackamas County Library District  
Fiscal Year 2017 - 2018 Distribution Formula  
Library City Assessed Value Percentage**

<b>Participating Cities Assessed Value</b>		
Canby	\$1,358,699,484	5.45%
Estacada	\$276,247,680	1.12%
Gladstone	\$855,534,444	3.44%
Happy Valley	\$2,704,858,083	10.85%
Lake Oswego	\$6,657,733,133	26.71%
Milwaukie	\$2,032,361,043	8.15%
Molalla	\$576,152,716	2.31%
Oregon City	\$2,933,259,887	11.77%
Sandy	\$812,161,258	3.26%
Tualatin	\$477,149,350	1.91%
West Linn	\$3,643,028,041	14.62%
Wilsonville	\$2,595,616,937	10.41%
<b>Total</b>	<b>\$24,922,802,056</b>	<b>100.00%</b>

<b>Total Library District AV</b>	<b>\$46,770,675,936</b>	<b>100.00%</b>
Less: Participation Cities AV	\$24,922,802,056	53.29%
Equals : Unincorporated AV in District	\$21,847,873,880	46.71%

**Note:**

1) Per Library IGA Attachment A

Assessed Value will be established annually based on the County Assessed Value reported for the Library District.

**Clackamas County Library District  
Fiscal Year 2017 - 2018 Distribution Formula  
Unincorporated Population Percentage**

PSU April 2017

Updated May 31, 2017

Unincorporated Population Served by Maps				
	Service Area Population	City Population	Unincorporated Population Served	Percentage of Total Unincorp. Pop.
<b>Clackamas County</b>				
Canby	23,984	16,420	7,564	3.87%
Estacada	18,281	3,155	15,126	7.74%
Gladstone	20,856	11,660	9,196	4.71%
Happy Valley	55,554	18,681	36,873	18.87%
Lake Oswego	40,712	34,855	5,857	3.00%
Milwaukie	41,216	20,510	20,706	10.60%
Molalla	24,184	9,085	15,099	7.73%
Oregon City	58,810	34,240	24,570	12.58%
Sandy	26,519	10,655	15,864	8.12%
Hoodland	5,649	0	5,649	2.89%
West Linn	29,521	25,615	3,906	2.00%
Wilsonville	25,010	21,260	3,750	1.92%
Oak Lodge	31,208	0	31,208	15.97%
<b>Total</b>	<b>401,504</b>	<b>206,136</b>	<b>195,368</b>	<b>100.00%</b>

Population out of Library District	
Johnson City	565
Tualatin	2,911
<b>Total</b>	<b>3,476</b>

Unincorporated City Population	
Barlow	135
Damascus	10,625
Portland	766
Rivergrove	459
<b>Total</b>	<b>11,985</b>

Clackamas County Unincorporated	183,383
Clackamas County City	221,597
<b>Total Clackamas County</b>	<b>404,980</b>

Formula Check	
	195,368
	206,136
	<b>401,504</b>

**Note:**

1) Per Library IGA Attachment A

Unincorporated Population Served is based on Unincorporated Population Percentage Rate using the "Service Area Maps". The Percentage Rate will only change if there is a change due to the following:

- a) City Annexation
- b) Service Area Map Change
- c) Census update

**Clackamas County Library District  
Fiscal Year 2017 - 2018 Distribution Formula  
Library City Assessed Value Percentage**

<b>Participating Cities Assessed Value</b>		
Canby	\$1,358,699,484	5.45%
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Less: Participation Cities AV	\$24,922,802,056	53.29%
Equals: Unincorporated AV in District	\$21,847,873,880	46.71%

**Note:**

1) Per Library IGA Attachment A

Assessed Value will be established annually based on the County Assessed Value reported for the Library District.

**Clackamas County Library District**  
**Fiscal Year 2017 - 2018 Distribution Formula**  
**Unincorporated Population Percentage**

PSU April 2017

Updated May 31, 2017

Unincorporated Population Served by Maps				
	Service Area Population	City Population	Unincorporated Population Served	Percentage of Total Unincorp. Pop.
<b>Clackamas County</b>				
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<b>Total</b>	<b>401,504</b>	<b>206,136</b>	<b>195,368</b>	<b>100.00%</b>

Population out of Library District	
Johnson City	565
Tualatin	2,911
<b>Total</b>	<b>3,476</b>

Unincorporated City Population	
Barlow	135
Damascus	10,625
Portland	766
Rivergrove	459
<b>Total</b>	<b>11,985</b>

Clackamas County Unincorporated	183,383
Clackamas County City	221,597
<b>Total Clackamas County</b>	<b>404,980</b>

Formula Check	
	195,368
	206,136
	<b>401,504</b>

- Note:**
- 1) Per Library IGA Attachment A  
 Unincorporated Population Served is based on Unincorporated Population Percentage Rate using the "Service Area Maps". The Percentage Rate will only change if there is a change due to the following:
    - a) City Annexation
    - b) Service Area Map Change
    - c) Census update

Oregon Public Library data 2015-2016 as of 02/15/2017	Square footage of main library	Total square feet of all facilities
Estacada Public Library	12,060	12,060
Gladstone Public Library	5,100	5,100
Molalla Public Library	10,000	10,000
Canby Public Library	11,000	11,000
Wilsonville Public Library	28,677	28,677
West Linn Public Library	28,000	28,000
Clackamas County Library (Oak Lodge)	8,722	17,444
Sandy Public Library	11,620	13,529
<i>Hoodland Public Library (Branch of Sandy)</i>	1,909	
<b>Ledding Library</b>	<b>12,250</b>	<b>12,250</b>
Lake Oswego Public Library	27,100	27,100
Happy Valley Public Library	18,300	18,300
Oregon City Public Library	13,000	5,000

10.5.

Ledding Library  
Budget FY 2018 –  
FY 2019

## Library Budget

### FY 2018

#### Income

District Funds	\$1,670,736 – \$19,038 over estimate from District
City Contribution	\$ 825,863 – \$38,137 less than budgeted
Other	<u>\$ 73,045</u> – \$2,955 less than budgeted
Total	\$2,569,644

#### Expense

Personnel	\$1,704,156 – \$20,844 less than budgeted
Materials, services, programs	\$ 200,802 – \$8,198 less than budgeted
Transfers back to City	<u>\$ 740,000</u>
Total	\$2,644,958

### FY 2019

#### Income

District Funds	\$1,738,810 – estimate from District
City Contribution	\$ 834,000
Other	<u>\$ 70,000</u>
Total	\$2,642,810

#### Expense

Personnel	\$1,655,000
Materials, services, programs	\$ 192,600
Transfers back to City	<u>\$ 664,000</u>
Total	\$2,511,600



10.6.

## Library Expansion Task Force (LETF)

## Library Expansion Task Force (LETF)

At its February 1, 2011 Work Session meeting, City Council met with the Ledding Library Board and discussed the space needs of the library as well as the process necessary to evaluate options for enlarging the Library. The availability of \$1 million of capital funds from the Library District of Clackamas County in 2012 requires the City undertake an analysis of how to use the funds and develop a plan to address space needs. The Council and Board discussion focused on the benefits of creating a task force to stimulate a broad based discussion of the community need for library facilities, the options available and the process needed to pursue locations and funding.

At its March 15, 2011 meeting, the Milwaukie City Council authorized the creation of the Library Expansion Task Force (LETF) to look in to the issues surrounding the expansion of the Ledding Library. The first meeting of LETF was June 23, 2011, with representatives from City Council, Library Board, Library Foundation, Planning Commission, Budget Commission, Neighborhoods, Business, and Library staff.

The LETF developed a preliminary design program that supported the need of an expansion. A progress report was presented to Council on October 16, 2012, recommending that the Task Force be authorized to hire an outside consultant to complete an unbiased needs assessment/programming plan for the Ledding Library. Council agreed that the Task Force could move forward with this.

At the February 26, 2013 Work Session, LETF updated Council on the search for a firm to conduct the needs assessment/programming plan and recommended hiring the firm FFA to do this. Council directed staff to move forward with hiring FFA.

The LETF met June 13, 2013, to review the preliminary findings of FFA. The majority of the Task Force favored the direction the report is going; their next meeting was scheduled for July 11, 2013, to discuss the final report and vote on their recommendation to Council.

Troy Ainsworth and Karl Refi, both of FFA, presented the finalized needs assessment for Council's review at the July 2, 2013 Work Session. The report reviewed the results of the public survey, staff interviews and public meetings, as well as diagrams illustrating the possibility of expanding the Library to a size up to 35,000 sq. ft. at its current site. This final report had not yet been presented to the LETF at the time of the 7/2 Work Session; however, LETF met July 11, 2013, and voted to recommend to Council an expansion of the Ledding Library up to 35,000 sq. ft. at its current site.

This recommendation was made to Council on August 6, 2013.

For the past year, LETF has not met as the City focused on passing the ballot to pay off the Light Rail debt. At the work session on September 16, 2014, Council approved updating the roster and reconvening LETF to move forward with an expansion plan of the Ledding Library. The Library Director wants the Library Expansion to be a top five goal of the new Council.

10.7.

Programs for  
2017-2018

## Programs FY 2017-18

### Adult Programs

Adult Coloring (monthly)  
Bilingual Poetry Reading – Al-Mutanabbi Street Starts Here! (yearly)  
Daylight Book Group (monthly)  
First Saturday Music Concerts (7/year)  
Food for Fines (Annually in April)  
Foreign and Indie Film Night (9/year)  
Game Nights (YA Program 4-8/year)  
Knit Night (monthly)  
Ledding Book Club (monthly)  
Ledding Cultural Forum (9/year) – 5<sup>th</sup> Season  
Library2Go clinics (by appointment)  
Milwaukie Poetry Series (10/year) – 11<sup>th</sup> Season  
Milwaukie/Sellwood Book Club (monthly)  
Poeming Pigeon Book Launch (2/year)  
Poetry Book Discussion (3/year)  
Poetry Open Mic (12/year)  
Poetry in the Park (annually, will not be held in 2018 - 20)  
Poetry Writing Workshop (2/year)  
Pulp Stage – short plays (annually)  
William Stafford Celebration (annually)  
Writers' Group (monthly)  
\$ for \$ fine waiving week (Annually in November)

### Special Programs

Netflix Filming of the series *The OA*  
Durable Goods poetry Panel  
Good Bye Party for the Library Building  
Beading group (2 per month October – June)  
Meditation (2 programs given)  
Adult Blind Date with a Book  
Adult Seasonal Storytelling by Will Hornyak  
Palestinian Embroidery 101 workshop  
Ledding Seed Swap (2/year)  
Just Uke It! Family Ukulele Workshop (adults & kids learn how to play ukulele)  
Library Community Meetings – developing plans for an improved library (4)  
Stone Painting Craft (Adults) – Botanical themes  
Chess Club (monthly December – March)  
Life and Art of an Audiobook Narrator  
Stone Painting Craft (adults) – Mandalas  
Political Poetry and Possibility  
Indie Author Day  
Short Attention Span Theater  
Mushroom Foraging and Identification  
Wendy Wagner Book Signing  
Here Comes the Sun, but Why is it Getting Dark? Solar Eclipses (July 2017)  
Seed Saving Workshop  
Caring for Your Garden Over Winter  
Summer Reading (teens and adults)  
Summer Reading Passport (2017)  
Summer Reading Bingo (2018)  
Summer Weekly Concerts (2017)

Red = New in FY17-18

## **Children's & Teen Programs**

### Ages 0-5

Baby sign & sing workshops (2-3/year)  
Baby storytime (weekly)  
Preschool drop-in crafts (weekly)  
Preschool storytimes (twice weekly)  
Toddler & preschool music/dance classes (4/year)  
Toddler dance parties (2/year)  
Toddler play dates (2-3/year)  
Toddler storytimes (twice weekly)

### All ages

Family storytime (weekly)  
Scavenger hunts (8-10/year)  
Spanish storytime (monthly)

### School-age

Book Buddies – book group for ages 7-9 (monthly)  
Class visits from Milwaukie-area schools (8-10/year)  
Homeschool Programs (6/Fall + 6/Spring)  
LEGO Club (monthly)  
Minecraft/Pokemon Buddies (5-6/year)  
No School Days – drop-in crafts (all day program – 2/year)  
Read to the dog (weekly)  
Saturday crafts (monthly)

### Young Teens/Teen Programs

Crafternoons (3/summer in 2017)  
Game Night (monthly)  
Talk back to books – book group for ages 10 & up (monthly)  
Teen Blind Date with a book (1-2/year)  
Teen Lock-In with N. Clackamas Parks & Rec (in 2017)  
Teen volunteers (year-round)

### Summer programs

Summer Reading Program – a free book and prizes from sponsors for reading all summer.  
Free summer snack site (twice a week in 2017)  
N. Clackamas Parks Recmobile/Activity Van at the library (weekly in 2017)  
Summer Reading Performers & Programs (1-2 per week; at Ardenwald this summer)

### Special programs

Free Preschool Vision Screenings with Elks Children's Eye Clinic/OHSU (Annual)  
Halloween Party  
Spring Break Programs  
Oregon Symphony Storytimes (annual)

### Parenting Workshops (2-3/year)

Homeschooling in Oregon Workshop  
Early Literacy/Sharing books with children

### Outreach

Free Summer Lunch Site visits (free books and Summer reading sign-up)  
Head Start – monthly storytimes and annual parent night talks at Wichita Head Start  
Jump Start Kindergarten visits  
Ready, Set, Go! Program for Spanish-speaking families at Wichita Center (monthly visits to the Library)

School Literacy Nights/Open Houses (7-8/year)

TC Courtyard - Central City Concern-funded housing for families in recovery – (every other month)

Teen Parents at PACE Program/Sabin Skills Center (2 visits per year, including storytime)

Rowe Middle School – monthly lunch visits and annual summer reading

Metro PDX Young Parents' Resource Fair

Ardenwald Elementary Summer School for K-2 (free books and SRP sign-ups)

# **11. Human Resources**



11.1.

# AFSCME Contract

**CITY OF MILWAUKIE**  
**and**  
**AMERICAN FEDERATION OF STATE**  
**COUNTY AND MUNICIPAL EMPLOYEES**



**CITY OF MILWAUKIE**

**Upon Execution to June 30, 2021**

## Contents

ARTICLE 1 – RECOGNITION.....	3
ARTICLE 2 – MANAGEMENT RIGHTS .....	4
ARTICLE 3 – EMPLOYEE RIGHTS.....	4
ARTICLE 4 – UNION RIGHTS .....	5
ARTICLE 5 – NON-DISCRIMINATION .....	8
ARTICLE 6 – HOURS OF WORK .....	9
ARTICLE 7 – WAGES.....	13
ARTICLE 8 – ADDITIONAL COMPENSATION .....	14
ARTICLE 9 – OVERTIME AND CTO IN LIEU OF OVERTIME.....	17
ARTICLE 10 – SENIORITY AND PROBATIONARY PERIOD.....	18
ARTICLE 11 – VACATIONS.....	19
ARTICLE 12 HOLIDAYS.....	21
ARTICLE 13 – LEAVES .....	23
ARTICLE 14 – BENEFITS .....	27
ARTICLE 15 RETIREMENT.....	29
ARTICLE 16 – LAYOFF AND RECALL .....	30
ARTICLE 17 – DISCIPLINE AND DISCHARGE.....	31
ARTICLE 18 – GRIEVANCE AND ARBITRATION .....	32
ARTICLE 19 – EFFECT OF PERSONNEL RULES.....	35
ARTICLE 20 – PERSONNEL FILE .....	35
ARTICLE 21 – SAVINGS/WAIVER OF BARGAINING .....	36
ARTICLE 22 – FUNDING/BUDGET REDUCTIONS.....	36
ARTICLE 23 – TERM OF AGREEMENT .....	37
APPENDIX A – WAGE SCALE.....	ERROR! BOOKMARK NOT DEFINED.

## **ARTICLE 1 – RECOGNITION**

This CONTRACT is entered into between the CITY OF MILWAUKIE, an Oregon municipal corporation, hereinafter referred to as "CITY", and AFSCME LOCAL 350-5, AFSCME COUNCIL 75 hereinafter referred to as "UNION"

The CITY recognizes the UNION as the sole and exclusive bargaining agent for the purposes of negotiations with the CITY for all regular and regular part-time employees that are or will come under the jurisdiction of the City of Milwaukie, with the exception of employees in the police bargaining unit, confidential or supervisory employees as defined by ORS 243.650 and employees who work less than 20 hours a week or temporary employees. Temporary employees are those working up to six (6) months duration or who work for up to 1039 hours in any calendar year.

### **A. Limited Term Employees**

Any employee appointed to a position designated by mutual agreement between the CITY and the UNION as a "limited term" position. Limited term appointments shall not exceed two years. Limited term employees are covered by all provisions of this bargaining agreement except Article (10) Seniority and Article (15) Layoff.

### **B. Purpose**

It is the purpose of this CONTRACT to maintain and increase individual productivity and quality of services, to prevent any interruptions of work and interference with the efficient operation of the CITY; and to set forth the full and complete agreement between the parties concerning wages, hours of work and conditions of employment.

### **C. Negotiations**

The CITY agrees to negotiate only with the UNION through its negotiating agent or agents officially designated by the UNION to act in its behalf. The CITY further agrees that neither it nor any of its officials or agents will attempt to negotiate privately or individually with any member or members.

The UNION recognizes the CITY as the duly elected representative of the people and agrees to negotiate only with the CITY through the negotiating agent or agents officially designated by the City Council to act in its behalf. The UNION agrees further that neither it, nor any of its members or agents, will attempt to negotiate privately or individually with any Council member, manager or other person or persons.

### **D. New classifications**

In the event the CITY establishes a new classification in the unit, the classification title, classification specification and proposed salary range shall be forwarded to the UNION for review and comment. If the UNION agrees with the salary range, it shall so notify the CITY within fourteen (14) calendar days. If the UNION disagrees with the proposed salary range, it shall notify the CITY within fourteen (14) calendar days and meet with the City consistent with ORS 243.698. In any event, the City shall not be barred from implementing the classification and proposed wage scale during the term of negotiations. If the UNION does not notify the CITY of its agreement or disagreement within fourteen (14) calendar days, it shall be considered that the UNION agrees with the salary range.

## **ARTICLE 2 – MANAGEMENT RIGHTS**

### **A. Responsibilities**

It is recognized that the CITY has and will continue to retain the exclusive right and responsibility to operate and manage the CITY, its departments, facilities, properties and the work related activities of its employees. Rights of employees and the UNION are limited to those rights set forth in the CONTRACT and provided by the United States and Oregon Constitutions, and the Charter of the City of Milwaukie.

Except as limited by the terms of this CONTRACT, the CITY's managerial and operational authority includes, but is not limited to, the right to determine the location of facilities and work stations; the right to establish, relocate or close existing facilities; the right to subcontract; the right to maintain discipline and control; the determination of safety, health and property protection measures; the right to direct all working forces, including the right to hire, suspend, discharge and transfer employees; the determination of the size of the working force, the allocation and assignment of work; the creation, combination, modification or elimination of positions, and the determination of work schedules and hours of work. The CITY's right to subcontract shall not be used for the specific purpose of undermining or discriminating against the UNION.

### **B. Contracting out**

The UNION recognizes that the CITY retains the right to contract and subcontract work as it determines; provided that as to work presently and regularly performed by members of the bargaining unit, the CITY agrees to afford an opportunity to the UNION to meet and discuss the effect of such action on the employment level prior to finalizing and implementing its decision. The CITY agrees to give consideration to alternatives such as work force reduction by attrition, transfers to open vacancies and preferential rehiring when such contracting action will affect the employment level. Such considerations shall be within the CITY's primary requirement to maintain broad authority over its operations in order to provide efficient and economic services to the citizens of the community.

## **ARTICLE 3 – EMPLOYEE RIGHTS**

### **A. Job posting**

The CITY when it determines to fill a vacancy will send an e-mail to the following:

1. Each AFSCME UNION employees; and
2. The AFSCME UNION President.

The CITY shall post such job announcements on the City website for not less than seven (7) calendar days.



## **B. Part-time benefits**

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

<u>FTE Prorated Benefit</u>	
1.0 to .90 FTE	100%
.89 to .66 FTE	75%
.65 to .50 FTE	50%

Benefits include sick leave, vacation leave, holiday leave, medical insurance, deferred compensation, shift differential, vision coverage, dental insurance and life insurance.

## **ARTICLE 4 – UNION RIGHTS**

### **A. Union Dues and Voluntary Payments.**

The terms of this CONTRACT have been made for all employees in the bargaining unit and not only for members of the UNION.

The City agrees to deduct the monthly dues for Union members or voluntary payments from non-Union members through payroll deductions for those employees who individually request such deductions in writing. The Union agrees to provide copies of authorization cards to the City. The UNION agrees to indemnify, defend and hold the CITY harmless against any claims made or suits against the CITY as a result of this Section A.

Payroll deduction per pay period of dues for Union members or voluntary payments for non-Union members shall be made by the dispersing officer for the CITY each month to the Treasurer of the UNION. Employees are subject to the terms of their Union membership. The amount of dues shall be indicated by the UNION to the CITY in writing and shall be effective on the date indicated by the UNION.

With each payment of dues to the Union, the City will provide a list of all bargaining unit members, including new hires, identifying those employees who have and have not paid dues including name, wage rate, address and phone number, and job title.

#### **1. Officers & Representatives**

The UNION shall certify to the CITY Human Resources Director the names and addresses of UNION officers and representatives. The CITY may refuse to recognize such officers and representatives until so certified.

### **B. Access**

UNION representatives shall be accorded reasonable access to CITY premises for the purpose of UNION business, provided that such access does not interfere with the performance by CITY employees of their duties.

## **C. Interference of work**

### **1. Duties**

Duties required by the UNION of its officers, except attendance at meetings with the CITY or with supervisory personnel and aggrieved employees arising out of a grievance by an employee, shall not interfere with their or other employees' regular work assignments as employees of the CITY.

### **2. Approval**

No UNION officer shall leave a duty or work station for purposes connected with the UNION office without the specific approval of the supervisor or other authorized management official.

### **3. Outside working hours**

UNION activities will normally be carried on outside of working hours. It is further recognized that there are reasonable limited deviations from this policy such as posting of UNION notices and distribution of literature which do not require substantial periods of time. Where such activities cannot reasonably be performed except during scheduled working hours, and where such activities are performed without disruption of employee work performance, they are authorized and may be done without loss of pay to the employees involved. The UNION officer performing such union activities during working hours must give notice to and receive approval from the supervisor or other authorized management official to ensure the UNION officer is not disrupting employee work performance.

## **D. Strike/lockout**

Neither the UNION, its officers or agents, nor any of the employees covered by this CONTRACT will engage in, encourage, sanction, support or suggest any strikes, slow-downs, mass resignations, mass absenteeism, the willful absence from one's position or the stoppage of work during the term of this CONTRACT. Any or all employees who violate any of the provisions of this article may be discharged or otherwise disciplined as the CITY deems necessary.

There will be no lockout of employees in the unit by the CITY as a consequence of any dispute arising during the period of this CONTRACT.

## **E. Bulletin Boards**

The CITY agrees to provide the UNION bulletin board space, in mutually agreed locations, for the use of the UNION in communicating with bargaining unit employees.

## **F. Electronic Mail**

### **1. Use by Union Representatives:**

Union representatives (those persons holding positions as officers within the UNION and/or AFSCME Council 75 Representatives) may use the CITY e-mail system to communicate concerning collective bargaining.

a) "Collective bargaining" means any of the following:

- 1) Union announcements to the union membership (such as meeting subjects, dates and times);



- 2) The meaning, interpretation or application of this contract;
- 3) Grievances proposed in accordance with Article 16 of the contract;
- 4) Matters related to the collective bargaining relationship between the CITY and the UNION.

## **2. Use by Employees:**

- b) Employees may use the CITY e-mail system to contact UNION representatives and or the Council 75 representatives regarding collective bargaining, including any of the following purposes:
  - 1) To arrange a date, time and location for a meeting concerning the meaning, interpretation or application of this CONTRACT.
  - 2) To ask a question regarding the meaning, interpretation, or application of this CONTRACT.
  - 3) To present a grievance pursuant to Article 16 of this CONTRACT, regarding the meaning, interpretation or application of this CONTRACT.
  - 4) To request union representation in matters concerning the meaning, application or interpretation of this CONTRACT.

It is understood that there is no expectation of confidentiality or privacy concerning communications sent over the CITY e-mail system, and that the CITY reserves the right to access and disclose all messages sent over the CITY e-mail system for any purpose. It is expressly understood that there are no expectation of confidentiality concerning communications sent over the CITY e-mail system or other electronic devices provided by the City concerning grievances processed pursuant to Article 16 of this CONTRACT or negotiations between the parties to this CONTRACT.

The CITY e-mail system will not be used for political purposes at any time, and this limitation shall override any of the permissible uses of the e-mail system listed above. "Political purposes" shall include matters in support of or opposition to candidates or measures in any election, including UNION elections.

## **G. Negotiations**

The CITY negotiating committee shall meet at mutually convenient times with the UNION negotiating committee. The UNION negotiating committee shall consist of not more than four (4) members selected by the UNION. UNION negotiating members will suffer no loss of pay for their attendance at bargaining. Attendance will not result in any overtime obligations on the part of the CITY. Negotiation preparation meetings shall be conducted on the employees' own time, however, this does not apply to the UNION's bargaining teams preparations directly before or after a negotiation meeting with the CITY.

## **H. New Employee Orientation**

The City will notify the Union of new employees hired into bargaining unit positions with the intent of providing the information within 10 calendar days. As a part of the City orientation process for new employees at Human Resources, each new employee will be provided a copy of the labor agreement and any materials submitted as a packet by the Union for delivery to new members. A Union representative will be afforded up to thirty (30) minutes at a mutually agreed time to meet without loss of pay to either employee.

## **I. Labor/Management Meetings**

The parties recognize the advantage to meeting occasionally in Labor Management meetings to share information and discuss concerns. The parties agree to meet at least once every six months for a Labor/Management meeting. The parties are not precluded from meeting more often subject to pending matters. Either party may have up to four (4) designated representatives present, and the meeting will be conducted on work time for up to 2 hours per meeting. More representatives may attend subject to agreement. The meetings are advisory, and any consensus is subject to approval of each respective party subject to written agreement by MOU.

## **ARTICLE 5 – NON-DISCRIMINATION**

### **A. Not interfere**

The CITY agrees not to interfere with the rights of employees to become members of the UNION, and there shall be no discrimination, interference, restraint, by the CITY or any CITY representative against any employee because of UNION membership or because of any employee activity in an official capacity on behalf of the UNION, provided such activity does not interfere with CITY operations in serving and carrying out its responsibility to the public and is consistent with the terms of this CONTRACT.

### **B. Apply equally**

The provisions of this CONTRACT shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, race, color, creed, national origin, religion, mental or physical disability (subject to the individual's ability and qualifications to perform the duties of the classification), or political affiliation and other protected class as outlined by Federal or State law or City non-discrimination policy. The UNION shall share with the CITY the responsibility for applying this provision of the CONTRACT.

The UNION recognizes its responsibility as the bargaining agent for all bargaining unit employees and agrees to represent itself as a bargaining unit without discrimination, interference, restraint, or coercion, whether or not those members of the bargaining unit belong to said UNION.

### **C. Cooperation**

Cooperate with investigation of complaints: In the event a discrimination complaint is made against either party, both parties agree to cooperate by providing information relative to the complaint.

### **D. Gender reference**

All references to employees in this CONTRACT designate all sexes, and wherever the male gender is used, it shall be construed to include all employees.

## **ARTICLE 6 – HOURS OF WORK**

### **A. Work week**

The City will establish work schedules according to its operational requirements.

The workweek of full time employees shall be forty (40) hours. The workweek shall normally consist of five (5) consecutive eight (8) hour days.

Public Works: fulltime staff normally work between the hours of 6:00 to 4:30 pm

City Offices: fulltime staff normally work between the hours of 8:00 A.M. – 5:00 p.m.

Library: is a seven (7) day a week operation and days and hours of work vary depending on business needs.

The CITY reserves the right to determine the work hours based on the needs of the CITY and services to the public.

### **B. Public Works Alternate Work Week Schedule**

During the months of approximately May – mid-September of each year, Public Works departments, as designated, may be requested, based on operational needs, to work an alternate 9-80 work schedule. The 9-80 work schedule will consist of a two (2) week work schedule consisting of the first work week based on four (4) nine (9) hour days followed the next day with a 4 hour shift to complete the work week. A new work week would begin on the same day with a four hour work day, two days off and then four (4) nine (9) hours days followed by three (3) days off. The 9/80 schedule is intended to result in a 40 hour work week and not intended to incur overtime obligations.

Employees on this schedule shall receive overtime for all authorized work in excess of nine (9) hours for each scheduled nine (9) hour work day or 40 hours in a work week (Friday to Friday). For the purposes of this section, sick leave and vacations shall be on an hour for hour basis. Holidays shall be eight (8) hours per day per scheduled shift for both eight and nine (9) hour shifts. Employees may use one hour of vacation or comp time for full pay on a nine (9) hour shift. Use of paid leaves does not count as hours worked.

### **C. Workday (Split shift)**

In the case of a split shift, the time an employee works in a day, after twelve (12) hours from the time an employee initially reports for work, shall be considered overtime.

### **D. Work Shift**

All shifts shall have a starting and quitting time established by the CITY.

### **E. Lunch & breaks**

All employees who are scheduled to work six (6) or more consecutive hours shall be granted an unpaid lunch period of thirty (30) to sixty (60) minutes. Such lunch periods shall be scheduled as near as possible to the midpoint of the work schedule consistent with the CITY's need to provide service to the public.



All employees shall receive a fifteen (15) minute rest period for each four hours worked consecutively. If possible, such rest period shall be scheduled near the midpoint of the four-hour work period.

## **F. Work Schedule Changes**

The CITY agrees it will not change the workweek to a four day work week, ten hour day schedule for any employee more than once per calendar year. If the CITY wishes to change the workweek for any employee to a four day work week, ten hour day schedule more than once per calendar year, the consent of the-UNION shall be required. Return from the four day work week, ten hour day schedule to the original work week shall not count as a change in the work week.

Notice of changes to seasonal and regular work schedules, other than temporary schedule changes, shall be posted ten (10) working days prior to the effective date of the change.

At least five (5) working days' notice shall be given to an employee prior to a temporary change for situations such as training, events or meetings outside of normal working hours.

If the five (5) day notice period is not given, the employee shall be compensated at the overtime rate for all hours worked outside the regular schedule until such notice is met.

If the City provides less than twenty-four (24) hours of notice the call-back provisions in Article 9 (B) shall apply.

Notwithstanding the above, a notice period is not required in the following circumstances:

- 1) In the case of an emergency and for the duration thereof per Article 6 G 1;
- 2) Mutual agreement between the City and the employee.

## **G. Emergency Schedule Changes**

If there is an emergency situation such as inclement weather that requires 24-hour operations the City may convert to a 24-hour operation immediately. In that instance anyone who is currently working will be allowed to finish any portion or all of their shift or go home unless that is the shift they are scheduled to fill for emergency situations. If an employee goes home, they may either take the time off as Leave without Pay (LWOP) or any accrued leave other than sick leave. If an employee works a swing or graveyard shift within the first 24 hours of the activation that employee will receive double time (call back rate) for that shift. Any subsequent shifts will be at straight time.

If the emergency operation is called off before midnight, all employees will resume their normal work schedule the following day and return to their normal straight time rate of pay for hours worked.

If an emergency operation is called off between midnight and 7 a.m.:

1. Those that have worked swing shift (generally 3 pm to 11 pm) will be given the option of working the day shift at straight time, or taking LWOP or using any accrued leaves other than sick leave to cover the absence.
2. Those that are working the graveyard shift (generally 11 am to 7 am) will be given the option of staying up to six (6) hours more on the day shift at time and ½ for any hours over eight (8) in a shift.
3. Those scheduled to normally work the day shift (generally 7 am to 3:30 pm) will be expected to

report to work as already scheduled at a straight time rate of pay.

## **H. Flex-arrangements**

The grievance procedures set forth in this agreement shall not apply to flex arrangements.

### **1. Flex-time on infrequent basis**

Employees may request flexible scheduling which permits infrequent modification of hours of work on a case-by-case basis. The purpose of this flexibility is to allow employees the ability to adjust the hours of a work shift. Such a modification is not automatic and is subject to approval of the supervisor and must meet the business needs of the City. A flexible work schedule shall still total forty (40) hours per week. Utilization of flexible scheduling must meet the following criteria:

- Not exceed four hour variance per day
- Be mutually beneficial to employees and the City
- Not negatively affect other employees
- Not impede customer service or normal work process
- Not generate additional labor costs or overtime
- Occur during the same work week.

Employee requests for flexible scheduling must be submitted to the supervisor seventy-two (72) hours in advance where feasible and in writing or by e-mail, unless the City waives said requirements. The supervisor must respond in writing or by e-mail.

### **2. Flex-time – Regular change to schedule**

Employees may request a flexible schedule, which permits a modification to the regular work hours per day or days of work per week. Such a modification is not automatic and is subject to approval of the supervisor and must meet the business needs of the City. A flexible work schedule shall still total forty (40) hours per week. Adjustments to hours of work must:

- Not exceed ten (10) hours of work per day
- Be mutually beneficial to employees and the City of Milwaukee
- Not negatively affect other employees
- Not impede customer service or normal work process
- Not generate additional labor costs or overtime

- a) Requesting a modified work schedule on a regular basis.
- b) Employee requests for flexible scheduling on a regular basis must be submitted at least two (2) weeks in advance and in writing or e-mail, unless the City waives said requirements. The supervisor must respond in writing or by e-mail and provide a copy of the request and response to Human Resources. Any approved changes will be documented in the employee's personnel file.
- c) A regular change to schedule to permit flextime may only be requested once in a twelve-month period of time. However, an employee may have their schedule reverted back to a



five (5) day eight (8) hour day during the same twelve months at either the request of the City or the employee.

- d) Either the City or the employee may revert back to a non-flex work schedule with two (2) weeks of notice to the other party.

## **2. Impact on Overtime**

The overtime provisions outlined in Article 9 of this contract will still apply. Overtime work must be pre-approved by a supervisor.

## **3. Job share**

At the CITY's discretion, more than one employee may occupy a single authorized position, as job share employees each working no less than .5 FTE.

- a) The conversion of a position from full time to Job Share status must originate with a written request from the employee occupying the full-time position to the Human Resources Director. The CITY shall notify the employee requesting the job share of the CITY's decision in writing. Current employees in the department in which the position is created will have the first opportunity to apply for the job share position(s).
- b) Job sharing employees shall accrue vacation leave, sick leave and holiday pay based on a prorate of hours worked.
- c) Job sharing employees shall be entitled to share the full Employer paid insurance benefits for one (1) full time position based on a prorate of regular hours scheduled per week or month, whatever is appropriate (Reference Article 3, Section C). In any event, the Employer contribution for insurance benefits in a job share position is limited to the amount authorized for one (1) full-time employee.

# **I. City Closure**

## **1. Emergencies/Inclement Weather**

Jointly, we recognize that in times of emergency, employees will perform best if they know that their families are safe and secure. We will provide reasonable time for employees to contact their family and make necessary arrangement for their family's safety and security, so long as the lives and property of Milwaukie residents are not placed in jeopardy. Off-duty labor or management personnel will do what they can to assist families of on-duty workers as much as possible.

Employees in Public Works are considered to be essential personnel, and unless otherwise excused, must report to work in emergencies and in inclement weather situations. EOC (Emergency Operations Center) staff are considered to be essential personnel and unless otherwise excused, must report to work in emergencies when the EOC is activated.

## **2. Inclement Weather/Emergency Procedures**

If an employee is advised by the City Manager or a department head not to report to work for other than a layoff or is sent home prior to the end of the shift for other than disciplinary reasons, the employee shall be paid their regular rate of pay.

If an employee is unable to come to work due to inclement weather conditions, the employee may request to: 1) make up the time during the week of absence; or 2) use accrued leave banks, other than sick leave, to cover the time off of work. If the employee elects to make up the

time, it is subject to the approval of the supervisor consistent with the needs of the CITY so as not to incur overtime costs. In the event the employee does not select one of the above options, the absent hours will be taken out of the employee's largest leave bank other than sick leave. It is the employee's responsibility to check the CITY'S inclement weather line to see if they are to report for work. It is the CITY'S responsibility to have the inclement weather line updated by 6 a.m. on the morning of any CITY closure.

In emergency operations situations, the department head or designee shall be responsible for assignments of duties, as needed, to perform the tasks necessary for service continuance. Staff assignments, to the extent possible, shall be rotated through qualified personnel and posted in the JCB lunchroom and available through each Public Works Supervisor.

Essential employees required to work after the City Manager closes city buildings and sends non-essential employees home will receive time and one-half (1½) pay for hours worked during this closure that would have been during normal business hours of the City (Monday through Friday, excluding weekends and holidays), but not for any time that the employee receives double time pay under Section G of this Article. Compensation shall not be paid twice for the same hours.

## **ARTICLE 7 – WAGES**

### **A. Salary schedule**

Wage rates for all classifications covered by this contract are contained in Appendix A of this CONTRACT. The negotiated cost of living increase will be added to Range 1.0 Step A; from there the remainder of the schedule is developed with 5% differences between ranges and steps, except for the positions of Utility I and Mechanic.

### **B. General Increases and Range Adjustments.**

#### **General Increases:**

Effective and retroactive to July 1, 2018, the cost of living wage increase of 2.5% will be applied as stated above.

Effective July 1, 2019, the cost of living wage increase of 2.75% will be applied as stated above.

Effective July 1, 2020, the cost of living wage increase of 3.0 % will be applied as stated above.

#### **Range Adjustments:**

Effective upon July 1, 2018 or the first payroll following execution, the later, the following classifications and ranges will be adjusted as follows:

The classification of Mechanic will move to Range 59. Range 58.5 will be deleted.

Range 57 will be adjusted to be 5% over Range 56. The classification of Associate Engineer will move from Range 62 to 63.

These adjustments will occur secondary to the general increases.



## **C. Longevity Pay**

To recognize the importance of employee retention and reward employees for their dedication to the City, employees will receive a premium of 1% of base pay per pay period after ten (10) years (after 120 months) of service. After fifteen (15) years of service, an employee will receive a total of two (2%) additional to base pay. After twenty (20) years of service an employee shall receive a total of three (3%) of base pay. Effective January 1, 2019, the “20 year” tier will change to 4%.

## **D. Classification Review.**

The Union may request Human Resources to review an employee’s job description and current duties in effort to align job descriptions and work duties. Human Resources will make best effort to provide a review within 30-60 days of request with the understanding that Human Resources is a department of limited resources and may only handle up to 4-5 reviews per year. This provision does not create any obligation to bargain wages or working conditions and review is not subject to grievance. Assignment of work remains a management right. In the event the City determines that a change in classification is needed, the City will approach the Union for further discussion.

# **ARTICLE 8 – ADDITIONAL COMPENSATION**

## **A. Assignment**

### **1. Working Out of Class (WOC)**

Employees assigned by the department head or designees to perform the duties of a higher paid position within the bargaining unit or non-supervisory management duties will receive an additional premium. The premium rate will be the first step in the higher range that allows for at least a 5% increase in base hourly rate but in no case more than a 10% increase.

### **2. Acting in Capacity (AIC)**

If an employee is assigned in writing to act in capacity for a supervisor (non- bargaining unit level supervisor) for one full work day or more the employee will be eligible for an additional premium. Employees assigned to work as a non-bargaining unit supervisor will receive an additional premium of 10% base hourly pay for the period of the assignment

Nothing in this Article shall be interpreted as a guarantee that an employee shall be assigned to work out of classification or AIC in the absence of another employee.

An employee performing duties out of classification for training and development purposes shall be so informed in writing and it shall be mutually agreed to by the supervisor and the employee. The notice shall state the purpose and length of the assignment. During this training, there shall be no extra pay for the work. A copy of the notice shall be placed in the employee’s personnel file.

### 3. On-Call:

At the discretion of the City, employees may be assigned to on-call status in order to meet the operational needs of the City. The City will first seek volunteers to fill assignments, and if insufficient volunteers are available, the City will make the assignment. Nothing in this section shall be construed to abridge management's right to assign supervisory staff to these assignments. Supervisory staff must be qualified for the respective standby assignment. Employees assigned to on-call assignment must be readily available to report to work within a reasonable period of time (around 30 min.) as directed by the Department Head. Periods of assignment for On-Call are not considered compensable hours worked. Employees assigned to On-Call may be required to carry an electronic communication device.

Insofar as practical, all qualified personnel will be afforded the opportunity to participate an equal number of times in the On-Call program for which they are qualified to be assigned. During On-call periods, employees shall be compensated:

a) **Compensation.** Employees assigned to on-call by will receive the additional premium equivalent 1.5 hours of straight pay for every calendar day of assignment, or as prorated for the assignment. For Stand-by assignment on a holiday (24 hours of the actual day), the premium will be the equivalent of 3.0 hours of straight pay for the 24-hour period of assignment. Employees may also elect to receive this payment as accrual in their compensatory time bank. If an employee is WOC or AIC during the day and required to carry a Pager or City cell phone after regular work hours, the employee will receive both WOC or AIC and On-Call pay.

b) **Telemetry/SCADA Response Assignment**

To qualify for the Telemetry/SCADA response assignments employees must be adequately trained on the Telemetry (SCADA) system and be SCADA trained. Compensation for this section is the same as "on-call" above.

### 4. Specialty Pay

The CITY may assign employees who provide knowledge, skill or ability to the CITY that is not a part of their regular job description and is not considered "working out of class" to a specialty assignment. Employees who have a specialty assignment are eligible for specialty pay for hours worked as part of that assignment.

a) **Approval**

An employee may be placed on a specialty assignment by a written request of the employee's department head. This request must be approved by the Human Resources Director prior to the commencement of the specialty assignment. The Human Resources Director will consider requests for specialty assignments based on the following criteria: (1) the CITY needs and will use a special skill, ability or knowledge of the employee; (2) the special skill, ability or knowledge the employee uses outside the job classification of the employee; and (3) the special skill, ability or knowledge of the employee may be acknowledged by a certification or degree program. The Human Resources Director will reach a decision within fourteen (14) calendar days from receipt of the written request of the employee's department head.

b) **Rate**

Employees who have been placed on a specialty assignment shall be compensated at the



first step in the higher range that allows for a five (5%) increase but in no case shall the specialty pay exceed ten (10%) more than the employee's regular rate for the actual hours worked on the specialty assignment. The actual rate of pay will be determined by the Human Resources Director as part of consideration of the request. The amount of training required to acquire the special skill, ability or knowledge of the employee will be considered in determining the actual rate of pay.

**c) Time limit**

An employee may not be placed on a single specialty assignment that exceeds 4,000 hours in any five-year period. Should the department head require that the specialty assignment continue beyond this limit, then the department head will work with Human Resources to consider reclassification of the employee's position. The City maintains the discretion to assign and discontinue assignments.

## **5. Coach**

Employees will receive an additional premium of five (5%) of base pay rate for the work period that they are assigned and designated, in writing, by the department head, as a coach.

It shall be the responsibility of management to determine when and if an employee will be assigned a coach, who that coach will be, and the duration of the assignment.

Coaching includes the full responsibility for training an employee. A training schedule will be developed in advance. The coach will be responsible for a daily, weekly, and monthly evaluation. The coach will be responsible to the employee's supervisor for the performance evaluation of the trainee. The coach will be held responsible for satisfactory performance as a coach. The City maintains the discretion to assign and discontinue assignments.

## **6. Appeals for WOC, AIC and Coach**

If an employee believes they should be considered for working out of classification, specialty pay, or coaching pay for a temporary assignment (Sections 1,3, and 4 above), the employee may make a written request of their supervisor. If the employee does not receive an answer within fourteen (14) calendar days from making their request of their supervisor or if the employee does not agree with the supervisor's response, the employee may request that the Human Resources Director investigate the request. The request to the Human Resources Director shall be within fourteen (14) calendar days of knowledge of the above inaction by the supervisor or receipt of supervisor's decision. The Human Resources Director will make a decision within fourteen (14) calendar days of receipt of said request.

## **7. Shift Differential**

The CITY agrees to pay \$10 per pay period for shift differential to those library employees covered by this CONTRACT who are required to work on evening shifts.

## **8. Direct Responsible Charge (Public Works)**

Unless otherwise documented in the employee's class specification, employees will receive an additional premium of five percent (5%) base pay for the period that are assigned, in writing, as the Direct Responsible Charge (DRC) for water distribution and sewer collection (certification level 3). No more than two employees are eligible for the DRC premium at any given time.

## **9. Bilingual Premium.**

The City may designate a classification and employee eligible to receive an additional premium of 3% base hourly pay for when the employee is determined to be fluent in reading and speaking Spanish or Russian that is beneficial to City operations. The City will establish a process to determine an employee's fluency. The City's decision regarding eligibility for the bilingual premium and acceptable fluency are not subject to grievance. The right to end bilingual pay based on operational need and the City will give the employee 30 days' notice prior to ending the incentive.

## **ARTICLE 9 – OVERTIME AND CTO IN LIEU OF OVERTIME**

### **A. Pay**

Employees may be required to work overtime for operational need. Overtime must be pre-approved by the City. Except as otherwise provided in this article, time and one half (1-1/2) the employee's regular hourly rate of pay shall be paid for all work performed in excess of forty (40) hours per week or daily overtime for hours worked in excess of eight (8) hours per day on a 5/8 shift; in excess of ten hours worked on a 4/10 shift, or in excess of 9 hours worked on a 9/80 shift. Use of paid leaves (such as: sick, vacation, holiday, floater hours, compensatory time) does not count as hours worked for the purposes of determining the obligation to pay overtime compensation.

### **B. Regular day off:**

#### **1. Call-back**

A call back is defined as a request for the employee to respond to the site when not regularly scheduled to work. It does not include situations that are resolved via a telephone/email response, etc, which will be paid hour for hour unless de minimis. A de minimis contact, such as an isolated phone call by management to an employee, lasting around 5 minutes or less is not compensable.

All call-backs will be double time for actual time worked outside the normal work schedule. The CITY agrees to guarantee a minimum of two (2) hours on all call backs. This means that if an employee is called back and works less than two hours they will be paid double time for two hours, and if the employee works more than two hours, the employee will be paid double time for actual time worked. Time towards call back begins when the employee arrives at the CITY facility or job site (whichever is first) and ends when the employee leaves the CITY facility or job site (whichever is last).

If an employee is called back more than once during the initial two (2) hour call back, the employee will not receive an additional two (2) hour minimum call back for the additional call backs as long as the employee is still out on a call.

#### **2. Electronic Remote Response**

An electronic remote response is defined as authorized work, by an employee, where the employee does not physically report to a work location but performs an authorized work function through electronic access.



An employee who is called to work outside of their scheduled shift and responds by means of an electronic remote response shall be paid at the rate of time and one-half the employee's normal pay rate for all hours worked. Such compensation shall not be paid twice for the same hours. Remote response is not considered call-back.

## **C. Compensatory Time Off (CTO)**

### **1. Provision**

Employees shall be compensated for overtime either in the form of compensation or compensatory time off (CTO), if the employee so chooses.

### **2. Cap**

An employee will not be allowed to accumulate more than eighty (80) hours of compensatory time off during the fiscal year and the amount must be reduced to no more than sixty (60) hours by the end of the fiscal year. After eighty (80) hours of compensatory time accumulation, the CITY will pay out any additional overtime earned. By the last day of the last pay period for the fiscal year, June 23<sup>rd</sup>, the employee must reduce their compensatory time off bank to sixty (60) hours or the CITY will pay out any hours over sixty (60).

### **3. Sell back**

An employee may "sell back" for payment up to forty (40) hours of accrued compensatory time off per fiscal year. The employee may sell back twice per fiscal year, only in December and June, and must submit a request to Administration/Payroll by the 1st working day of the month or per Payroll instructions. The City will make best efforts to inform employees in advance when the "sell back" time is approaching.

## **ARTICLE 10 – SENIORITY AND PROBATIONARY PERIOD**

### **A. Seniority**

#### **1. In class**

Seniority for both full time and part time employees shall mean length of an employee's service within the job classification. Unpaid leaves of absence shall not be included in determining length of service. Termination of employment, except by reason of staff reduction, shall result in loss of seniority. If an employee should subsequently be hired again by the CITY, their most recent date of hire shall become the date from which seniority is determined.

### **B. Probation**

#### **1. Length**

All Employees will serve initial six (6) month probation when newly hired and when placed in a new classification through a selection process. The CITY may extend the six month probationary period for up to three additional consecutive months when, in its judgment, such is necessary to fairly evaluate the employee's performance.

## **2. Initial Probation**

Employees who have not completed the initial six (6) month probationary period shall be covered by all terms and conditions of this CONTRACT except that the CITY may terminate the employee without just cause. Termination is not subject to grievance

## **3. Subsequent Probation Periods**

If an employee has completed one full initial probationary period or a full (six) 6 months of employment if promoted prior to the end of the initial probationary period then the following will apply. A promoted employee will be given a performance review near the midpoint of the probationary period.

The City may demote an employee on promotional probation if the employee is unable to successfully complete the probation of the higher-level classification due to performance issues. If these performance issues would not impact the employee's ability to perform the duties of the lower level position, the employee shall be returned to a position in the employee's former classification if such position is budgeted and approved for filling and if the employee has more seniority than any other employee in the former classification who would be laid off as the result of such action. If the actions of the employee warrant discipline, provisions of Article 15 and 16 shall apply.

# **ARTICLE 11 – VACATIONS**

## **Vacations**

### **1. Eligibility**

Employees shall be permitted to use accumulated vacation benefits after six (6) months of employment. If an employee becomes ill while on vacation, the time off shall be counted as vacation unless their illness requires seeing a doctor in an emergency room, urgent care or being admitted to a hospital. If an employee leaves City employment for any reason prior to completion of six (6) full months of employment, vacation time will not be paid to the employee.

### **2. Vacation Scheduling**

Approval of vacation leave requests shall be at the discretion of the CITY. After an employee requests leave, the supervisor shall have ten (10) calendar days to respond in writing. No response shall indicate the leave request is granted.

Vacations will be scheduled by seniority within work units whenever feasible. However, employees may only use seniority bidding one time per year.

For the library staff the following shall apply:

Vacation requests will be approved in order of receipt for any particular day. The first LA 1, LA 2 or Librarian to request a day off will have the request approved. Other requests will be approved based on business needs. Once a request is submitted, the Supervisor will reply within ten (10) days. If no answer is received in ten (10) days then the request will be considered granted. An approved time off request will not be affected by hours or staffing changes. Time off requests will be submitted through normal vacation request procedures.

If the time off request is submitted ten (10) days in advance and there is need for additional coverage during the requested time off, the employee will have the option of trading hours to minimize the amount of vacation time used. If the employee does not agree to trade hours, the Supervisor will arrange for coverage and the employee will use accrued leave for time off. When extra coverage is needed, hours will be offered to regular status employees first to the extent it does not impact an employee's overall FTE status. If there are no employees who want the additional hours, the supervisor will contact on-call employees to meet the scheduling needs. If the request is made with less than ten (10) days of notice, management will try to accommodate the request to the best of their ability.

Employees granted vacation time during spring break (as determined by the North Clackamas School District) of the previous year may not apply for time off during spring break of the current year until on or after January 1st of the current year. Employees who were granted vacation time during the last two weeks of the previous year may not apply for time off during the last two weeks of the current year until on or after September 1<sup>st</sup> of the current year.

### 3. Accrual rate

Full-time employees shall accrue vacation at the rates shown below, divided between the first day of the month and the fifteenth day of each month, for each preceding full calendar month worked:

Months of Service	Hours of Vacation Per Month	Weeks Per Year	Days Per Year	Max Vacation Accrual (hrs)
0 - 48	8.67	2.6	13	208
49 - 108	10.67	3.2	16	256
109 - 168	12.67	3.8	19	304
169 - 228	14.67	4.4	22	352
229+	17.34	5.2	26	416

### 4. Unpaid leave affecting vacation accrual rate

Employees having unpaid leave during a calendar month shall accrue paid vacation leave at the following rates. This provision does not apply for use of protected leaves:

- a) 0-39 hours unpaid leave.....100%
- b) 40-79 hours unpaid leave.....75%
- c) 80-119 hours unpaid leave.....50%
- d) 120-159 hours unpaid leave.....25%
- e) 160 or more hours unpaid leave...0%



## **5. Maximum accrual**

Employees may accrue vacation leave to a maximum of two times the annual accrual rate. Employees may not accrue more than the maximum. Employees who will lose vacation accrual because of a denied vacation request may request review of the denial by the City Manager or their designee.

## **6. Off-Season Vacation Bonus Program**

The CITY wishes to encourage Public Works and Building regular full-time employees to utilize their vacation time throughout the fiscal year in order to reduce overtime. The program will be implemented, at the discretion of the CITY, ensuring that customer service needs are met, productivity is maintained, and there is no overtime expense, paid or compensatory time off. Therefore, this bonus program for off-season vacation scheduling is not available when the minimum staffing needs, as determined by the CITY, are unmet and there is overtime cost associated with approving the requested bonus vacation.

The CITY offers eight (8) hours bonus vacation time off with pay for every thirty-two (32) consecutive vacation hours off taken between November 1 and April 30, excluding the period from December 15 through December 31. No more than two eight-hour blocks of vacation bonus hours (16 hours) can be earned and taken each fiscal year. The eight (8) vacation bonus hours off, must be taken consecutive to a block of thirty-two (32) consecutive vacation hours off, for a minimum total of forty (40) consecutive vacation hours off and a maximum total of eighty (80) consecutive vacation hours off. There is no carry forward to another fiscal year.

## **7. Part-time employees**

Part-time employees in budgeted positions of .5 FTE or greater shall accrue prorated vacation leave based on the budgeted FTE of the position and in the amount calculated based on the chart set forth in Article 3, Section C. Vacation leave maximum accrual shall also be prorated.

# **ARTICLE 12 HOLIDAYS**

## **1. Eligibility**

### **a) Holidays off**

#### **1) Listing of holidays:**

The following days shall be recognized and observed as paid holidays:

- (a) *New Year's Day - January 1.*
- (b) *Martin Luther King Day - Third Monday in January.*
- (c) *President's Day - Third Monday in February.*
- (d) *Memorial Day - Last Monday in May.*
- (e) *Independence Day - July 4.*
- (f) *Labor Day - First Monday in September.*
- (g) *Veteran's Day - November 11.*
- (h) *Thanksgiving Day - Fourth Thursday in November.*



- (i) *Day after Thanksgiving - Fourth Friday in November.*
- (j) *Christmas Eve -For any workday when Christmas falls on a Tuesday, Wednesday, Thursday or Friday*
- (k) *Christmas Day - December 25.*
- (l) *12 hours Floating Holiday*
  - i. In the event of layoff, an employee shall be compensated for an unused floating holiday.
  - ii. In the event an employee has requested to use their floating holiday on at least two (2) occasions during the fiscal year and has been denied such use by their supervisor, the employee shall receive a cash payment for this holiday on their first paycheck of the following fiscal year.
  - iii. Upon termination of employment (discharge or quit), employees shall not receive payment for unused floating holiday.

## **2. Falling on Sat. or Sun. or Other Regular Day Off**

It is the policy of the CITY that for 5 day a week operations, if a holiday falls on a Saturday, it shall be taken on the preceding Friday; and if the holiday falls on Sunday, it shall be taken on the Monday after the holiday. For seven (7) day a week operations, the facility will be closed and the holiday observed on the actual day of the holiday.

When a full-time employee is unable to observe a holiday because the holiday falls on the employee's day off, the employee may request to receive eight (8) hours compensatory time at a straight time rate in lieu of the holiday off or take an alternate day off within the same week. This is subject to the approval of the supervisor and consistent with the business needs of the City so as not to incur overtime costs.

## **3. Holiday work**

Work performed on holidays as defined in this article shall be considered as overtime and shall be compensated at the rate of time and one-half (1-1/2) in addition to the employee's normal rate of pay.

## **4. Part-time employees**

Part-time employees in budgeted positions of .5 FTE or greater shall be eligible for paid holiday leave listed in Paragraph A prorated based on the budgeted FTE of the position. See Article 3, Section C for formula.

In situations where the holiday will cause the part time employee to lose hours, the employee may request one of the following: 1) make up the time during the week of the holiday; 2) take the time as leave without pay; or 3) use accrued leave banks, other than sick leave, to cover the time off of work. If the employee elects to make up the time, it is subject to the approval of the supervisor and consistent with the business needs of the City so as not to incur overtime costs.

# **ARTICLE 13 – LEAVES**

## **A. Sick Leave**

### **1. Eligibility/use**

Sick leave may be taken for actual illness or disability or medical / dental appointments, of the employee; or illness, disability or death of a member of the employee's immediate family as specified in this article, or as permitted by State and Federal law. Every effort will be made to schedule medical and dental appointments outside normal work hours especially when working a 4-10 work week.

The employee may use accumulated sick leave in the event of illness or if their presence is required during the illness of a member of their immediate family. Immediate family normally shall be defined as spouse, spousal equivalent, parent, grandparent, child, stepchild, foster child, grandchild, brother or sister, mother-in-law and father-in-law or as otherwise permitted by law.

Verification of the necessity of absence from work and use of sick leave may be required from the attending physician or other physician designated by the CITY at the CITY's expense when the CITY has reason to believe the employee may be abusing sick leave privileges. An employee using sick leave will not be asked to find their replacement.

### **2. City required medical examination**

In the event the CITY has reason to believe that an employee is not able to perform their duties for medical reasons, the CITY may require a medical examination at the CITY's expense, and if the exam dictates, may place the employee on sick leave until the employee is medically released to return to work, or may move to a medical layoff if the employee is unable to return to work and a physician is unable to determine a likely date for return to work that is within six (6) months of date of medical exam. Should an employee become eligible to perform the duties of the employee's classification at the time placed on medical layoff, previously held position subject to leaving on good terms, or qualified position within a job family as determined by the City, as documented by a medical professional, within thirty (30) months of date of layoff the employee may be placed on the layoff list for the remainder of that thirty (30) month period. A person on a medical layoff who is determined to be fit to return to duty within the thirty (30) month time period is eligible to bump a temporary or probationary employee within the employee's classification.

### **3. Accrual rate**

Full-time employees shall accrue sick leave at the rate of eight (8) hours per month worked, for a total of ninety-six (96) sick leave hours accumulated per calendar year.

Part-time employees in budgeted positions of .5 FTE or greater shall accrue sick leave in the same proportion that the budgeted FTE of their position bears to a full-time employee, and in the amount calculated based on the chart in Article 3, Section C. The maximum shall also be prorated.

### **4. Unpaid leave time accrual rate**

Employees having unpaid leave during the calendar month shall accrue paid sick leave at the following rates, and no less than required by Oregon law:

- a) 0-39 hours unpaid leave 100%
- b) 40-79 hours unpaid leave 75%
- c) 80-119 hours unpaid leave 50%
- d) 120-159 hours unpaid leave 25%
- e) 160 or more hours unpaid leave 0%

## **5. Maximum accrual**

There shall be a maximum of 960 accumulated sick leave hours. Part-time employee maximum shall be prorated. Proration shall be calculated based on Article 3, Section C.

## **6. PERS conversion**

The CITY agrees to participate in the Public Employees Retirement System's 50% sick leave conversion program as provided in ORS 238.350. *(note: This applies to Tier 1 and Tier 2 only)*

# **B. On the job injury**

## **1. Eligibility/pay**

The CITY shall provide workers' compensation insurance as required by state law. Employees who become eligible for CITY workers' compensation benefits shall be allowed up to twelve (12) months leave if they are unable to perform the duties of their position for a temporary period. At the employee's election and request, the employee may use accrued sick, or other leave provided below to pay the difference between payments received from worker's compensation and the employee's net salary.

## **2. Use of sick and other leaves**

"Withholding" shall be done according to applicable federal and state requirements, and a pro rata charge shall be made against the employee's sick leave, compensatory time or vacation banks of time, in that order to cover the amount paid out to the employee.

## **3. Benefits**

While on such leave, the employee shall continue to receive benefits as if working except that no sick leave will accrue and, if the employee never returns to work, vacation and holiday accumulations will be reduced by the amounts accrued since the beginning of the job-related injury or illness leave.

# **C. Bereavement**

## **1. Eligibility and amount**

In the case of death in the employee's family, the employee shall be granted leave as follows in subparagraph a) and b) for the purposes of attending the funeral(s) and making necessary arrangements.

- a) For immediate family members the employee will be granted five (5) day's bereavement leave with pay. Immediate family is defined as spouse and the following relatives of the employee, spouse, or spousal equivalent: children, stepchildren, parents, stepparents, and any relative living in the employee's immediate household. Spousal equivalent is defined



as a person living in a committed co-habitational relationship where both parties share responsibilities for finances and other major decisions, with a duration of at least one-year.

- b) For other eligible family members, the employee will be granted three (3) days bereavement leave with pay. Other eligible relatives include the following relatives of the employee, spouse or spousal equivalent: siblings, grandparents, grandchildren, step siblings, aunt, uncle, niece and nephew.
- c) Bereavement leave must be used within sixty (60) days of the event of the death of the relative unless a memorial service is planned after the sixty (60) days.
- d) All leaves provided in section are concurrent to any leaves available under OFLA.

## **2. Additional leave**

Any allowance of time off for bereavement over the time allowed in Section C.1 or any bereavement leave for the death of a family member other than immediate or other eligible family members must be recommended by the employee's supervisor and approved by the Human Resources Director. The time used will be deducted from the employee's accumulated time off, and the employee may choose to deduct this additional leave from his or her vacation, compensatory time off, or sick leave banks.

## **3. Special Circumstances**

The CITY recognizes that employees may have family members whose relationship transcends the blood relationship and who are not covered as immediate family members. In the event of the death of a family member whose relationship with the employee transcends the blood relationship, the employee may request that their supervisor grant three (3) days of bereavement leave with pay. The supervisor will forward a recommendation approving or denying the request for a special circumstance to the City Manager or their designee for final decision on the request.

## **D. Sick Leave Donation**

Employees may participate in the Sick Leave Donation Program established by the CITY. The CITY will annually review the use of this program to ensure that it is used fairly and poses no threat of liability to the CITY. The sick leave donation program will be added to and administered within the City Personnel and Administrative Policies and Procedures; it is available on the City intranet site for reference purposes.

## **E. Personal**

Leave of absence for not more than ninety (90) days without pay may be granted for justifiable reasons (e.g., child care or to care for an ill family member) at the CITY's discretion, provided the leave does not seriously disrupt CITY operations. Personal leaves are not granted until all unused vacation, compensatory time off, administrative leave days, floating holidays and any other paid leaves have been exhausted. A department head may grant a leave of absence without pay not to exceed ninety (90) calendar days.

## **F. Extended Leave of Absence without Pay**

Leaves of absence without pay for periods in excess of ninety (90) days must be approved by the City Manager or designee and will not be in excess of 18 months, subject to applicable law.

## **G. Jury Duty and Other Related Duties**

### **1. Jury Duty**

Any employee shall be granted a leave of absence with pay for service with a jury provided that the employee submit copy of summons, note jury duty on time sheet, turn into the City any pay for jury duty (less mileage), and provided that the period of absence is only for actual time required for such service and reasonable travel time. Compensation received for mileage shall not be included in determining salary due the employee.

### **2. Other Related Duties**

Any employee shall be granted a leave of absence with pay for an appearance before a court, legislative committee or judicial or quasi-judicial body as a witness in response to a subpoena or other direction by proper authority provided that the salary paid shall be reduced by an amount equal to any compensation received as witness fees and provided that the period of absence is only for actual time required and reasonable travel time. Employees shall not be eligible for this compensation if such subpoena is for a non-work related dispute in which the employee is either the plaintiff or defendant or is for a dispute between the CITY and the employee. Compensation received for mileage shall not be included in determining salary due the employee.

## **H. Education Leave**

Employees may be granted leaves of absence with or without pay for educational purposes to attend conferences, seminars, briefing sessions, or other functions of a similar nature that are intended to improve or upgrade the individual's skill or professional ability, provided it does not interfere with the operation of the CITY. Subject to budgetary limitations, education leave opportunities will be available to all employees. When an employee's request for education leave is denied, the CITY shall inform the employee in writing of the reasons for denial.

### **1. Driving Time**

Driving time outside of the normal work shift including on days off will be considered commute time and will not be compensated if it is considered local. Local is 30 miles or less from place of work.

## **I. Parental Leave**

The CITY will comply with the provisions of State and Federal law.

## **J. Unauthorized Leave**

An absence of an employee from duty, including any absence for a single day or part of a day, that is not authorized by a specific grant or leave of absence approved by the employee's supervisor shall be deemed to be an absence without leave. Any such absence shall be without pay and may be grounds for disciplinary action including termination.

## **ARTICLE 14 – BENEFITS**

### **A. Insurance**

#### **1. Health (including Medical and Vision) and Dental**

##### **a) Premium payment**

*(1) Health Insurance: Effective to December 31, 2018.*

The City will offer the Kaiser medical insurance plan including vision coverage and the Blue Cross/Blue Shield (BC/BS) Plan VBPPP-(Preferred Provider Option). The City will pay eighty-five (85%) of the monthly premium cost and the employee will pay fifteen (15%) of the monthly premium cost for the BC/BS Plan. The City will pay up to the amount of premium contribution that it pays for the BC/BS plan for any employees that choose the Kaiser medical and vision plan.

*(2) Dental Insurance: Effective to December 31, 2018.*

The CITY will offer ODS, Kaiser and Willamette dental plans each including orthodontia. The CITY will pay 85% of the monthly premium cost and the employee will pay 15% of the monthly premium cost for the ODS plan. The CITY will pay up to the amount of premium contribution that it pays for the ODS plan for any employees that choose the Kaiser or Willamette dental plan.

##### **Effective January 1, 2019:**

##### **(1) Health Insurance**

Effective 1/1/2019, the CITY will offer Kaiser HMO B medical insurance plan including vision coverage and alternative care rider and the Blue Cross/Blue Shield (BC/BS) Plan Co-Pay A including vision coverage and alternative car rider. The CITY will pay ninety five percent (95%) of the monthly premium cost and the employee will pay five percent (5%) of the monthly premium cost for either plan selected by the employee. Employee contributions are pre-tax through payroll deduction.

##### **(2) Dental Insurance**

Effective 1/1/2019 the CITY will offer an ODS, Kaiser, and Willamette dental plan each including orthodontia. The CITY will pay ninety-five (95) % of the monthly premium cost and the employee will pay five (5) % of the monthly premium cost for the ODS plan. The CITY will pay up to the amount of premium contribution that it pays for the ODS plan for any employee that chooses the Kaiser or Willamette dental plan.

##### **b) Premium only conversion plan**

The City may provide, within the guidelines of the IRS Code Section 125, a premium conversion plan which allows the employee contributions toward medical and dental and vision premium to be paid in pre-tax dollars.

##### **c) Carrier changes**

The CITY agrees to meet and confer with the UNION before any insurance carrier change is made. In the event the CITY shall change insurance carriers the CITY shall continue to



provide coverage that is comparable to current coverage unless the UNION agrees to a different level of benefits. If the CITY does not voluntarily change plans, rather the health insurance carrier or benefits administrators change terms of a plan, the CITY and the UNION agree to accept those changes or go to the next best available-plan until such time as the UNION and the City can meet and renegotiate that portion of the contract. The UNION acknowledges that insurance premium cost increases are a serious problem and agrees to participate in any study or cost containment program in an effort to reduce insurance costs.

In the event contributions to health care premiums exceed the Cadillac Tax limits under the Affordable Care Act, the parties agree to re-open Article 14.A.1(a)(1) Health Insurance.

## **2. Life**

The City shall provide life insurance benefits included in the amount of one times the employee's annual salary with a maximum of \$100,000 with accidental dismemberment clause, at no premium cost to the employee.

## **3. Long Term Disability (LTD)**

The CITY will continue to provide long-term disability insurance.

## **4. Insurance for Part-time Employees**

Part-time employees in budgeted positions of .5 FTE or greater shall be eligible to participate in the health, dental, vision, life and disability insurance programs. The CITY will pay a portion of the premium the CITY pays for full time employees which is equal to the proportion the budgeted FTE of their position bears to a full-time position and calculated based on the chart set forth in Article 3, Section C. Part time .5 FTE employees electing medical and/or dental coverage will not pay more than 50% of the health insurance premium. In order to participate in these programs, these employees must pay their portion through payroll deduction. See Appendix B for premium rates.

## **5. Health Insurance opt-out**

Employees who elect to opt-out of health insurance benefits (medical/vision) must provide proof of other insurance coverage at each open enrollment or qualifying event. Employees who provide such election and proof of coverage will receive a payment of \$50 per month through regular payroll subject to applicable withholdings so long as other coverage is maintained.

# **B. Clothing & Equipment**

## **1. City purchased, provided, repaired**

### **a) Eligibility**

Employees in the Public Works Department who engage in field work necessitating the wearing of rubber boots shall be issued one pair of calf length boots for on the job use only. Such boots shall be replaced by the CITY when no longer serviceable provided this was caused by fair wear and tear and not by carelessness on the part of the employee.

### **b) Safety**

The CITY agrees to abide by standards of safety and health in accordance with the Oregon Safe Employment Act. (ORS 654.001 to 654.295 and 654.991). The CITY shall agree to meet and confer at the request of the UNION on matters of safety.

## **2. Allowance**

### **a) Boot**

The CITY will reimburse employees in all classifications that require boots for safety as determined by the safety committee, a boot allowance totaling three hundred dollars (\$300 in a two (2) year period of time). This boot allowance must be used within that time period to purchase and/or repair leather work boots which are for safety purposes and are to be used only for work. An original receipt must be presented to the CITY for payment.

### **b) Prescription Safety Glasses**

The City will reimburse employees in all classifications requiring ANSI Z87.1 compliant glasses a safety prescription eyeglass reimbursement in the amount of one hundred and fifty (\$150) each fiscal year less any amount covered by the employee's City insurance plan to purchase prescription safety eyeglasses. An original receipt and a copy of the EOB must be presented to the City for payment.

## **C. Flexible Spending Account**

The CITY shall make available a flexible spending account program for dependent care and health care expense reimbursement. Participation in the program is at the option of the employee.

## **D. HRA VEBA**

The CITY shall make available an HRA VEBA program to fund unreimbursed current or future medical expenses. The UNION as a unit may elect to have a voted amount (TBD) per pay period contributed to the members' individual HRA VEBA accounts in lieu of actual wage payment. The UNION members must elect if they want to exercise this option and inform the CITY of their choice for contributions for the upcoming fiscal year by May 31 or date designated by Human Resources.

Effective January 1, 2019, the City will make a one-time payment to each employee's HRA/VEBA account in the amount of \$300. (three-hundred). This payment is in consideration of the transition in insurance plans and is not intended to set precedent.

# **ARTICLE 15 RETIREMENT**

## **1. PERS**

The City agrees to participate in the Oregon State Public Employees Retirement System and to pay the employer's contribution. The City will also pay the six percent employee's contribution to the Oregon State Public Employees Retirement System to be deposited in the retirement account, annuity, or fund to which the employee's contribution is to be provided under applicable law. Employee compensation will not be reduced as a result of the City's payment of employee contributions.

In the event Oregon legislation prohibits the ability for the City to pay the employee PERS



contribution, the parties agree to initiate bargaining the legislative change under the provisions of Article 20, Savings, and ORS 243.702. The parties acknowledge the intent of bargaining includes a reasonable resolution to account for the change in legislation and overall compensation.

## **2. Deferred Compensation**

The CITY shall provide two and one-half percent (2.5%) of the employee's base salary to a CITY sponsored deferred compensation program.

# **ARTICLE 16 – LAYOFF AND RECALL**

## **A. Layoff**

### **1. Order of Layoff**

In the event of an FTE reduction, the CITY will lay off employees based upon inverse order of seniority in the classification in which the reduction is occurring. A layoff is a separation of employment. The City reserves the right and discretion to set staffing levels. Within the effected classification, all non-bargaining unit employees will be terminated or laid off before any bargaining unit employee is laid off.

Seniority shall mean length of an employee's service within the job classification. Unpaid leaves of absence shall not be included in determining length of service. Termination of employment, except by reason of FTE reduction, shall result in loss of seniority. If an employee should subsequently be hired again by the CITY, his most recent date of hire shall become the date from which seniority is determined.

- 2. Notice** Employees shall receive thirty (30) days written notice of layoff, provided that if the City Council determines an emergency situation exists, employees shall receive a minimum of fourteen (14) days of notice. If an employee does not elect to bump, the City may pay an employee equivalent wages for the remaining regularly scheduled work days, including holidays, in lieu of continued employment during the 30-day period.

### **3. Bumping Rights**

In the event of a workforce reduction, bargaining unit employees to be laid off from a job classification may elect within ten (10) calendar days to bump into a lateral or a lower classification in the bargaining unit so long as:

- a) The employee has previously served in such classification and completed the probationary period, or the employee has demonstrated current possession of the required classifications, licenses, knowledge, skills and abilities to meet the minimum qualifications of the position.
- b) a vacancy exists or the employee subject to layoff has more seniority in service than an employee in the lower classification, and
- c) satisfactory performance in a probationary status to the lower or lateral classification which is not to exceed three (3) months. The City will provide reasonable training to assist the employee towards that endeavor. If the employee's performance is not satisfactory during the 3-month probationary period, the employee will be laid off.

Employees who are notified that they are eligible to bump into a lateral or lower level position in lieu of layoff must indicate their preference within ten (10) calendar days of receipt of such notice. Failure to respond in the time period will be deemed an agreement to accept layoff.

## **B. Recall**

An employee who is laid off shall have preference for recall for any subsequent vacancy in the classification from which the employee was laid off or for any vacant position provided they possess the qualifications, licenses, knowledge, skills and abilities to meet the minimum qualifications of the position. Non-bargaining unit employees have no recall rights. Recall shall be in order based upon seniority with the CITY. Employees will be removed from the recall list only under the following circumstances:

### **1. Terms of removal from Recall List**

- a) Upon written request of the employee.
- b) Upon acceptance of reappointment from the recall list.
- c) Retirement.
- d) Upon loss of physical or other qualifications for the job.
- e) Upon failure to respond to a certified recall letter sent to the employee's last known address within ten (10) calendar days of its having been mailed and/or to report to work within fourteen (14) calendar days if employed elsewhere.
- f) Upon a finding of just cause for discipline.
- g) g) Upon expiration of thirty (30) months from the effective date of the layoff.

Recalled employees shall be reinstated with seniority rights accumulated as of the date of the layoff. Sick leave accrued at the time of layoff will be reinstated when an employee is recalled.

## **ARTICLE 17 – DISCIPLINE AND DISCHARGE**

### **A. Cause**

Discipline may be imposed only for just cause. Any disciplinary action, other than an oral reprimand, may be processed as a grievance under Article 18.

### **B. Normally progressive**

Disciplinary action shall normally be progressive, and may include but is not limited to:

- 1. Oral reprimand**
- 2. Written reprimand**
- 3. Suspension without pay**
- 4. Discharge**

### **C. Manner imposed**

If the CITY has reason to discipline an employee, the CITY shall make a reasonable effort to impose such discipline in a manner that will not unduly embarrass the employee before other employees or the general public.

### **D. Due process**

The CITY shall hold a due process hearing before imposing any discipline that will result in loss of pay or discharge.

### **E. Union representation**

An employee has the right to have a UNION officer present at any interview when the employee has a reasonable belief that the interview is part of an investigation which could result in disciplinary action.

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

### **A. Grievance Procedure**

Any dispute between the CITY and any employee covered by this CONTRACT concerning the CITY's interpretation or application of this CONTRACT, or a claim by such employee of breach or violation of the express terms of this CONTRACT, shall be deemed a grievance and shall be processed in accordance with the following procedure:

#### **1. Step 1**

The employee shall discuss the grievance on an informal basis with the employee's supervisor within fourteen (14) calendar days from the date the employee knows or should have known of the alleged violation. The employee may have a UNION representative assist him in presenting his case to his supervisor. If the grievance is not resolved within fourteen (14) calendar days by discussion with the supervisor, then the UNION representative may submit the grievance in writing to the supervisor within fourteen (14) calendar days on a UNION grievance form. Each statement of the grievance, at a minimum, shall contain the following information:

- a) A statement of the grievance and the relevant facts to support it; and
- b) The article and sections of the CONTRACT that have been breached; and
- c) A description as to exactly how this provision was breached; and
- d) A statement of the remedy or resolution being sought by the employee and the UNION; and
- e) Union president or representative signature.

The immediate supervisor shall respond to the employee and the UNION, indicating why the immediate supervisor denied the grievance, within fourteen (14) calendar days from receipt of the written grievance from the UNION.



## **2. Step 2**

If the grievance is unresolved after Step 1, the UNION representative shall, within fourteen (14) calendar days from the time the UNION representative receives the written answer in Step 1, submit the grievance in writing to the department head together with a written statement indicating why the supervisor's response did not resolve the grievance. Within fourteen (14) calendar days the department head shall call a meeting with the employee and the UNION representative to discuss the grievance. This meeting may be waived by mutual consent of both parties. Within fourteen (14) calendar days after the meeting or from the date both parties agree not to hold a meeting, the department head shall submit his written decision to the employee and the UNION indicating why the department head denied the grievance.

## **3. Step 3**

If the grievance is unresolved after Step 2, the UNION representative shall within fourteen (14) calendar days of receiving the written answer in Step 2 submit the grievance in writing to the City Manager, together with a written statement indicating why the department head's response did not resolve the grievance. Within fourteen (14) calendar days, the City Manager or their designee shall call a meeting of the parties to discuss the grievance. The City Manager shall give a written answer to the employee and the UNION, indicating why the City Manager denied the grievance, within fourteen (14) calendar days from the date of the meeting.

Mediation: If the Union is not satisfied with the decision provided by the City Manager at Step III, the Union may submit the grievance to mediation within fourteen (14) calendar days from either the City Manager's response or fourteen (14) calendar days from the due date of the response. The parties may mutually agree to a local mediator or use a mediator provided by the Employment Relations Board. Parties agree to share the cost of the mediator. Unless otherwise agreed by the parties, the period for mediation will be limited to 120 days, starting from timely notice of mediation by the moving party. The parties must meet at least one time and agree to meet in good faith to resolve the dispute. Termination cases are not subject to the mediation process and may move to the next step. The parties may mutually agree to forego mediation.

## **4. Step 4**

If the grievance remains unresolved after Step 3, then the UNION shall notify the City Manager within fourteen (14) calendar days that arbitration procedures in Section C will be invoked.

## **B. Grievance Procedure Rules**

Rules governing the grievance procedure shall be as follows:

### **1. Time limit waived**

Any time limit specified in the grievance procedure may be waived by mutual written consent of both parties.

In the event the parties dispute timeline issues for matters submitted to arbitration, the arbiter will be limited to hear the timeliness arguments first, including any closing summation by the parties. The arbiter will then rule from the bench on the timeliness issue.

## **2. Failure of UNION**

Failure of the UNION to submit the grievance in accordance with the time limits without waiver by both parties shall constitute abandonment of the grievance.

## **3. Failure of CITY**

Failure by the CITY to submit a reply within the time limits specified in the CONTRACT will automatically move the matter to the next step\* in the procedure provided that arbitration shall not be invoked unless and until both parties are fully aware in writing.

\*The next step time line will be extended to a maximum of 30 days in order for the Union to respond.

# **C. Arbitration Procedures**

## **1. Procedure**

- a) After arbitration has been requested, the parties shall forthwith attempt to agree upon a single arbitrator. In the event the parties are unable to agree, a list of five arbitrators shall be requested from the Employment Relations Board of the State of Oregon. Each party shall alternately strike one name from the list received. A flip of a coin shall determine which party strikes first. The final name remaining shall be the sole arbitrator.
- b) The arbitrator shall exercise all powers relating to admissibility of evidence, conduct of the hearing and arbitration procedures.

## **2. Rules Governing Arbitration**

In connection with any arbitration proceeding held pursuant to this CONTRACT, it is understood by both parties as follows:

- a) The arbitrator shall have no power to render a decision that will add to, subtract from or alter, change or modify the terms of this CONTRACT. The arbitrator's power shall be limited to interpretation or application of the express terms of this CONTRACT, and all other matters shall be excluded from arbitration.
- b) The decision of the arbitrator shall be final, conclusive and binding upon the CITY, the UNION and the employees involved.
- c) Any necessary expenses for the services of the arbitrator shall be paid by the losing party. If the arbitrator determines that there is no prevailing party, the arbitrator may apportion each party's cost as is equitable. Each party shall bear the cost of presenting its own case.
- d) The CITY and UNION agree that the arbitrator's decision should be in writing and should be made in thirty (30) days.
- e) The arbitration shall be limited to the specific issues raised in the written grievance filed by the UNION.
- f) All three levels of the grievance procedure shall have first been exhausted unless the parties invoke Section B (3) of the grievance procedures.

## **ARTICLE 19 – EFFECT OF PERSONNEL RULES**

Articles in this CONTRACT contain provisions which may also be covered in the CITY Personnel and Administrative Policies and Procedures. The parties agree that in such cases the CONTRACT shall govern, and the parties waive any and all rights and remedies granted by the CITY Personnel and Administrative Policies and Procedures. All matters not prescribed by the language of this agreement may be administered for its duration by the City in accordance with the City Personnel and Administrative Procedures. Nothing in this contract will be construed as a waiver of the Union's ability to bargain changes that bestow an obligation to bargain upon the City, subsequently, these personnel rules are not incorporated into this agreement and are not subject to grievance.

## **ARTICLE 20 – PERSONNEL FILE**

1. The City, by direction of Human Resources, maintains a secured personnel file for each employee. The file includes "Personnel Action Forms" and records of employee's job classification and employment status. The personnel file includes other records related to employment including disciplinary actions, commendations, and evaluations. Medical documentation is stored separately and in a secured file.
2. The City, upon twenty-four (24) hours' notice of request by an employee, will provide an employee the opportunity to review the employee's personnel file. An employee may receive one copy of the personnel file, either as a hard copy or electronic (as a scan) per year at no cost. An employee may respond in writing to any item placed in their personnel file. Such written response will become a part of the file.
3. Letters of oral reprimand will be considered stale after twelve (12) months from date imposed. A written reprimand will be considered stale after twenty-four (24) months from date imposed. A disciplinary sanction of suspension will be considered stale after thirty-six (36) months from date imposed. These timelines are not enforceable if the employee engages in similarly related conduct or job performance concerns during the timeline period. The City may use the documents to defend against legal action or for the purposes of impeachment or notice of rule.
4. Employees will have the opportunity to review and sign any personnel document that reflects any adverse personnel action, prior to such document being entered into the employee's personnel file. An employee's refusal to sign the document will have no effect or bearing on the execution of the adverse action. Should an employee refuse to sign said document, the responsible City representative will so state on the document, initial and date. If an employee disagrees with any statement of fact contained in said document, the employee may so indicate by attaching a written statement of reasonable length to said document at the time of review.



## **ARTICLE 21 – SAVINGS/WAIVER OF BARGAINING**

### **A. Savings**

Should any article, section or portion thereof in this CONTRACT be unlawful or held unlawful, invalid or unenforceable by any court of competent jurisdiction, such decision of said court shall apply only to the specific article, section or portion thereof, directly specified in said decision. Upon the issuance of such a decision, the parties agree to negotiate immediately a substitute, if possible, for the invalidated article, section or portion thereof. Parties agree to expedited negotiations as provided by ORS 243.698.

### **B. Waiver of Bargaining**

The parties acknowledge that during the negotiations which resulted in this CONTRACT, each had the unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the area of collective bargaining, and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this CONTRACT. Therefore, the CITY and the UNION, for the life of this CONTRACT, each voluntarily and unqualifiedly waives the right, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter covered in this CONTRACT. The parties recognize that other matters of employment relations not covered by this agreement may be covered by other policy or past practice. The City acknowledges that changes in matters of employment relations not covered by this agreement may be subject to bargaining obligations under ORS 243.698.

Upon mutual consent of the parties, the parties may meet and confer discuss other employment conditions.

## **ARTICLE 22 – FUNDING/BUDGET REDUCTIONS**

### **A. Funding**

The parties recognize that revenue needed to fund the compensation provided by this CONTRACT must be approved by established budget procedures and in certain circumstances by vote of the citizens.

### **B. Budget Reductions**

In the event of the failure of the CITY budget to receive approval, the CITY and the UNION agree to meet and confer to discuss the economic provisions of this CONTRACT. The CITY retains its right to make final determinations on all levels of service, consistent with the provisions of this CONTRACT.



## ARTICLE 23 – TERM OF AGREEMENT

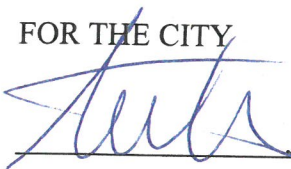
This CONTRACT shall be effective upon execution and shall remain in full force and effect through June 30, 2021. However, no enhanced benefits will be effective until execution of this Agreement. The Agreement shall automatically be renewed from year to year thereafter, unless either party shall notify the other, in writing, no later than February 1, prior to the date of termination that it wishes to amend or modify this CONTRACT.

This CONTRACT is agreed to and signed by the following parties:

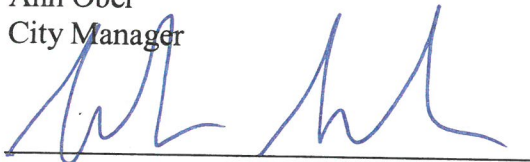
DATED this 27 day of September 2018

FOR THE CITY

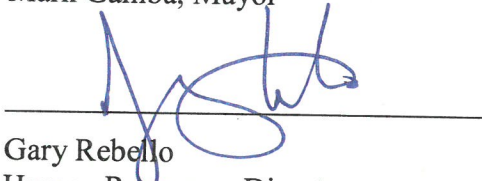
FOR THE UNION



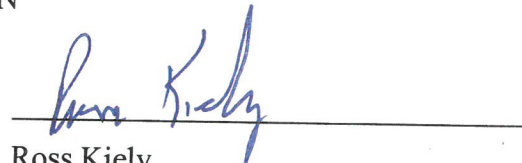
Ann Ober  
City Manager



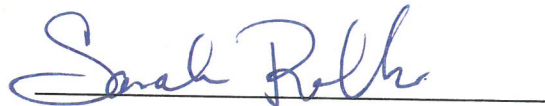
Mark Gamba, Mayor



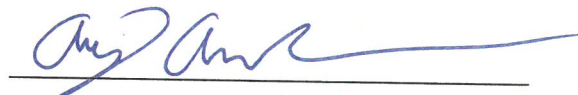
Gary Rebello  
Human Resources Director



Ross Kiely  
Council 75 Representative



Sarah Roller, President



Amy Aschenbrenner, Vice President

## AFSCME

Effective June 24, 2018

COLA

102.50%

RANGE			1	2	3	4	5	6
52	Administrative Specialist I	Hourly	16.93	17.78	18.68	19.61	20.60	21.64
52	Library Assistant I	Semi-Monthly	1,467.32	1,540.99	1,619.00	1,699.60	1,785.40	1,875.54
52		Monthly	2,934.65	3,081.99	3,237.99	3,399.20	3,570.80	3,751.08
52		Annually	35,215.75	36,983.82	38,855.89	40,790.37	42,849.65	45,012.93
53	Parking Enforcement Officer	Hourly	17.78	18.68	19.61	20.60	21.64	22.72
53		Semi-Monthly	1,540.99	1,619.00	1,699.60	1,785.40	1,875.54	1,969.14
53		Monthly	3,081.99	3,237.99	3,399.20	3,570.80	3,751.08	3,938.28
53		Annually	36,983.82	38,855.89	40,790.37	42,849.65	45,012.93	47,259.42
54		Hourly	18.68	19.61	20.60	21.64	22.72	23.86
54		Semi-Monthly	1,619.00	1,699.60	1,785.40	1,875.54	1,969.14	2,067.95
54		Monthly	3,237.99	3,399.20	3,570.80	3,751.08	3,938.28	4,135.89
54		Annually	38,855.89	40,790.37	42,849.65	45,012.93	47,259.42	49,630.71
55		Hourly	19.61	20.60	21.64	22.72	23.86	25.06
55		Semi-Monthly	1,699.60	1,785.40	1,875.54	1,969.14	2,067.95	2,171.95
55		Monthly	3,399.20	3,570.80	3,751.08	3,938.28	4,135.89	4,343.90
55		Annually	40,790.37	42,849.65	45,012.93	47,259.42	49,630.71	52,126.80
56	Administrative Specialist II	Hourly	20.60	21.64	22.72	23.86	25.06	26.32
56	Library Assistant II	Semi-Monthly	1,785.40	1,875.54	1,969.14	2,067.95	2,171.95	2,281.15
56	Police Records Specialist	Monthly	3,570.80	3,751.08	3,938.28	4,135.89	4,343.90	4,562.31
56		Annually	42,849.65	45,012.93	47,259.42	49,630.71	52,126.80	54,747.71
57	Natural Resources Technician I	Hourly	21.64	22.72	23.86	25.06	26.32	27.63
57	Utility Technician I	Semi-Monthly	1,875.54	1,969.14	2,067.95	2,171.95	2,281.15	2,394.69
57		Monthly	3,751.08	3,938.28	4,135.89	4,343.90	4,562.31	4,789.38
57		Annually	45,012.93	47,259.42	49,630.71	52,126.80	54,747.71	57,472.61
58	Accounting Technician	Hourly	22.72	23.86	25.06	26.32	27.63	29.01
58	Administrative Specialist III	Semi-Monthly	1,969.14	2,067.95	2,171.95	2,281.15	2,394.69	2,514.30
58	Engineering Technician I	Monthly	3,938.28	4,135.89	4,343.90	4,562.31	4,789.38	5,028.59
58	Facilities Maintenance Tech	Annually	47,259.42	49,630.71	52,126.80	54,747.71	57,472.61	60,343.12
58	Natural Resources Technician II	Hourly	23.86	25.06	26.32	27.63	29.01	30.47
58	Sign Maintenance Technician	Semi-Monthly	2,067.95	2,171.95	2,281.15	2,394.69	2,514.30	2,640.83
58	Utility Technician II	Monthly	4,135.89	4,343.90	4,562.31	4,789.38	5,028.59	5,281.67
58		Annually	49,630.71	52,126.80	54,747.71	57,472.61	60,343.12	63,380.04
59	Mechanic	Hourly	23.86	25.06	26.32	27.63	29.01	30.47
59		Semi-Monthly	2,067.95	2,171.95	2,281.15	2,394.69	2,514.30	2,640.83
59		Monthly	4,135.89	4,343.90	4,562.31	4,789.38	5,028.59	5,281.67
59		Annually	49,630.71	52,126.80	54,747.71	57,472.61	60,343.12	63,380.04
60	Accounting & Contract Specialist	Hourly	25.06	26.32	27.63	29.01	30.47	31.98
60	Asset Management Technician	Semi-Monthly	2,171.95	2,281.15	2,394.69	2,514.30	2,640.83	2,771.71
60	Assistant Planner	Monthly	4,343.90	4,562.31	4,789.38	5,028.59	5,281.67	5,543.41
60	Code Compliance Coordinator	Annually	52,126.80	54,747.71	57,472.61	60,343.12	63,380.04	66,520.96
60	Cross Connection Specialist	Hourly	25.06	26.32	27.63	29.01	30.47	31.98
60	Engineering Tech II	Semi-Monthly	2,171.95	2,281.15	2,394.69	2,514.30	2,640.83	2,771.71
60	Lead Utility Technician	Monthly	4,343.90	4,562.31	4,789.38	5,028.59	5,281.67	5,543.41
60	Librarian	Annually	52,126.80	54,747.71	57,472.61	60,343.12	63,380.04	66,520.96
60	Records & Web Specialist	Hourly	26.32	27.63	29.01	30.47	31.98	33.59
61	Environmental Services Coordinator	Semi-Monthly	2,281.15	2,394.69	2,514.30	2,640.83	2,771.71	2,911.25
61	Natural Resources Coordinator	Monthly	4,562.31	4,789.38	5,028.59	5,281.67	5,543.41	5,822.49
61	Water Quality Coordinator	Annually	54,747.71	57,472.61	60,343.12	63,380.04	66,520.96	69,869.89
62	Building Inspector / Plans Examiner	Hourly	27.63	29.01	30.47	31.98	33.59	35.27
62	Community Program Coordinator	Semi-Monthly	2,394.69	2,514.30	2,640.83	2,771.71	2,911.25	3,056.85
62	IST Analyst I	Monthly	4,789.38	5,028.59	5,281.67	5,543.41	5,822.49	6,113.70
62	Lead Mechanic	Annually	57,472.61	60,343.12	63,380.04	66,520.96	69,869.89	73,364.42
62	Right-of-Way Contracts Coord	Hourly	29.01	30.47	31.98	33.59	35.27	37.03
63	Associate Engineer	Semi-Monthly	2,514.30	2,640.83	2,771.71	2,911.25	3,056.85	3,209.39
63	Accountant	Monthly	5,028.59	5,281.67	5,543.41	5,822.49	6,113.70	6,418.78
63	Associate Planner	Annually	60,343.12	63,380.04	66,520.96	69,869.89	73,364.42	77,025.36
63	Resource and Economic Coord	Hourly	30.47	31.98	33.59	35.27	37.03	38.89
64	Engineering Project Manager	Semi-Monthly	2,640.83	2,771.71	2,911.25	3,056.85	3,209.39	3,370.60
64		Monthly	5,281.67	5,543.41	5,822.49	6,113.70	6,418.78	6,741.19
64		Annually	63,380.04	66,520.96	69,869.89	73,364.42	77,025.36	80,894.31
65	IST Analyst II	Hourly	31.98	33.59	35.27	37.03	38.89	40.84
65		Semi-Monthly	2,771.71	2,911.25	3,056.85	3,209.39	3,370.60	3,539.60
65		Monthly	5,543.41	5,822.49	6,113.70	6,418.78	6,741.19	7,079.21
65		Annually	66,520.96	69,869.89	73,364.42	77,025.36	80,894.31	84,950.47
66	GIS Coordinator	Hourly	33.59	35.27	37.03	38.89	40.84	42.88
66	Civil Engineer	Semi-Monthly	2,911.25	3,056.85	3,209.39	3,370.60	3,539.60	3,716.41
66	Senior Planner	Monthly	5,822.49	6,113.70	6,418.78	6,741.19	7,079.21	7,432.82
66	Public Affairs Specialist	Annually	69,869.89	73,364.42	77,025.36	80,894.31	84,950.47	89,193.83



## AFSCME

Effective June 24, 2019

COLA

102.75%

RAN								
52	Administrative Specialist I	Hourly	17.40	18.27	19.19	20.15	21.17	22.24
52	Library Assistant I	Monthly	3,016	3,167	3,326	3,493	3,670	3,855
52		Annually	36,193	38,003	39,917	41,914	44,035	46,261
53	Parking Enforcement Officer	Hourly	18.27	19.19	20.15	21.17	22.24	23.34
53		Monthly	3,167	3,326	3,493	3,670	3,855	4,046
53		Annually	38,003	39,917	41,914	44,035	46,261	48,549
54		Hourly	19.19	20.15	21.17	22.24	23.34	24.52
54		Monthly	3,326	3,493	3,670	3,855	4,046	4,250
54		Annually	39,917	41,914	44,035	46,261	48,549	51,004
55		Hourly	20.15	21.17	22.24	23.34	24.52	25.75
55		Monthly	3,493	3,670	3,855	4,046	4,250	4,464
55		Annually	41,914	44,035	46,261	48,549	51,004	53,562
56	Administrative Specialist II	Hourly	21.17	22.24	23.34	24.52	25.75	27.04
56	Library Assistant II	Monthly	3,670	3,855	4,046	4,250	4,464	4,687
56	Police Records Specialist	Annually	44,035	46,261	48,549	51,004	53,562	56,245
57	Natural Resources Technician I	Hourly	22.24	23.34	24.52	25.75	27.04	28.39
57	Utility Technician I	Monthly	3,855	4,046	4,250	4,464	4,687	4,921
57		Annually	46,261	48,549	51,004	53,562	56,245	59,053
58	Accounting Technician	Hourly	23.34	24.52	25.75	27.04	28.39	29.81
58	Administrative Specialist III	Monthly	4,046	4,250	4,464	4,687	4,921	5,167
58	Engineering Technician I	Annually	48,549	51,004	53,562	56,245	59,053	62,007
58	Facilities Maintenance Tech							
58	Natural Resources Technician II							
58	Sign Maintenance Technician							
58	Utility Technician II							
59		Hourly	24.52	25.75	27.04	28.39	29.81	31.31
59	Mechanic	Monthly	4,250	4,464	4,687	4,921	5,167	5,427
59		Annually	51,004	53,562	56,245	59,053	62,007	65,127
60	Accounting & Contract Specialist	Hourly	25.75	27.04	28.39	29.81	31.31	32.86
60	Asset Management Technician	Monthly	4,464	4,687	4,921	5,167	5,427	5,696
60	Assistant Planner	Annually	53,562	56,245	59,053	62,007	65,127	68,351
60	Code Compliance Coordinator							
60	Cross Connection Specialist							
60	Engineering Tech II							
60	Lead Utility Technician							
60	Librarian							
60	Records & Web Specialist							
61	Environmental Services Coordinator	Hourly	27.04	28.39	29.81	31.31	32.86	34.51
61	Natural Resources Coordinator	Monthly	4,687	4,921	5,167	5,427	5,696	5,982
61	Water Quality Coordinator	Annually	56,245	59,053	62,007	65,127	68,351	71,784
62	Building Inspector / Plans Examiner	Hourly	28.39	29.81	31.31	32.86	34.51	36.24
62	Community Program Coordinator	Monthly	4,921	5,167	5,427	5,696	5,982	6,282
62	IST Analyst I	Annually	59,053	62,007	65,127	68,351	71,784	75,382
62	Lead Mechanic							
62	Right-of-Way Contracts Coord							
63	Associate Engineer	Hourly	29.81	31.31	32.86	34.51	36.24	38.05
63	Accountant	Monthly	5,167	5,427	5,696	5,982	6,282	6,596
63	Associate Planner	Annually	62,007	65,127	68,351	71,784	75,382	79,147
63	Resource and Economic Coord							
64		Hourly	31.31	32.86	34.51	36.24	38.05	39.96
64	Engineering Project Manager	Monthly	5,427	5,696	5,982	6,282	6,596	6,927
64		Annually	65,127	68,351	71,784	75,382	79,147	83,120
65		Hourly	32.86	34.51	36.24	38.05	39.96	41.96
65	IST Analyst II	Monthly	5,696	5,982	6,282	6,596	6,927	7,273
65		Annually	68,351	71,784	75,382	79,147	83,120	87,280
66	GIS Coordinator	Hourly	34.51	36.24	38.05	39.96	41.96	44.06
66	Civil Engineer	Monthly	5,982	6,282	6,596	6,927	7,273	7,637
66	Senior Planner	Annually	71,784	75,382	79,147	83,120	87,280	91,648
66	Public Affairs Specialist							



## AFSCME

Effective June 24, 2020

COLA 103.00%

RAN								
52	Administrative Specialist I	Hourly	17.92	18.82	19.77	20.75	21.81	22.91
52	Library Assistant I	Monthly	3,106	3,262	3,427	3,597	3,781	3,971
52		Annually	37,275	39,147	41,123	43,162	45,367	47,655
53	Parking Enforcement Officer	Hourly	18.82	19.77	20.75	21.81	22.91	24.04
53		Monthly	3,262	3,427	3,597	3,781	3,971	4,167
53		Annually	39,147	41,123	43,162	45,367	47,655	50,005
54		Hourly	19.77	20.75	21.81	22.91	24.04	25.26
54		Monthly	3,427	3,597	3,781	3,971	4,167	4,379
54		Annually	41,123	43,162	45,367	47,655	50,005	52,543
55		Hourly	20.75	21.81	22.91	24.04	25.26	26.52
55		Monthly	3,597	3,781	3,971	4,167	4,379	4,597
55		Annually	43,162	45,367	47,655	50,005	52,543	55,164
56	Administrative Specialist II	Hourly	21.81	22.91	24.04	25.26	26.52	27.85
56	Library Assistant II	Monthly	3,781	3,971	4,167	4,379	4,597	4,828
56	Police Records Specialist	Annually	45,367	47,655	50,005	52,543	55,164	57,930
57	Natural Resources Technician I	Hourly	22.91	24.04	25.26	26.52	27.85	29.24
57	Utility Technician I	Monthly	3,971	4,167	4,379	4,597	4,828	5,068
57		Annually	47,655	50,005	52,543	55,164	57,930	60,822
58	Accounting Technician	Hourly	24.04	25.26	26.52	27.85	29.24	30.70
58	Administrative Specialist III	Monthly	4,167	4,379	4,597	4,828	5,068	5,322
58	Engineering Technician I	Annually	50,005	52,543	55,164	57,930	60,822	63,858
58	Facilities Maintenance Tech	Hourly	24.04	25.26	26.52	27.85	29.24	30.70
58	Natural Resources Technician II	Monthly	4,167	4,379	4,597	4,828	5,068	5,322
58	Sign Maintenance Technician	Annually	50,005	52,543	55,164	57,930	60,822	63,858
58	Utility Technician II	Hourly	25.26	26.52	27.85	29.24	30.70	32.25
59	Mechanic	Monthly	4,379	4,597	4,828	5,068	5,322	5,590
59		Annually	52,543	55,164	57,930	60,822	63,858	67,083
60	Accounting & Contract Specialist	Hourly	26.52	27.85	29.24	30.70	32.25	33.85
60	Asset Management Technician	Monthly	4,597	4,828	5,068	5,322	5,590	5,868
60	Assistant Planner	Annually	55,164	57,930	60,822	63,858	67,083	70,411
60	Code Compliance Coordinator	Hourly	26.52	27.85	29.24	30.70	32.25	33.85
60	Cross Connection Specialist	Monthly	4,597	4,828	5,068	5,322	5,590	5,868
60	Engineering Tech II	Annually	55,164	57,930	60,822	63,858	67,083	70,411
60	Lead Utility Technician	Hourly	27.85	29.24	30.70	32.25	33.85	35.55
60	Librarian	Monthly	4,828	5,068	5,322	5,590	5,868	6,162
60	Records & Web Specialist	Annually	57,930	60,822	63,858	67,083	70,411	73,947
61	Environmental Services Coordinator	Hourly	27.85	29.24	30.70	32.25	33.85	35.55
61	Natural Resources Coordinator	Monthly	4,828	5,068	5,322	5,590	5,868	6,162
61	Water Quality Coordinator	Annually	57,930	60,822	63,858	67,083	70,411	73,947
62	Building Inspector / Plans Examiner	Hourly	29.24	30.70	32.25	33.85	35.55	37.33
62	Community Program Coordinator	Monthly	5,068	5,322	5,590	5,868	6,162	6,471
62	IST Analyst I	Annually	60,822	63,858	67,083	70,411	73,947	77,649
62	Lead Mechanic	Hourly	30.70	32.25	33.85	35.55	37.33	39.19
62	Right-of-Way Contracts Coord	Monthly	5,068	5,322	5,590	5,868	6,162	6,471
62		Annually	60,822	63,858	67,083	70,411	73,947	77,649
63	Accountant	Hourly	30.70	32.25	33.85	35.55	37.33	39.19
63	Associate Engineer	Monthly	5,322	5,590	5,868	6,162	6,471	6,793
63	Associate Planner	Annually	63,858	67,083	70,411	73,947	77,649	81,518
63	Resource and Economic Coord	Hourly	32.25	33.85	35.55	37.33	39.19	41.16
64	Engineering Project Manager	Monthly	5,590	5,868	6,162	6,471	6,793	7,135
64		Annually	67,083	70,411	73,947	77,649	81,518	85,616
65		Hourly	33.85	35.55	37.33	39.19	41.16	43.22
65	IST Analyst II	Monthly	5,868	6,162	6,471	6,793	7,135	7,492
65		Annually	70,411	73,947	77,649	81,518	85,616	89,901
66	GIS Coordinator	Hourly	35.55	37.33	39.19	41.16	43.22	45.38
66	Civil Engineer	Monthly	6,162	6,471	6,793	7,135	7,492	7,866
66	Senior Planner	Annually	73,947	77,649	81,518	85,616	89,901	94,394
66	Public Affairs Specialist	Hourly	35.55	37.33	39.19	41.16	43.22	45.38
66		Monthly	6,162	6,471	6,793	7,135	7,492	7,866
66		Annually	73,947	77,649	81,518	85,616	89,901	94,394

11.2.

MPEA Contract

**CITY OF MILWAUKIE**



**And**

**MILWAUKIE POLICE EMPLOYEES  
ASSOCIATION**

**COLLECTIVE BARGAINING AGREEMENT**

**JULY 1, 2018 – JUNE 30, 2020**

# Table of Contents

ARTICLE 1 – COMPACT	1
A. PREAMBLE	1
B. EMERGENCIES	1
C. CHANGES	1
ARTICLE 2 – RECOGNITION	1
A. CLASSIFICATIONS	1
B. PURPOSE	2
C. NEGOTIATION	2
ARTICLE 3 – MANAGEMENT RIGHTS	2
A. RESPONSIBILITIES	2
B. RIGHTS	2
C. OUTSIDE EMPLOYMENT	3
ARTICLE 4 – EMPLOYEE RIGHTS	4
A. FAIR SHARE	4
B. MAINTENANCE OF STANDARDS/EXISTING CONDITIONS	4
C. PERSONNEL FILE	4
D. PART-TIME FRINGE BENEFITS	5
ARTICLE 5 – ASSOCIATION RIGHTS	5
A. BULLETIN BOARDS	5
B. ELECTRONIC MAIL	6
ARTICLE 6 – NON-DISCRIMINATION	7
A. NOT INTERFERE	7
B. APPLY EQUALLY	7
C. COOPERATE WITH INVESTIGATION OF COMPLAINTS	7
E. GENDER REFERENCE	7
ARTICLE 7 – HOURS OF WORK	7
A. REGULAR HOURS	7
B. WORK WEEK	7
C. WORKDAY	8
D. SHIFT TRADES	8
E. WORK SHIFT	8
F. LUNCH & BREAKS	8
G. TIME OFF BETWEEN SHIFTS	8
H. SIGN-UP	8
I. CHANGES IN START/STOP TIMES	9



<b>J. FLEX-ARRANGEMENTS</b>	<b>9</b>
<b>K. TIME CHANGE</b>	<b>9</b>
 ARTICLE 8 – WAGES	 10
<b>A. SALARY SCHEDULE</b>	<b>10</b>
<b>B. INCREASE</b>	<b>10</b>
<b>C. SALARY ADMINISTRATION</b>	<b>10</b>
 ARTICLE 9 – ADDITIONAL COMPENSATION	 10
<b>A. ASSIGNMENT</b>	<b>10</b>
<b>B. INCENTIVES</b>	<b>12</b>
 ARTICLE 10 – OVERTIME AND COMPENSATORY TIME OFF (CTO) IN LIEU OF OVERTIME	 13
<b>A. ELIGIBILITY (SIGN-UP &amp; DISTRIBUTION)</b>	<b>13</b>
<b>B. PAY</b>	<b>13</b>
<b>C. CTO</b>	<b>14</b>
<b>D. TRAINING</b>	<b>14</b>
 ARTICLE 11 – SENIORITY AND PROBATIONARY PERIOD	 15
<b>A. SENIORITY</b>	<b>15</b>
<b>B. PROBATION</b>	<b>16</b>
 ARTICLE 12 – VACATIONS AND HOLIDAYS	 16
<b>A. VACATIONS</b>	<b>16</b>
<b>B. HOLIDAYS</b>	<b>18</b>
 ARTICLE 13 – LEAVES	 19
<b>A. SICK LEAVE</b>	<b>19</b>
<b>B. ON THE JOB INJURY</b>	<b>20</b>
<b>C. BEREAVEMENT</b>	<b>21</b>
<b>D. PERSONAL</b>	<b>22</b>
<b>E. EXTENDED LEAVE OF ABSENCE WITHOUT PAY</b>	<b>23</b>
<b>F. JURY DUTY AND OTHER RELATED DUTIES</b>	<b>23</b>
 ARTICLE 14 – BENEFITS	 24

<b>A. INSURANCE</b>	<b>24</b>
<b>B. RETIREMENT</b>	<b>26</b>
<b>C. CLOTHING &amp; EQUIPMENT</b>	<b>27</b>
ARTICLE 15 – LAYOFF AND RECALL	28
<b>A. LAYOFF</b>	<b>28</b>
<b>B. RECALL</b>	<b>28</b>
ARTICLE 16 – DISCIPLINE AND DISCHARGE	29
ARTICLE 17 – GRIEVANCE	29
<b>A. GRIEVANCE PROCEDURE</b>	<b>29</b>
<b>B. RULES GOVERNING THE GRIEVANCE PROCEDURES</b>	<b>30</b>
<b>C. ARBITRATION</b>	<b>31</b>
ARTICLE 18 – EFFECT OF PERSONNEL AND ADMINISTRATIVE POLICIES AND PROCEDURES	31
ARTICLE 19 – SAVINGS	32
ARTICLE 20 – TERM OF AGREEMENT	32
APPENDIX A: SALARY SCHEDULE	33
APPENDIX B: MEDICAL AND DENTAL PREMIUMS	34
APPENDIX C: INVESTIGATORY INTERVIEW	35

## **Article 1 – Compact**

### **A. Preamble**

This AGREEMENT made and entered into between the City of Milwaukie, hereinafter referred to as the CITY, and the Milwaukie Police Employees Association, hereinafter referred to as the ASSOCIATION.

### **B. Emergencies**

Jointly, we recognize that in times of emergency employees will perform best if they know that their families are safe and secure. We will provide reasonable time for employees to contact their family and make necessary arrangement for their families' safety and security, so long as the lives and property of Milwaukie residents are not placed in jeopardy. Off-duty labor or management personnel will do what they can to assist families of on-duty workers as much as possible.

### **C. Changes**

As the CITY grows and changes, employees will be informed in advance of these changes. The CITY will negotiate with labor representatives, other government entities, and management in the spirit of our mutual gains philosophy and the appropriate State laws.

## **Article 2 – Recognition**

### **A. Classifications**

The CITY recognizes the ASSOCIATION as the exclusive bargaining representative for all regular employees working 20 hours or more in the Police Recruit, Property Room Technician, Police Officer, Police Sergeant classifications for the purpose of establishing wages, hours, and conditions of employment. Probationary employees shall be represented by this ASSOCIATION. Specifically excluded are all other employees including supervisors, confidential employees, as defined in ORS 243.650, and temporary employees.

#### **1. New Classifications**

When a new classification is established by the CITY and added to the bargaining unit, the CITY will designate the classification and salary rate. The ASSOCIATION shall be notified, in writing, and the salary rate established by the CITY shall be considered tentative until the ASSOCIATION has been given an opportunity to meet and negotiate a salary. If negotiations occur and an impasse is reached, the parties will waive mediation and proceed directly to interest arbitration. In any event, the CITY may implement the new classification at its discretion.

## **B. Purpose**

It is the purpose of this Agreement to maintain individual productivity and quality of services; to provide an orderly procedure for the resolution of grievance; to prevent any interruptions of work and interference with the efficient operation of the Department.

## **C. Negotiation**

The ASSOCIATION recognizes the CITY as the duly elected representative of the people and agrees to negotiate only with the CITY through the negotiating agent or agents officially designated by the CITY to act in its behalf. The ASSOCIATION agrees further that neither it, nor any of its members or agents, will attempt to negotiate privately or individually with any Council member, manager or other person or persons. The CITY agrees that it will not negotiate individually with any members of the bargaining unit concerning the collective bargaining process.

# **Article 3 – Management Rights**

## **A. Responsibilities**

The parties agree that the CITY retains all the customary, usual and exclusive rights, decision-making, prerogatives, functions, and authority connected with or in any way incident to its responsibility to manage the affairs of the CITY or any part of it. Rights of employees in the bargaining unit and the ASSOCIATION are limited to those set forth in the Agreement or provided by Oregon Constitution and Charter of the City of Milwaukie and the CITY retains all prerogatives, functions and rights not subject to the terms of this Agreement. However, the City and the Association are subject to the bargaining obligations of the Public Employees Collective Bargaining Act.

## **B. Rights**

It is recognized that the CITY has and will continue to retain the exclusive right and responsibility to operate and manage the Police Department, its facilities, properties and the activities of its employees, insofar as this right does not conflict with terms of this Agreement. Without limiting the generality of the foregoing, it is expressly recognized that the CITY's operational and managerial responsibility includes:

1. The right to determine the location of the police station and other facilities of the Department, including the right to establish new facilities and to relocate or close old facilities;

2. The determination of the financial policies of the Department, including the general accounting procedures, inventory of supplies and equipment procedures and public relations;
3. The determination of the management, supervisory and administrative organization of the Department and the selection of employees for promotion to supervisory, management or administrative positions;
4. The maintenance and control and use of property, facilities and personnel;
5. The determination of safety, health and property protection measures where legal responsibility of the CITY or other governmental unit is involved;
6. The right to enforce the rules and regulations now in effect and to establish new rules and regulations from time to time not in conflict with this Agreement;
7. The determination of the size of the working force, the allocation and assignment of work to employees and the determination of policies affecting the selection of employees;
8. The determination of the layout and equipment to be used and the right to plan, direct and control Department activities;
9. The direction of all working forces in the system, including the right to hire, suspend, discharge or discipline, or transfer employees.

### **C. Outside Employment**

Permission to work at outside employment while an employee of the City of Milwaukie must be approved in writing by the Chief of Police or his designee. Permission may be granted if the outside employment:

1. Is compatible with the employee's adherence to the Police Officer's code of ethics;
2. In no way detracts from the efficiency of the employee in CITY duties;
3. Does not take preference over extra duty required by CITY employment;
4. Does not present a legal or ethical conflict of interest with the police profession;
5. Does not physically or mentally exhaust the employee to the point that the employee's job performance is affected; and
6. Does not require that any special consideration be given to scheduling of the employee's regular duty hours.



## **Article 4 – Employee Rights**

### **A. Fair Share**

The CITY and the ASSOCIATION agree to a "Fair Share" Agreement for all employees covered by this Agreement.

1. The CITY and the ASSOCIATION recognize that the ASSOCIATION is required to represent every employee covered by this Agreement, making each such employee a recipient of the ASSOCIATION'S services. Employees who are not members of the ASSOCIATION shall make payments-in-lieu-of-dues to the ASSOCIATION. Such payments shall be in an amount set by the ASSOCIATION only reflecting its costs of representation.
2. The ASSOCIATION shall certify to the CITY the amount of dues approved by the members of the ASSOCIATION. The CITY agrees it will deduct from each employee's monthly wages an ASSOCIATION member's dues and non-members payment-in-lieu-of-dues. The monthly deductions shall be remitted monthly to the Treasurer of the ASSOCIATION.
3. Any individual employee objecting to payment of "fair share in-lieu-of-dues" on a bona fide religious tenet, or teaching of a church or religious body of which such employee is a member, will inform the CITY and the ASSOCIATION of the objection. The employee will meet with representatives of the CITY and the ASSOCIATION and establish a mutual, satisfactory arrangement for distribution of a contribution of an amount of money equivalent to regular ASSOCIATION membership dues to a non-religious charity. The employee shall furnish written proof monthly that this has been done.
4. Any dispute between an employee, the ASSOCIATION or the CITY concerning the amount of the payments in-lieu-of-dues or a religious objection is not subject to the grievance procedure. Such disputes are solely between the ASSOCIATION and the affected employee and no recourse shall be available through this Agreement. The ASSOCIATION agrees to indemnify, defend and hold the CITY harmless against any claims made or suits begun against the CITY as a result of this Article.

### **B. Maintenance of Standards/Existing Conditions**

Subject to available funds, all mandatory subjects of bargaining relating to wages, hours and working conditions not specifically mentioned in this Agreement shall be maintained at not less than the level in effect at the time of the signing of this Agreement.

### **C. Personnel File**

1. Each employee shall have the right, upon twenty-four (24) hours advance written request, to review and obtain at his own expense, copies of the

contents of his personnel file, exclusive of materials received prior to the date of his employment by the CITY. The official personnel file shall be maintained by the Human Resources Department.

2. An employee may respond in writing to any item placed in the personnel file, and said response shall become a part of said file.
3. Letters of reprimand, upon request of the employee, shall be removed at the end of eighteen (18) months, from the time the reprimand was dated, provided there is no subsequent letter(s) of reprimand or disciplinary action either over the same or a different issue during the intervening period of time. All other disciplinary documents (with the exception of information reflected in performance evaluations), upon request of the employee, shall be removed from the employee's personnel file at the end of three years from the date of the disciplinary action, provided no other disciplinary action has been taken; in which case the documents shall be removed three years from the most recent disciplinary action. Materials in the supervisor's working file shall be removed after the completion of the employee's annual evaluation. In the event the Employer fails to provide an evaluation, no material shall be maintained in the working file that is twelve (12) months old or older.
4. Each employee shall be given the opportunity to read and sign any written material of a derogatory nature prior to it being placed in the personnel file and/or working file.

#### **D. Part-time Fringe Benefits**

Fringe benefits for part-time employees will be calculated based upon the budgeted full-time equivalency (FTE) of the position using the chart below.

FTE	Prorated Benefit
1.0 to .90	100%
.89 to .66	75%
.65 to .50	50%

Fulltime status for purposes of ACA medical coverage is .75 FTE. Fringe benefits include sick leave, vacation leave, holiday leave, medical insurance, deferred compensation, vision coverage, dental insurance and life insurance.

### **Article 5 – Association Rights**

#### **A. Bulletin Boards**

The CITY agrees to furnish and maintain a suitable bulletin board in a convenient place to be used by the ASSOCIATION. The ASSOCIATION shall limit its posting of notices and bulletins to the bulletin board.

## **B. Electronic Mail**

- 1.** Association representatives (those persons holding positions as officers within the Association) may use the CITY e-mail system to communicate concerning collective bargaining.
  - (a)** “Collective bargaining” means any of the following:
    - (1) ASSOCIATION announcements to the ASSOCIATION membership (such as meeting subjects, dates and times);
    - (2) The meaning, interpretation or application of this contract;
    - (3) Grievances proposed in accordance with Article 17 of the Contract;
    - (4) Matters related to the collective bargaining relationship between the CITY and the ASSOCIATION.
- 2.** Association members may use the CITY e-mail system to contact ASSOCIATION representatives and or their hired representatives regarding collective bargaining, including any of the following purposes:
  - (a)** To arrange a date, time and location for a meeting concerning the meaning, interpretation or application of this CONTRACT.
  - (b)** To ask a question regarding the meaning, interpretation, or application of this CONTRACT.
  - (c)** To present a grievance pursuant to Article 17 of this CONTRACT, regarding the meaning, interpretation or application of this CONTRACT.
  - (d)** To request Association representation in matters concerning the meaning, application or interpretation of this CONTRACT.
- 3.** It is understood that there is no expectation of confidentiality or privacy concerning communications sent over the CITY e-mail system, and that the CITY reserves the right to access and disclose all messages sent over the CITY e-mail system for any purpose. It is expressly understood that there are no expectations of confidentiality concerning communications sent over the CITY e-mail system concerning grievances processed pursuant to Article 17 of this CONTRACT or negotiations between the parties to this CONTRACT.
- 4.** The CITY e-mail system will not be used for political purposes at any time, and this limitation shall override any of the permissible uses of the e-mail system listed above. “Political purposes” shall include matters in support of or opposition to candidates or measures in any election, including ASSOCIATION elections.

## **Article 6 – Non-Discrimination**

### **A. Not Interfere**

The CITY will not interfere with or discriminate in respect to any term or condition of employment against any employee covered by this Agreement because of membership and/or activity as required in this Agreement on behalf of the members of this bargaining unit.

### **B. Apply Equally**

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, race, color, creed, religion, national origin, mental or physical disability (subject to the individual's ability and qualifications to perform the duty of the classification) political affiliation or any other protected class as designated by Federal or State law or City Policies.

### **C. Cooperate with Investigation of Complaints**

In the event a discrimination complaint is made against either party to this Agreement, the parties agree to cooperate with each other by providing information relative to the complaint.

### **D. Not Apply to Grievance/Arbitration Article**

### **E. Gender Reference**

All references to employees in this CONTRACT designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees.

## **Article 7 – Hours of Work**

### **A. Regular Hours**

The regular hours of work each day shall be consecutive except for interruptions for rest periods and lunch periods.

### **B. Work Week**

The workweek shall consist of a seven (7) day work schedule with five (5) consecutive eight (8) hour days, with two (2) days off; four (4) consecutive ten (10) hour days, with three (3) days off; fourteen (14) day work cycle with twelve (12) hour shifts; or any other work schedule mutually agreed to by the CITY and the ASSOCIATION. The preferred schedule under this section for police officers will be four (4) consecutive ten (10) hour days, with three (3) days off, but in no event will this stated preference interfere with or otherwise abrogate the management right to schedule work.

### **C. Workday**

The workday shall consist of eight (8) hours or ten (10) hours, including lunch periods, rest periods and training periods. Employees who are relieved from duty for lunch periods shall not have such time included in their workday.

### **D. Shift Trades**

Per the FLSA, officers will be permitted to trade an assigned workday or shift with another member, as long as the reasonable operating needs of the department are addressed including but not limited to two (2) days advance notice, and the request has the approval of the supervisor or division commander. It is up to the officer's discretion and responsibility to find a substitute and to work out the trade arrangement. The officer originally assigned the shift will receive the compensation for the regular hours of the shift and the officer working the actual hours will receive compensation for any overtime worked.

### **E. Work Shift**

All employees shall be scheduled to work on a regular shift, and each shift shall have a regular starting and quitting time, except for emergency situations.

### **F. Lunch & Breaks**

See sections C:1- c above for employees working a 12-hour shift. Employees on 8 or 10 hours shift schedules shall be provided one (1) thirty (30) – minute paid meal period and two (2) fifteen (15) – minute paid rest periods per shift, to the extent possible and consistent with the operational requirements of the Department. Employees remain subject to call or interruption during all meal and rest periods.

### **G. Time Off Between Shifts**

Regular work shift assignments shall be established with a minimum twelve (12) hours off between shifts.

### **H. Sign-up**

A shift sign-up sheet will be posted in the squad room for sworn personnel for two (2) months before the effective starting date of the new shift. Employees shall be allowed to bid shifts on the basis of seniority pursuant to current practice. Only at regular shift sign up time will seniority be considered. Employees shall be notified of the permanent schedule thirty (30) days prior to the effective date. Employees shall not be scheduled to work more than eighty (80) hours in the two (2) week period following a shift change without being eligible for overtime as outlined in Article 10. Employees scheduled to work five (5) or more workdays shall have at least one (1) break day scheduled off.



Part-time employees will be scheduled for hours of work by the CITY.

### **I. Changes in Start/Stop Times**

Start/stop times may be adjusted for emergencies or with five days of notice, start/stop times may be adjusted for operating needs.

- (a) Emergency is defined as an unforeseen combination of circumstances calling for immediate action which requires personnel resources. Scheduled changes due to events with advance notice would not be considered emergencies.
- (b) For purposes of this section, the following non-emergencies are not operating needs: court appearances, implied consent hearings, emphasis patrols, adjustments for patrol coverage due to vacation or sick usage (excluding extended leaves for FMLA, worker's comp/light duty greater than two weeks in length).
- (c) If a schedule is adjusted pursuant to this section, the remainder of the employee's work week will be adjusted so that the employee's start time will be within two (2) hours of the adjusted shift, unless the employee desires to return to their original work schedule for the remainder of their work week.

### **J. Flex-arrangements**

Employees may also request a flex schedule. It is up to the Police Chief , or designee, to decide whether to approve the request based on business needs and impact on service delivery and co-workers. The grievance procedures set forth in this agreement shall not apply to flex arrangements.

### **K. Time Change**

In addressing the daylight savings time that occurs twice a year, the following will be implemented.

#### **1. Spring Forward**

The employee must work an additional hour to meet the shift requirement or use one hour of CTO, vacation, or fitness/wellness time off.

#### **2. Fall Back**

The employee will be compensated for any hours worked over the required hours of the shift.

## **Article 8 – Wages**

### **A. Salary Schedule**

Wage rates are contained in Appendix A.

### **B. Increase**

Effective on the first day of the pay period of July 1, 2018 all MPEA members will receive a cost of living wage increase in the amount of two and one-half percent (2.5%) applied to step one (1) of the salary schedule. Steps are 5% apart.

Effective on the first day of the pay period of July 1, 2019, all MPEA members will receive a cost of living wage increase in the amount of two and three-quarter percent (2.75%) applied to step one (1) of the salary schedule. Steps are 5% apart.

### **C. Salary Administration**

An employee who is hired at either Police Recruit Step “A” or step “B” shall be moved to Police Officer Step “A” upon satisfactory completion of six (6) months of employment. The employee is then eligible for a merit increase after 6 full months of satisfactory employment in the Police Officer classification and annually thereafter.

An employee hired as a Police Officer shall be eligible to advance to the next step after six (6) full months of satisfactory performance and annually thereafter.

An employee’s performance may be considered unsatisfactory if documented discipline has been placed in their personnel file at City Hall, or the employee has a continuing pattern of performance failures documented in a written performance evaluation. If satisfactory performance at any step is not met, the employee will remain at the current step of pay for a time determined by the Chief of Police, but not to exceed six (6) months prior to review again.

## **Article 9 – Additional Compensation**

### **A. Assignment**

Compensation for special assignment and working out of class shall be documented through a Personnel Action Form signed by the Police Chief or designee, except for Acting Sergeant which is for actual hours worked, shall be documented on the time sheet. No employee shall receive additional compensation for more than one special assignment pay (sap). A department placement process, selecting the most qualified for the assignment will be used to fill vacancies. All assignments are temporary and an assigned employee may be removed from the assignment subject to the operational needs of the department as determined by the Chief of Police. The grievance procedures in this

agreement do not apply to the Personnel and Administrative Policies and Procedures. Compensation shall be as follows:

Assignment	Compensation	Criteria
Public Information Officer (PIO) or other specialty on-call position	Five percent (5%) of base <sup>1</sup> police officer pay (sap)	PIO premium is for all hours worked.
Motorcycle	Five percent (5%) of base <sup>1</sup> police officer pay (sap)	A person will be paid based on actual days assigned to this specialty assignment.
Detective	Seven and one-half percent (7.5%) of base police officer pay (sap).	A person will be paid based on actual days assigned to this specialty assignment.
Criminalist	Seven and one-half percent (7.5%) of base police offer pay (sap)	A person will be paid based on actual days assigned to this specialty assignment.
Dog Handler*	Five percent (5%) of base police officer pay (sap)	Employee must demonstrate fluency in speaking and understanding the Spanish or Russian language. The City will determine the level of fluency required.
Bilingual Pay – Spanish And Russian	Five percent (5%) of base officer pay	
Coach	Five percent (5%) of base pay	Sergeants are excluded. Employees will receive additional coach's pay for days assigned as a coach.
	Pay for coaching a Reserve Officer 2%	Officer coaching reserves shall receive pay only for hours worked with a reserve.
School Resource Officer (SRO)	Five percent (5%) of base pay.	SRO premium is for all hours worked including other duties as assigned including duties when school is not in session.

<sup>1</sup> Base Pay for specialty pay purposes does not include incentive or special assignment or working out of class or other additional pay for which employee may otherwise be eligible.

Assignment	Compensation	Criteria
Working Out of Class (WOC) Assignment to temporarily work in a designated classification, with a pay range above the employee's current classification pay range.	Same as above	A person will be paid working out of class based on actual days assigned to this classification.
Acting Sergeant (a form of WOC)	Acting Sergeant- ten percent (10%) of base police officer pay	Acting Sergeant positions will be assigned by the Chief or his designee. Employee will receive pay for only actual hours worked as AWC or Acting Sergeant.

\*Dog Handler: An Officer may be assigned to K-9 duties at the discretion of the Department. Officers may also volunteer for the position. Acceptance of the assignment is based upon the willingness to care for the animal off-duty as a family pet. A Dog Handler will provide maintenance of their assigned dog(s), including feeding, grooming and other normal dog maintenance responsibilities, outside of the Officer's normal work hours. The parties have agreed the reasonable time needed for routine care is 30 minutes per day as sufficient to meet those responsibilities. In consideration of this activity, the Officer will receive approximately 50 minutes release time per working day when on a 4/10 schedule for these duties. Canine patrol duties require specialized training and experience. Officers assigned to canine patrol will receive an additional incentive of 5% of base pay per pay period of the assignment.

## **B. Incentives**

### **1. Education**

Employees shall continue to be entitled to participate in an educational incentive program. Employees who have earned college degrees or who earn them in the future are eligible to receive additional pay of either five percent (5%) or ten percent (10%) of base hourly rate.

- (a) Employees shall be eligible to receive five percent (5%) add to pay per month upon obtaining an AA degree and/or possessing a DPSST Intermediate Police Officer Certificate.
- (b) Employees who are studying to earn a BA or BS degree shall be eligible to receive five percent (5%) add to pay per month after earning ninety (90) credit hours. To maintain educational incentive pay as established in this

section, the employee must complete six (6) credit hours of college level job related degree course work each fiscal year.

- (c) Employees shall be eligible to receive ten percent (10%) add to pay per month upon earning a BA or BS degree and/or possessing a DPSST Advance Police Officer Certificate.
- (d) Employees shall not be entitled to tuition or other expense reimbursement for class credits for which they receive incentive pay.
- (e) Educational incentive premium will be effective the first of the month following receipt of satisfactory verification. It is the employee's responsibility to provide the CITY Police Chief and Human Resources in writing the required verification of eligibility.

## **2. Longevity Pay**

To recognize the importance of employee retention and reward employees for their dedication to the City, employees will receive one (1) % of their base pay added to base pay after ten (10) years of service. After fifteen (15) years of service an employee will receive a total of two (2) % additional to base pay. After twenty (20) years of service an employee shall receive a total of four (4) % of base pay.

## **Article 10 – Overtime and Compensatory Time Off (CTO) in lieu of Overtime**

### **A. Eligibility (sign-up & distribution)**

Overtime shall be distributed on each shift on a seniority rotating basis consistent with the needs for appropriate staffing. The method to accomplish this may be a sign-up sheet for each overtime vacancy, a monthly calendar of overtime vacancies or other method mutually agreed upon by the CITY and the ASSOCIATION. Employees who have signed up for overtime which is subsequently canceled with less than 24 hours of notice, will have the choice to either work the overtime with pay or not work the overtime without pay.

### **B. Pay**

Paid leave time will be counted as hours worked for purposes of determining overtime. Time and one-half (1-1/2) the employee's regular hourly rate of pay shall be paid for work under any of the following conditions but compensation shall not be paid twice for the same hours:

- All work performed on regularly scheduled days off;
- All work performed in excess of the employee's regular shift;
- All work in excess of forty (40) hours in a 7-day work week.
- If on a 12-hour schedule, overtime will be paid as provided for in Article 7(C)(1)(g).



## **1. Call-back**

### **(a) Court**

Current employees called back for a court appearance, other than during a regular shift, shall be paid for a minimum of four (4) hours overtime. In the case of department emergencies, employees may be required to work the full four (4) hours. Court call back shall not apply to hours worked that are annexed to the beginning or the end of a scheduled shift. Retired employees called back to duty to testify in a City of Milwaukie related case will be compensated at straight time at the senior officer rate of pay for actual hours worked.

### **(b) Work**

Whenever an employee is called back to work for any reason other than training (see section E below), and court appearance, he shall be paid a minimum of four (4) hours at the time and one half (1-1/2) rate. Call back shall not apply to hours worked that are annexed to the beginning or the end of a scheduled shift. Call back applies when the starting time is greater than fifty-nine (59) minutes past the end of the employee's last shift worked.

## **C. CTO**

### **1. Provision**

Compensatory time may be accrued in lieu of overtime payment, if the employee so chooses.

### **2. Cap**

Compensatory time may be accrued to a maximum of eighty (80) hours at any given time. No employee may accrue more than one-hundred and sixty (160) hours of compensatory time off in any one fiscal year. The Police Chief and HR Director at their discretion may temporarily increase the comp time cap for an individual employee when an employee will not be able to take comp time off due to work load issues. Comp time may be used as soon as it is earned.

### **3. Sell Back**

An employee may "sell back" for cash payment up to forty (40) hours of accrued compensatory time off per fiscal year. The employee may cash-out twice per fiscal year only in December and June, and must submit a request to Payroll by the 1st of the month or per Payroll instructions.

## **D. Training**

### **1. Pay**

All training time eligible for overtime compensation shall be compensated for on a time and one half (1-1/2) basis.

(a) Compensation shall be either paid time or compensatory time off (CTO) for actual assigned training time. Training shall be scheduled during an employee's regular shift or his work hours adjusted, wherever possible.

(b) Driving time in excess of normal work hours will not be compensated if it is considered local. Local is 50 miles or less from the Public Safety Building.

## **2. Range Membership**

Annual membership at a range authorized by the Chief of Police will be reimbursed upon submitting original receipt to the Finance department/accounts payable.

# **Article 11 – Seniority and Probationary Period**

## **A. Seniority**

### **1. In Class**

Seniority shall mean length of an employee's service within her job classification in the Police Department since her last date of regular employment. Length of service shall not include time spent on unpaid leave. An employee in the unit shall lose all seniority credits upon termination of her employment with the CITY except by reason of staff reduction.

Seniority for part-time employees, for the purposes of layoff and recall, is calculated based on the chart located in Article 4, Section D.

### **2. List**

The CITY will provide the ASSOCIATION with a seniority list of members within thirty (30) days of receipt of a written request for such a list.

### **3. Select Days Off**

When consistent with the department's need for appropriate staffing, seniority shall be used to select days off in work schedules developed by the department.

### **4. Schedule Vacations**

When consistent with the department's need for appropriate staffing, seniority shall be used to schedule vacations up to April 1, for each calendar

year. After that date, vacations for that calendar year shall be scheduled on a first come, first served basis giving due consideration to departmental staffing needs. Seniority may be used once each calendar year for vacation selection.

Part-time employees will not have seniority bidding for vacations. Vacations will be scheduled by the CITY and are subject to approval by the supervisor based on business necessity and so as not to disrupt the employee's right to seniority bid.

## **B. Probation**

### **1. Length**

An employee in the bargaining unit shall attain seniority after a probationary period of eighteen (18) consecutive months of employment in the bargaining unit. Employees promoted within the unit shall be subject to an eighteen (18) month probationary period.

Probationary period for part-time employees shall be based on actual consecutive months of employment.

### **2. Failure**

Those employees failing to meet the promotional probationary period shall be returned to their former classification within the bargaining unit. An employee who has returned to his or her former classification will not be laid off or discharged by the CITY except for just cause. Those employees failing to meet the probationary period and who have not held a previous classification in the department will be terminated and do not have access to the grievance procedure under this contract.

## **Article 12 – Vacations and Holidays**

### **A. Vacations**

#### **1. Eligibility**

Employees shall be eligible to use accumulated vacation leave only after six (6) months of employment. Subject to the CITY's reasonable operating needs and pursuant to current practice, employees shall be allowed to take more than two (2) weeks consecutive vacation. Employees may, however, only use seniority bidding for two (2) weeks of vacation per fiscal year. After six (6) months of employment, vacation may only be taken once it appears in the employee's vacation accrual bank. If an employee becomes ill while on vacation, the time off will be counted as vacation.

## **2. Accrual Rate**

Employees, including employees who are on Workers' Compensation time loss, shall accrue vacation at the rates shown below on the first day of the month for each preceding full calendar month worked:

1-48 months service	104 hours/year
49-108 months service	128 hours/year
109-168 months service	152 hours/year
169-228 months service	176 hours/year
229+ months service	212 hours/year

Part-time employee shall accrue vacation at the prorated amount set forth in Article 4, Section D.

## **3. Unpaid Leave Accrual Rate**

Employees having unpaid leave during a calendar month shall accrue paid vacation leave at the following rates:

0-39 hours unpaid leave	100%
40-79 hours unpaid leave	75%
80-119 hours unpaid leave	50%
120-159 hours unpaid leave	25%
160 or more hours unpaid leave	0%

## **4. Maximum Accrual**

Vacation leave may accrue to an amount equal to that earned during a two (2) year period. Employee shall not be able to accrue above the maximum. The Police Chief and HR Director at their discretion may temporarily increase the vacation accrual cap for an individual employee when an employee will not be able to take vacation time due to work load issues.

## **5. Off Season Vacation Bonus Program**

The CITY wishes to encourage twenty-four hour shift scheduled employees to utilize their vacation time throughout the fiscal year in order to reduce overtime and increase the availability of prime vacation time to less senior employees. The program will be implemented, at the discretion of the CITY, ensuring that customer service needs are met, minimum staffing needs are met, productivity is maintained, and there is no overtime expense, paid or compensatory time off. Therefore, this bonus program for off-season

vacation scheduling is not available when the minimum staffing needs, as determined by the CITY, are unmet and there is overtime cost associated with approving the requested bonus vacation.

The CITY offers eight (8) hours bonus vacation time off with pay for every thirty-two (32) consecutive vacation hours off, taken between December 1 and May 31, excluding the period from December 15 through December 31. No more than two-eight hour blocks of vacation bonus hours (16 hours) can be earned and taken each fiscal year. The eight (8) vacation bonus hours off, must be taken consecutive to a block of thirty-two (32) consecutive vacation hours off, for a minimum total of forty (40) consecutive vacation hours off and a maximum total of eighty (80) consecutive vacation hours off. There is no carry forward to another fiscal year.

## **6. Pay for Vacation**

An employee who has completed six (6) months of service and is separated from employment with the CITY will receive payment for accrued vacation leave.

## **B. Holidays**

1. All employees who are scheduled to work shifts, including employees who are normally scheduled to work shifts but who are currently on Workers' Compensation time loss, shall receive eight (8) hours holiday leave accrual each month in lieu of observing holidays. A prorated amount shall be accrued for part-time employees as set forth in Article 4, Section D.
2. The employee may choose to be compensated by being paid at the base salary hourly rate or they may have the eight (8) hours placed in their holiday bank.
  - (a) The holiday bank will be maintained by payroll and will show on the employee's pay stub as such.
  - (b) Requests for time off will need to differentiate between vacation and holiday time. Requests for holiday time off shall be approved or denied in the same manner as requests for vacation time off.
  - (c) Maximum accrual of holiday time is 192 hours (2 years accrual). If your bank reaches the 192 hours, further requests will be changed to paid time at the base salary hourly rate.
3. If an employee works on one of the following holidays, the employee shall be paid at time and one-half for all hours worked that day. The holidays include: July 4th, Thanksgiving, Christmas, and New Year's.

## **4. Floating Holiday**

Employees shall receive four (4) floating holiday hours per the fiscal year. Upon termination of employment (discharge or quit), employees will not receive payment for unused floating holiday hours. In the event of a layoff, an employee shall be paid for unused floating holiday hours. In the event an employee has requested to use the floating holiday on at least two (2) occasions during the fiscal year and has been denied such use by their supervisor, the employee shall receive a cash payment for this holiday on the first paycheck of the following fiscal year.

## **Article 13 – Leaves**

### **A. Sick Leave**

#### **1. Eligibility/Use**

Sick leave may be taken only for actual illness or disability or medical and dental appointments, of the employee; or illness, disability or death of a member of the employee's immediate family as specified in this article. Every effort will be made to schedule medical and dental appointments outside normal work hours.

The employee may use his accumulated sick leave in the event of his illness or if his presence is required during the illness of a member of his immediate family. Immediate family normally shall be defined as spouse, spousal equivalent, parent, grandparent, child, step-child, foster child, grandchild, brother or sister, mother-in-law and father-in-law.

Verification of the necessity of absence from work and use of sick leave may be required from the attending physician or other physician designated by the CITY at the CITY's expense when the CITY has reason to believe the employee may be abusing sick leave privileges.

Sick leave may not be taken until it appears in the employee's sick leave accrual bank.

#### **1. Accrual Rate**

Employees, including employees who are on Workers' Compensation time loss, shall accrue sick leave at the rate of eight (8) hours per full calendar month worked for a total of ninety-six (96) sick leave hours accumulated per calendar year. For part-time employees, a prorated amount shall be accrued as set forth in Article 4, Section D.

#### **2. Unpaid Leave Time Accrual Rate**

Employees having unpaid leave during a calendar month shall accrue paid sick leave at the following rates:



0-39 hours unpaid leave	100%
40-79 hours unpaid leave	75%
80-119 hours unpaid leave	50%
120-159 hours unpaid leave	25%
160 or more hours unpaid leave	0%

### **3. Maximum Accrual**

There shall be a maximum of 1280 accumulated sick leave hours. For part-time employees, a prorated amount shall be calculated based on Article 4, Section D.

### **4. PERS Conversion**

The CITY agrees to participate in the PERS fifty percent (50%) sick leave conversion program as provided in ORS 238.350.

### **5. City Required Medical Examination**

In the event the City has reasonable grounds to believe that an employee is not able to perform his duties for medical reasons, the CITY may require a medical examination at the City's expense.

## **B. On the Job Injury**

### **2. Eligibility/Pay**

If an employee is injured on the job and unable to perform their duties for a temporary period, the City will contribute the difference in worker's compensation payments and the employee's regular net pay for the first 188 days from that injury. After 180 days and up to 365 days from date of injury, employee's may elect to use sick/accrued leaves to pay the difference in worker's compensation benefits received and regular net pay. Payment to an employee on a worker's compensation claim will be offset by any payments through PERS, disability insurance and Social Security.

### **3. Use of Sick Leave**

After one hundred eighty (180) days, at the employee's option, the CITY may pay the difference between the employee's net salary and payments received from other sources and a pro-rata charge shall be made against the employee's sick leave accumulation for a period of time not to exceed one (1) year from the original date of injury.

### **4. Benefits**

While on sick leave, under section 2, the employee shall continue to receive benefits as if they were working, except that the employee shall not accrue sick leave, holiday or vacation credits.

## **5. Light Duty Assignment**

Employees eligible to participate in a light duty assignment are those injured workers with an open Oregon worker's compensation claim and who have a medical release to perform the duties of a light duty assignment as outlined in the Release to Work form.

The City will provide light duty assignments per the following conditions:

- Employees must be released to work by a Doctor for duties that are available within the police department.
- Employee will be paid at their regular rate of pay.
- Wages will be offset by worker's compensation payments.
- Light duty assignment will only be for the hours Monday – Friday 8:00 A.M. to 5:00 P.M.
- Light duty assignments are not to exceed the shorter of 180 days or when the worker's compensation claim is closed (full work release).
- The Police Chief and HR Director may grant a discretionary extension beyond 180 days on a case-by-case basis. Decision is not subject to grievance.

## **C. Bereavement**

### **1. Eligibility and Amount**

In the case of death in the employee's family, the employee shall be granted leave as follows in subparagraph a) and b) only for the purposes of attending the funeral(s) and making necessary arrangements:

- (a) For Immediate family members, the employee will be granted up to forty (40) hours bereavement leave with pay. Immediate family is defined as spouse or spousal equivalent: children, stepchildren, parents, step parents, and any relative living in the employee's immediate household. Spousal equivalent is defined as a person living in a committed co-habitational relationship where both parties share responsibilities for finances and other major decisions with duration of at least one year.
- (b) For other eligible family members, the employee will be granted three (3) days (paid based on number of hours employee is scheduled to work per day) bereavement leave with pay. Other eligible relatives include the following relatives of the employee, spouse or spousal equivalent:

grandparents, siblings, step siblings, aunt, uncle, niece, nephew or grandchildren.

(c) Bereavement leave must be used within sixty (60) days of the event of the death of the relative unless there is a memorial service scheduled past that date.

(d) All leaves provided in Section C, are concurrent to to any leaves available under OFLA.

## **2. Additional Leave**

Any allowance of time off for bereavement over the time allowed in Section C.1 or any bereavement leave for the death of a family member other than immediate or other eligible family members must be recommended by the employee's supervisor and approved by the Human Resources Director. OFLA bereavement leave does not require approval. The time used will be deducted from the employee's accumulated time off, and the employee may choose to deduct this additional leave from his or her vacation, compensatory time off, or sick leave banks.

## **3. Special Circumstances**

The CITY recognizes that employees may have family members whose relationship transcends the blood relationship and who are not covered as immediate or eligible family members. In the event of the death of a family member whose relationship with the employee transcends the blood relationship, the employee may request that his or her supervisor grant three (3) days of bereavement leave with pay. The supervisor will forward a recommendation approving or denying the request for a special circumstance to the Human Resources Director for final decision on the request.

## **4. Sick Leave Donation**

Employees may participate in the Sick Leave Donation Program. The CITY will annually review the use of this program to ensure that it is used fairly and poses no threat of liability to the CITY. The sick leave donation program will be added to and administered within the CITY Personnel and Administrative Policies and Procedures; it is available on the City intranet site for reference purposes.

## **D. Personal**

Leave of absence for not more than ninety (90) days without pay may be granted for justifiable reasons at the CITY's discretion, provided the leave does not seriously disrupt CITY operations. Personal leaves are not granted until all unused vacation, compensatory time off, administrative leave days, floating holidays and any other paid leaves have been exhausted. A department head

may grant a leave of absence without pay not to exceed ninety (90) calendar days.

#### **E. Extended Leave of Absence without Pay**

Leaves of absence without pay for periods in excess of ninety (90) days must be approved by the City Manager or designee and will not be in excess of twelve (12) months.

#### **F. Jury Duty and Other Related Duties**

Any full-time employee shall be granted a leave of absence with pay for:

##### **1. Jury Duty**

During the time of jury duty an employee will be assigned to day shift. An employee must turn in the pay received as juror's pay and will receive full salary from the City during the time of jury duty. Compensation received for mileage shall not be included in determining salary due to the employee.

Employees should submit a copy of the summons with their time sheet, noting on the time sheet the period of jury duty and endorse the check they received for jury pay (less mileage) to the City and submit all of this to payroll.

##### **2. Other Related Duties**

Employees who appear before a court, legislative committee or judicial or quasi-judicial body as a witness in response to a subpoena or other direction by proper authority shall be granted leave with pay, provided that the salary paid to him shall be reduced by an amount equal to any compensation received as witness fees and provided that the period of absence is only for actual time required and reasonable travel time. If an employee is testifying in an MPEA grievance matter during their normal work hours it will be considered as time worked. Employees shall not be eligible for this compensation if such subpoena is for a non-work related dispute in which the employee is either the plaintiff or defendant or is for a dispute between the CITY and the employee. Compensation received for mileage shall not be included in determining salary due the employee.

#### **5. Unauthorized Leave**

An absence of an employee from duty, including any absence for a single day or part of a day, that is not authorized by a specific grant or leave of absence approved by the employee's supervisor shall be deemed to be an absence without leave. Any such absence shall be without pay and may be grounds for disciplinary action including termination.

## **Article 14 – Benefits**

### **A. Insurance**

#### **1. Health (including Medical and Vision) and Dental**

##### **(a) Premium Payment**

###### **(1) Health Insurance**

Effective 1/1/2019, the CITY will offer Kaiser HMO B medical insurance plan including vision coverage and alternative care rider and the Blue Cross/Blue Shield (BC/BS) Plan Co-Pay A including vision coverage and alternative car rider. The CITY will pay ninety five percent (95%) of the monthly premium cost and the employee will pay five percent (5%) of the monthly premium cost for either plan selected by the employee. Employee contributions are pre-tax through payroll deduction.

###### **(2) Dental Insurance**

Effective 1/1/2019 the CITY will offer an ODS, Kaiser, and Willamette dental plan each including orthodontia. The CITY will pay ninety-five (95) % of the monthly premium cost and the employee will pay five (5) % of the monthly premium cost for the ODS plan. The CITY will pay up to the amount of premium contribution that it pays for the ODS plan for any employee that chooses the Kaiser or Willamette dental plan.

##### **(b) Carrier Changes**

The CITY agrees to meet and confer with the ASSOCIATION before any insurance carrier change is made. In the event the CITY shall change insurance carriers, the CITY shall continue to provide coverage that is equal to or better than current coverage unless the ASSOCIATION agrees to a different level of benefits. If the CITY does not voluntarily change plans, rather the health insurance carrier or benefits administrators change terms of a plan, the CITY and Union agree to accept those changes or go to the next best available plan until such time as the ASSOCIATION and the CITY can meet and renegotiate that portion of the contract. The ASSOCIATION acknowledged that insurance premium cost increases are a serious problem and agrees to participate in any study or cost containment program in an effort to reduce insurance costs.

##### **(c) Premium Only Conversion Plan**

The CITY may provide within the guidelines of the Internal Revenue Code Section 125 a premium only conversion plan which allows the employee contributions toward medical, dental, and vision premiums to be paid in pre-tax dollars.

**(d) Survivor's Benefits**

In the event an ASSOCIATION member dies as the direct and proximate result of a personal injury sustained in the line of duty, the CITY will pay up to the amount it would have paid for the officer's medical and dental benefits to cover a spouse and any dependent children who were enrolled on the City health plan at time of death and who are still eligible, to fund the purchase of medical and dental benefits for the surviving spouse and dependent children under age eighteen (18). Eligibility for this benefit shall be governed by the definitions and conditions for benefits under Public Safety Officer's Benefit Act of 1976, 42 USC 3796. The insurance benefits payment will be adjusted according to the current cost of health insurance benefits that the City of Milwaukie provides at the time and will continue until the surviving spouse remarries or reaches age 65 or if there is no surviving spouse, until the dependent children marry or reach age 18.

**2. Survivor's Funeral Expenses**

In the event an officer dies as the direct and proximate result of a personal injury sustained in the line of duty, the CITY shall pay the sum of Ten Thousand Dollars (\$10,000) toward funeral and related expenses to the surviving spouse or heirs, regardless of amounts paid from other sources. Eligibility for this benefit shall be governed by the definitions and conditions for benefits under Public Safety Officers' Benefit Act of 1976, 42 USC 3796.

**3. Life Insurance**

The City shall provide life insurance benefits in the amount of one times the employee's annual salary with a maximum of \$100,000 with accidental dismemberment clause, at no cost to the employee.

**4. Long Term Disability (LTD)**

The CITY shall provide long term disability insurance for the employee at no cost to the employee.

**5. Liability**

The CITY shall provide false arrest, assault, malicious prosecuting and other related insurance coverage for sworn members of the Police Department at no cost to the employees.



## **6. Unemployment**

The CITY shall provide unemployment insurance to the employee at no cost to the employee.

## **7. Workers' Compensation**

The CITY shall provide insurance under the provisions of the Oregon State Workers' Compensation Act to cover on-the-job injuries. The employee shall pay the daily rate required by state law.

## **8. Flexible Spending Account**

The CITY shall make available a flexible spending account program for dependent care and health care expense reimbursement. Participation in the program is at the option of the employee.

## **9. HRA VEBA**

The CITY shall make available an HRA VEBA program to fund unreimbursed current or future medical expenses. The ASSOCIATION as a unit may elect to have a specific dollar amount per employee, per pay period contributed to the members' individual HRA VEBA account in lieu of actual wage payment. The ASSOCIATION members must vote if they want to exercise this option and inform the CITY of their choice for contributions for the upcoming fiscal year by May 31st or the date designated by Human Resources.

## **10. Insurance for Part-time Employees**

Part-time employees in budgeted positions of .5 FTE or greater shall be eligible to participate in the health, dental, vision, life and disability insurance programs. The CITY will pay a portion of the premium the CITY pays for full time employees which is equal to the proportion the budgeted FTE of their position bears to a full-time position and calculated based on the chart set forth in Article 4, Section D. Part-time .5 FTE employees electing medical and/or dental coverage will not pay more than 50% of the health insurance total premium. In order to participate in these programs, these employees must pay their portion through payroll deduction. See Appendix B for premium rates.

## **B. Retirement**

### **1. PERS**

The City agrees to participate in the Oregon State Public Employees Retirement System and to pay the employer's contribution. The City will also pay the six percent employee's contribution to the Oregon State Public Employees Retirement System to be deposited in the retirement account, annuity, or fund to which the employee's contribution is to be provided

under applicable law. Employee compensation will not be reduced as a result of the City's payment of employee contributions.

## **2. Deferred Compensation**

The CITY shall provide two and one-half percent (2.5%) of employee's base salary to a CITY sponsored deferred compensation program.

## **3. Social Security**

The CITY agrees to participate in the Social Security Pension Fund and to pay the required CITY's amount into each employee's pension account. The employee agrees to pay the amount required by statute into his pension account. This amount is to be deducted from monthly pay of employees.

## **C. Clothing & Equipment**

### **1. City Purchased, Provided, Repaired**

#### **(a) Eligibility**

The CITY shall purchase and/or provide uniforms for represented employees. The determination for purchase, replacement or repair of the uniforms shall remain the responsibility of the CITY.

#### **(b) Requests**

Purchase of uniforms for employees in the categories set forth in paragraph a) shall be at the direction of the CITY by purchase order. No monies will be given to employees as an allowance to replace or provide uniforms. The employee shall be held accountable for clothing issued by the CITY and will be required to turn in all usable clothing issued at the time of termination.

#### **(c) Payment**

The CITY shall pay for all cleaning and repair of uniforms issued to the personnel in the categories set forth in paragraph a) above.

#### **(d) Additional Equipment**

The department will provide officers with handcuffs, handcuff case, duty belt, pistol belt, and bulletproof vests.

## **2. Allowance**

### **(a) Uniform**

Represented employees who are sworn Police Officers and do not wear a uniform shall be eligible to be reimbursed for one thousand dollars (\$1,000) the first year in such an assignment and Four Hundred Dollars (\$400) each subsequent year as clothing allowance. Employees shall be

reimbursed based on providing the CITY original receipts for clothing, which meet the standards set out in the Department General orders in order to obtain this allowance.

**(b) Equipment**

Represented employees shall receive Two Hundred Forty Dollars (\$240) every two years as an equipment allowance.

**Article 15 – Layoff and Recall**

**A. Layoff**

In the event of a staff reduction, the CITY will lay off employees based upon seniority by classification. The CITY shall lay off all temporary employees before laying off any regular employees in the affected classification. No full-time employee will be put on layoff status before a part-time employee, within the same classification.

**B. Recall**

An employee in the Association who is laid off due to reduction of staff shall have preference for recall for any subsequent member vacancy based upon seniority with the department. Unless removed from the recall list for cause, employees laid off shall retain such right of recall for a period of twenty-four (24) months from the date of lay off (included below). Any laid off employee who is recalled by the CITY shall have five (5) days in which to accept the assignment and two (2) weeks to report if employed elsewhere. A laid off employee who is recalled by the CITY and who rejects the assignment shall relinquish all rights provided for within this Article and Agreement.

1. Employees will be removed from the recall list only under the following circumstances:
  - (a) Upon written request of the employee.
  - (b) Upon acceptance of reappointment from the recall list.
  - (c) Retirement.
  - (d) Upon loss of physical or other qualifications for the job.
  - (e) Upon failure to respond to a certified recall letter sent to the employee's last known address within ten (10) calendar days of its having been mailed and/or to report to work within fourteen (14) calendar days if employed elsewhere.
  - (f) Upon expiration of twenty four (24) months from the effective date of the layoff.

2. Recalled employees shall be reinstated with seniority rights accumulated as of the date of the layoff. Sick leave accrued at the time of layoff will be reinstated when an employee is recalled.

## **Article 16 – Discipline and Discharge**

No employee shall be disciplined or discharged without just cause. All disciplinary action imposed upon an employee, except oral reprimands, may be protested as a grievance through the grievance procedure. All discipline shall be administered in a timely manner. An oral reprimand or warning shall be done in a manner which will not embarrass the employee before other employees or the public. An IA case number will only be drawn when the City reasonably believes that the alleged misconduct if sustained, could result in a written reprimand or higher.

If the CITY determines there is just cause for discharge, the CITY shall deliver to the employee and the ASSOCIATION a written notice of such discharge, specifying the principal ground for such action. The ASSOCIATION may process a grievance concerning suspension, demotion or discharge at Step 2 of the Grievance Procedure.

## **Article 17 – Grievance**

### **A. Grievance Procedure**

Any dispute between the CITY and any employee covered by this Agreement concerning the interpretation, application, claim of breach or violation of the express terms of this Agreement shall be deemed a grievance. A grievance shall be processed in accordance with the following procedures:

#### **1. Step 1**

The employee shall discuss the grievance on an informal basis with his supervisor within fourteen (14) calendar days from the date the employee knows or should have known of the alleged violation. The employee may have an ASSOCIATION representative assist him in presenting his case to his supervisor. If the grievance is not resolved within fourteen (14) calendar days by discussion with his supervisor, then the employee may submit his grievance in writing to his supervisor within fourteen (14) calendar days. This written grievance shall contain at least the following:

- (a) The name and position of the employee filing the grievance.
- (b) The date of the circumstances giving rise to the grievance, and the date of the employee's first knowledge thereof if later.

- (c) A clear and concise statement of the grievance including the relevant facts necessary to a full understanding of the employee's position.
- (d) The specific provision or provisions of this contract allegedly violated by the CITY.
- (e) The remedy or relief sought by the employee.
- (f) The name of the employee or the authorized ASSOCIATION representative filing the grievance.

The immediate supervisor shall respond in writing within fourteen (14) calendar days from receipt of the written grievance.

## **2. Step 2**

If the grievance is unresolved after Step 1, the ASSOCIATION shall, within fourteen (14) calendar days from the time he receives the written answer in Step 1, submit the grievance in writing to the Police Chief. Within fourteen (14) calendar days the Chief shall call a meeting with the employee and the ASSOCIATION representative to discuss the grievance. This meeting may be waived by mutual consent of both parties. Within fourteen (14) calendar days after the meeting, the Chief shall submit his written decision to the employee and the ASSOCIATION.

## **3. Step 3**

If the grievance remains unresolved after Step 2, the ASSOCIATION shall within fourteen (14) calendar days of receiving the written answer in Step 2, submit the grievance in writing to the City Manager. Within fourteen (14) calendar days, the City Manager or his designee shall call a meeting of the parties to discuss the grievance. The City Manager shall give a written answer within fourteen (14) days from the date of the meeting.

## **4. Step 4**

If the grievance remains unresolved after Step 3, the ASSOCIATION shall, within fourteen (14) calendar days of receiving the written answer in Step 3, notify the City Manager that arbitration will be invoked.

## **B. Rules Governing the Grievance Procedures**

Rules shall be as follows:

### **1. Time Limit Waived**

Any time limit specified in the grievance procedure may be waived by mutual written consent of both parties.

### **2. Failure by the CITY**

Failure by the City to submit a reply within the time limits specified in the Agreement will automatically move the matter to the next step in the procedure, provided that arbitration shall not be invoked unless and until both parties are fully aware in writing.

### **3. Failure of Employee**

Failure by an employee or ASSOCIATION to submit a grievance in accordance with the time limits specified herein shall constitute abandonment of the grievance.

## **C. Arbitration**

### **1. Procedure**

- (a) After arbitration has been requested, the parties shall forthwith attempt to agree upon a single arbitrator. In the event the parties are unable to agree, a list of nine arbitrators shall be requested from the Employment Relations Board of the State of Oregon. Each party shall alternately strike one name from the list received. The final name remaining shall be the sole arbitrator.
- (b) The arbitrator shall exercise all powers relating to admissibility of evidence, conduct of the hearing and arbitration procedures.
- (c) The arbitrator's decision may provide for the payment of the costs of arbitration by the losing party. In the event the arbitrator doesn't award costs, the arbitrator's costs shall be shared equally by the parties. Each party shall bear the cost of presenting its own case.
- (d) The CITY and ASSOCIATION agree that the arbitrator's decision should be in writing and should be made in thirty (30) days.
- (e) The arbitrator shall have no power to render a decision that will add to, subtract from or alter, change or modify the terms of this Agreement. His authority shall be limited to interpretation or application of the express terms of this Agreement referred to in the ASSOCIATION'S grievance.
- (f) Except as provided in Article 16, all three levels of the grievance procedure shall have first been exhausted.

## **Article 18 – Effect of Personnel and Administrative Policies and Procedures**

Articles 16 and 17 of the Agreement contain provisions which conflict with CITY Personnel and Administrative Policies and Procedures. The parties agree that in the case of such conflict the Agreement shall govern and the parties waive any and all rights and remedies granted by the Personnel and Administrative Policies and Procedures. The City will provide the Association with proposed changes to the City's



Personnel and Administrative Policies and Procedures, and with proposed changes to the Police Department's General Orders. Pursuant to ORS243.698, the Association may demand to bargain over any proposed changes to mandatory subjects of bargaining, or to any resulting impacts to mandatory subjects of bargaining. The official Police Department General Orders will be maintained as a hard copy.

#### **Article 19 – Savings**

Should any article, section, or portion thereof, of this Agreement be held unlawful, invalid or unenforceable by any court of competent jurisdiction, such decision of said court shall apply only to the specific article, section or portion thereof, directly specified in said decision, or should any article, section or portion thereof, of this Agreement be unlawful, unenforceable, or made illegal through state or federal law, the parties agree to negotiate immediately a substitute, if possible, for the invalidated article, section or portion thereof.

#### **Article 20 – Term of Agreement**

This Agreement shall be effective July 1, 2018 and except as modified or amended shall remain in full force and effect until June 30, 2020. This agreement shall remain in full force and effect during the period of negotiations for a successor agreement. This Agreement shall automatically be renewed from year to year thereafter unless either party shall have notified the other in writing by January 1, of the year in which this contract expires that they wish to modify this Agreement.

**DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.**

**CITY OF MILWAUKIE**

**MILWAUKIE POLICE  
EMPLOYEES ASSOCIATION**

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**Ann Ober  
City Manager**

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**John Hipes  
MPEA President**

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**Mark Gamba  
Mayor**

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**Daryl Garrettson  
MPEA Representative**

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**Gary Rebello  
Human Resources Director**

## APPENDIX A: SALARY SCHEDULE

MILWAUKIE POLICE EMPLOYEES ASSOCIATION (MPEA)			Effective June 24, 2018					
			COLA 102.50%					
RANGE			1	2	3	4	5	6
70	Property Room Tech	Hourly	20.79	21.84	22.93	24.07	25.27	26.55
70		Monthly	3,604	3,786	3,975	4,172	4,380	4,602
70		Annually	43,245	45,429	47,696	50,068	52,564	55,226
72	Police Officer Recruit	Hourly	26.27	27.58				
72		Monthly	4,554	4,781				
72		Annually	54,644	57,369				
73	Police Officer	Hourly	28.93	30.38	31.90	33.49	35.16	36.93
73		Monthly	5,015	5,266	5,530	5,805	6,095	6,401
73		Annually	60,177	63,193	66,355	69,662	73,136	76,817
74	Police Sergeant	Hourly	34.47	36.19	38.00	39.91	41.90	44.00
74		Monthly	5,975	6,273	6,587	6,918	7,263	7,627
74		Annually	71,700	75,278	79,043	83,016	87,155	91,524

MILWAUKIE POLICE EMPLOYEES ASSOCIATION (MPEA)			Effective June 24, 2019					
			COLA 102.75%					
RANGE			1	2	3	4	5	6
70	Property Room Tech	Hourly	21.36	22.44	23.56	24.73	25.96	27.28
70		Monthly	3,703	3,890	4,084	4,287	4,500	4,729
70		Annually	44,431	46,677	49,007	51,440	53,999	56,745
72	Police Officer Recruit	Hourly	26.99	28.34				
72		Monthly	4,678	4,912				
72		Annually	56,141	58,949				
73	Police Officer	Hourly	29.73	31.22	32.78	34.41	36.13	37.95
73		Monthly	5,153	5,412	5,682	5,965	6,263	6,578
73		Annually	61,841	64,940	68,185	71,576	75,153	78,939
74	Police Sergeant	Hourly	35.42	37.19	39.05	41.01	43.05	45.21
74		Monthly	6,140	6,447	6,769	7,109	7,462	7,837
74		Annually	73,676	77,358	81,227	85,304	89,547	94,040

## APPENDIX B: MEDICAL AND DENTAL PREMIUMS

MEDICAL AND DENTAL PREMIUM															
JANUARY 1, 2018 to DECEMBER 31, 2018															
CITY OF MILWAUKIE															
FULL-TIME EMPLOYEE RATES	EMPLOYEE PAID					CITY PAID					TOTAL PREMIUM				
	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY
BLUE CROSS w/ VISION - AFSCME	\$ 110.87	\$ 205.87	\$ 274.67	\$ 235.30	\$ 316.81	\$ 628.26	\$ 1,166.62	\$ 1,556.46	\$ 1,333.37	\$ 1,795.28	\$ 739.13	\$ 1,372.49	\$ 1,831.13	\$ 1,568.67	\$ 2,112.09
KAISER MEDICAL w/ VISION - AFSCME	\$ 63.11	\$ 104.03	\$ 155.18	\$ 116.70	\$ 178.24	\$ 628.26	\$ 1,166.62	\$ 1,556.46	\$ 1,333.37	\$ 1,795.28	\$ 691.37	\$ 1,270.65	\$ 1,711.64	\$ 1,450.07	\$ 1,973.52
BLUE CROSS w/ VISION - NR/MPEA	\$ 32.05	\$ 59.46	\$ 79.44	\$ 67.97	\$ 91.63	\$ 608.89	\$ 1,129.83	\$ 1,509.32	\$ 1,291.34	\$ 1,740.90	\$ 640.94	\$ 1,189.29	\$ 1,588.76	\$ 1,359.31	\$ 1,832.53
KAISER MEDICAL w/ VISION - NR/MPEA	\$ 33.21	\$ 60.89	\$ 82.15	\$ 69.57	\$ 94.70	\$ 631.04	\$ 1,156.93	\$ 1,560.79	\$ 1,321.88	\$ 1,799.31	\$ 664.25	\$ 1,217.82	\$ 1,642.94	\$ 1,391.45	\$ 1,894.01
DELTA DENTAL (II w/ Ortho)	\$ 8.21	\$ 12.67	\$ 23.85	\$ 14.49	\$ 27.51	\$ 46.55	\$ 71.83	\$ 135.14	\$ 82.08	\$ 155.87	\$ 54.76	\$ 84.50	\$ 158.99	\$ 96.57	\$ 183.38
KAISER DENTAL (w/ Ortho)	\$ 34.64	\$ 53.33	\$ 101.51	\$ 60.94	\$ 117.06	\$ 46.55	\$ 71.83	\$ 135.14	\$ 82.08	\$ 155.87	\$ 81.19	\$ 125.16	\$ 236.65	\$ 143.02	\$ 272.93
WILLAMETTE DENTAL	\$ 4.17	\$ 5.67	\$ 0.11	\$ 6.51	\$ 0.08	\$ 46.55	\$ 71.83	\$ 135.14	\$ 82.08	\$ 155.87	\$ 50.72	\$ 77.50	\$ 135.25	\$ 88.59	\$ 155.95
3/4-TIME EMPLOYEE RATES	EMPLOYEE PAID					CITY PAID					TOTAL PREMIUM				
	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY
BLUE CROSS w/ VISION - AFSCME	\$ 267.93	\$ 497.52	\$ 663.78	\$ 568.64	\$ 765.63	\$ 471.20	\$ 874.97	\$ 1,167.35	\$ 1,000.03	\$ 1,346.46	\$ 739.13	\$ 1,372.49	\$ 1,831.13	\$ 1,568.67	\$ 2,112.09
KAISER MEDICAL w/ VISION - AFSCME	\$ 220.17	\$ 395.68	\$ 544.29	\$ 450.04	\$ 627.06	\$ 471.20	\$ 874.97	\$ 1,167.35	\$ 1,000.03	\$ 1,346.46	\$ 691.37	\$ 1,270.65	\$ 1,711.64	\$ 1,450.07	\$ 1,973.52
BLUE CROSS w/ VISION - NR/MPEA	\$ 184.27	\$ 341.92	\$ 456.77	\$ 390.80	\$ 526.85	\$ 456.67	\$ 847.37	\$ 1,131.99	\$ 968.51	\$ 1,305.68	\$ 640.94	\$ 1,189.29	\$ 1,588.76	\$ 1,359.31	\$ 1,832.53
KAISER MEDICAL w/ VISION - NR/MPEA	\$ 190.97	\$ 350.12	\$ 472.35	\$ 400.04	\$ 544.53	\$ 473.28	\$ 867.70	\$ 1,170.59	\$ 991.41	\$ 1,349.48	\$ 664.25	\$ 1,217.82	\$ 1,642.94	\$ 1,391.45	\$ 1,894.01
DELTA DENTAL (II w/ Ortho)	\$ 19.85	\$ 30.63	\$ 57.63	\$ 35.01	\$ 66.48	\$ 34.91	\$ 53.87	\$ 101.36	\$ 61.56	\$ 116.90	\$ 54.76	\$ 84.50	\$ 158.99	\$ 96.57	\$ 183.38
KAISER DENTAL (w/ Ortho)	\$ 46.28	\$ 71.29	\$ 135.29	\$ 81.46	\$ 156.03	\$ 34.91	\$ 53.87	\$ 101.36	\$ 61.56	\$ 116.90	\$ 81.19	\$ 125.16	\$ 236.65	\$ 143.02	\$ 272.93
WILLAMETTE DENTAL	\$ 15.81	\$ 23.63	\$ 33.89	\$ 27.03	\$ 39.05	\$ 34.91	\$ 53.87	\$ 101.36	\$ 61.56	\$ 116.90	\$ 50.72	\$ 77.50	\$ 135.25	\$ 88.59	\$ 155.95
1/2-TIME EMPLOYEE RATES	EMPLOYEE PAID					CITY PAID					TOTAL PREMIUM				
	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY	EMP	EMP + CHILD	EMP + CHILDREN	EMP + SPOUSE	EMP + FAMILY
BLUE CROSS w/ VISION - AFSCME	\$ 425.00	\$ 789.18	\$ 1,052.90	\$ 901.98	\$ 1,214.45	\$ 314.13	\$ 583.31	\$ 778.23	\$ 666.69	\$ 897.64	\$ 739.13	\$ 1,372.49	\$ 1,831.13	\$ 1,568.67	\$ 2,112.09
KAISER MEDICAL w/ VISION - AFSCME	\$ 377.24	\$ 687.34	\$ 933.41	\$ 783.38	\$ 1,075.88	\$ 314.13	\$ 583.31	\$ 778.23	\$ 666.69	\$ 897.64	\$ 691.37	\$ 1,270.65	\$ 1,711.64	\$ 1,450.07	\$ 1,973.52
BLUE CROSS w/ VISION - NR/MPEA	\$ 336.49	\$ 624.37	\$ 834.10	\$ 713.64	\$ 962.08	\$ 304.45	\$ 564.92	\$ 754.66	\$ 645.67	\$ 870.45	\$ 640.94	\$ 1,189.29	\$ 1,588.76	\$ 1,359.31	\$ 1,832.53
KAISER MEDICAL w/ VISION - NR/MPEA	\$ 348.73	\$ 639.35	\$ 862.54	\$ 730.51	\$ 994.35	\$ 315.52	\$ 578.47	\$ 780.40	\$ 660.94	\$ 899.66	\$ 664.25	\$ 1,217.82	\$ 1,642.94	\$ 1,391.45	\$ 1,894.01
DELTA DENTAL (II w/ Ortho)	\$ 31.48	\$ 48.58	\$ 91.42	\$ 55.53	\$ 105.44	\$ 23.28	\$ 35.92	\$ 67.57	\$ 41.04	\$ 77.94	\$ 54.76	\$ 84.50	\$ 158.99	\$ 96.57	\$ 183.38
KAISER DENTAL (w/ Ortho)	\$ 57.91	\$ 89.24	\$ 169.08	\$ 101.98	\$ 194.99	\$ 23.28	\$ 35.92	\$ 67.57	\$ 41.04	\$ 77.94	\$ 81.19	\$ 125.16	\$ 236.65	\$ 143.02	\$ 272.93
WILLAMETTE DENTAL	\$ 27.44	\$ 41.58	\$ 67.68	\$ 47.55	\$ 78.01	\$ 23.28	\$ 35.92	\$ 67.57	\$ 41.04	\$ 77.94	\$ 50.72	\$ 77.50	\$ 135.25	\$ 88.59	\$ 155.95

## **APPENDIX C: INVESTIGATORY INTERVIEW**

In the event of any investigatory interview of an employee which the employee reasonably believes may lead to disciplinary action including written reprimands, suspension without pay, demotion, or termination not to matters of routine supervisory counseling, warnings or oral reprimands, the following should take place:

1. The employee under investigation will be informed of the nature of the investigation prior to any investigatory interview. The employee is not required to answer questions until the employee has been informed of facts reasonably sufficient to inform the employee of the circumstances surrounding the allegations under investigation. If the employer reasonably believes that the potential discipline could be economic or result in a termination, the employee shall be given forty-eight (48) hours notice of the interview along with the information required herein and informed of the date and location of the alleged misconduct.
2. Any investigatory interview of an employee will be at a reasonable hour, preferably when the employee is on duty, unless the exigencies of the investigation dictate otherwise.
3. The interview will take place at a Milwaukie City facility, except when impractical. At the employee's request, the employee may have an Association representative or representative of the employee's choosing present to observe the interview and counsel the employee. The opportunity to consult with an Association representative and have an Association representative present shall not delay the interview more than two hours. The Association representative shall not be a person subject to the same investigation or a witness to the event under investigation. The representative shall not be required to disclose, or be subject to disciplinary action for refusing to disclose statements made by the employee to the representative for purposes of representation.
4. The questioning shall not be overly long, and the employee shall be entitled to such reasonable intermissions as he shall request for personal necessities, meals, telephone calls and rest periods. The

employee shall not be threatened with punitive action or subjected to offensive language. No more than two interviewers at a time may question the employee.

5. All interviews are subject to being tape recorded by either the City, employee or Association. Copies of recordings may be obtained by the other party.
6. In the event the employee is subjected to any subsequent interviews, the employee will be provided copies of any written statements or report describing the employee's previous statement. Such report or statement must be provided prior to any subsequent interview.
7. Investigations shall be completed within six months from the date of the first interview of the employee unless the time limit is extended as provided for in ORS 236.360 (6).
8. Use of Deadly Force Situations. Employees involved in the use of deadly force shall be advised that they may consult with an Association representative or attorney prior to being required to give an oral or written statement about the use of force. Such right to consult with a representative or with counsel shall not unduly delay the giving of the statement.

"Appendix C" shall not apply to an investigation concerned solely and directly with alleged criminal activities performed by an agency outside of the City, in which case the employee's rights shall be defined by applicable law.

11.3.

## City Manager's Contract



**CITY OF MILWAUKIE  
EMPLOYMENT AGREEMENT – CITY MANAGER**

**Introduction**

This Agreement is made and entered into this 17th day of October, 2016, by and between the City of Milwaukie, an Oregon municipal corporation, (hereinafter called “Employer”) and Ann Ober, (hereinafter called “Employee”) an individual who has the education, training and experience in local government management and who, as a member of the International City/County Management Association (ICMA), is subject to the ICMA Code of Ethics, both of whom agree as follows:

**Section 1: Term**

The City Council shall be responsible for employee’s appointment, removal and supervision. This agreement will remain in full force and effect from date of hire for three (3) years. The employment agreement will be renewable after three years by mutual agreement of the City Council and the employee. This process shall begin, at minimum, one month prior to the renewal. Employee shall serve at the pleasure of the City Council and may be removed by the City Council at any time without cause.

**Section 2: Duties and Authority**

A. Employer agrees to employ Ann Ober as City Manager to perform the functions and duties specified in the City of Milwaukie Charter, ordinances, resolutions, and to perform other legally permissible and proper duties and functions as the City Council may assign from time to time without interference. (City Manager job description is attached as reference ‘A’).

B. Employee is the chief executive officer of the Employer and shall faithfully perform the duties as prescribed in the job description as set forth in the Employer’s charter and/or ordinances and as may be lawfully assigned by the Employer and shall comply with all lawful governing body directives, state and federal law, Employer policies, rules and ordinances as they exist or may hereafter be amended and the City Manager job description as described in ‘A’ attached.

C. Specifically, it shall be the duty of the Employee to employ on behalf of the Employer all other employees of the organization consistent with the policies of the governing body and the ordinances and charter of the Employer.

D. It shall also be the duty of the Employee to direct, assign, reassign and evaluate all of the employees of the Employer consistent with policies, ordinances, charter, state and federal law.

E. It shall also be the duty of the Employee to organize, reorganize and arrange the staff of the Employer and to develop and establish internal regulations, rules and procedures which the Employee deems necessary for the efficient and effective operation of the Employer consistent with the lawful directives, policies, ordinances, state and federal law.

F. It shall also be the duty of the Employee to accept all resignations of employees of the Employer consistent with the policies, ordinances, state and federal law, except the Employee's resignation which must be accepted by the governing body.

G. The Employee shall perform the duties of city manager of the Employer with reasonable care, diligence, skill and expertise.

H. All duties assigned to the Employee by the governing body shall be appropriate to and consistent with the professional role and responsibility of the Employee.

I. The Employee cannot be reassigned from the position of city manager to another position without the Employee's express written consent.

J. The Employee or designee shall attend, and shall be permitted to attend, all meetings of the governing body, both public and closed, with the exception of those closed meetings devoted to the subject of this Agreement, or any amendment thereto or the Employee's evaluation or otherwise consistent with state law.

K. The governing body, individually and collectively, shall refer in a timely manner all substantive criticisms, complaints and suggestions called to their attention to the Employee for study and/or appropriate action. At the Employee's discretion, she may report to the Council any conclusions or recommendations.

### **Section 3: Compensation**

A. Base Salary: Employer agrees to pay Employee an annual base salary of \$135,000.00, payable in installments at the same time that the other management employees of the Employer are paid. Employee is eligible for a salary increase after successful completion of a nine (9) month probationary period.

B. This agreement shall be automatically amended to reflect any salary adjustments that are provided or required by the Employer's compensation policies.

C. In addition, consideration shall be given on an annual basis to an increase in compensation with similar consideration as is given to Employer's other management employees.

D. Employer has authorized non-represented exempt employees, on a voluntary basis, to use a personal cellular device (smartphone only) for work purposes in-lieu of a City provided cellular device. If employee chooses this option, the City will compensate employee with a taxable monthly allowance. The allowance is based on the cost savings for the City and not on the cost of the employee's personal device or plan. The monthly allowance is subject to change. The allowance is currently set at \$65.00 per month. The other option is to use a City provided cellular device for work purposes only, as detailed in the City's Cellular Telephone Use Policy (500.3).

E. As part of Employee's compensation, Employer shall provide Employee with unrestricted use of a laptop computer or tablet, including Wi-Fi, broadband and internet

capability, beginning with the effective date of this agreement. Employee may select the make and model of laptop computer or tablet to be used, subject to approval by Employer. Employer's approval shall not be withheld without good cause; however, the laptop computer or tablet must be compatible with the City's computer system and other electronics used by City employees.

#### **Section 4: Health, Disability and Life Insurance Benefits**

Employer agrees to provide health care benefits consistent with those provided pursuant to the City's Employment Policies and Procedures including but not limited to medical, dental, vision, life, and long term disability with coverage equivalent to that provided to management personnel of the city.

#### **Section 5: Vacation, Sick, and Management Leave**

A. Upon commencing employment, the Employee shall be credited with sick and vacation leave as provided to all other employees. Beginning on the effective date of this agreement, the Employee shall accrue 12 hours of vacation leave per month or 18 days (3.6 weeks) per year (assumes employee begins with the City with 109 months of credited service) at time of hire. Employee shall be eligible for increased vacation accrual consistent with the City Personnel Policies. Maximum accrual rates for all leaves shall be consistent with the City's Employment Policies and procedures. Therefore, the Employee is entitled to accrue all unused leave, up to a maximum of two (2) times the annual accrual rate. In the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, to date.

B. City agrees to credit employee with a prorated amount of hours of management leave for the remainder of the current fiscal year in accordance with the City Personnel Rules. Beginning in the following fiscal year, employee will receive normal management leave of 96 hours. Any unused management leave shall not carry over to any subsequent fiscal year, and employee shall not be entitled to any compensation for any unused management leave upon termination of employment.

#### **Section 6: Automobile**

Employee shall furnish her own transportation for business purposes, the cost of which shall be borne by Employee. The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided the sum of \$400 per month, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The vehicle allowance is in lieu of standard mileage reimbursement for business related travel.

#### **Section 7: Retirement**

A. City agrees to contribute to the Public Employees Retirement System (PERS) an amount prescribed by State law once the employee is eligible for participation in PERS (six month waiting period). There is an employee contribution of 6% of salary and an employer contribution portion, the City contributes both the employee and City portion to the State Public

Employee's Retirement Plan above the base compensation listed above. Employee compensation shall not be reduced as a result of the City's payment of Employee contribution.

B. The City agrees to place an additional amount of base salary, currently at 2.5%, into a deferred compensation program on behalf of the employee. City agrees to execute any agreements reasonably necessary to allow employee to defer payment of agreed upon compensation in accordance with the deferred compensation programs offered by the City.

C. Due to the employee's need to satisfy the PERS six month eligibility waiting period, Employer shall contribute six percent of base pay, on a pay period basis, for the first 6 months of employment in a deferred compensation plan of Employee's choice. This is in addition to the 2.5% deferred compensation contribution listed above.

### **Section 8: General Business Expenses**

A. Employer agrees to budget and pay for professional dues, including but not limited to the International City/County Management Association, and subscriptions of the Employee necessary for continuation and full participation in national, regional, state, and local associations, and organizations necessary and desirable for the Employee's continued professional participation, education, growth, and advancement, and for the good of the Employer.

B. The Employer acknowledges the value of having Employee participate and be directly involved in local civic clubs or organizations. Accordingly, Employer shall pay membership expenses and dues for those civic groups for which Employee determines her membership is beneficial to the City, subject to approval of expenses through the City's budget process.

C. Other business related expenses incurred by Employee not outlined in this Section may be reimbursed pursuant to the Cities Policies and Procedures subject to approval through the City budget process.

### **Section 9: Termination**

A. Termination Without Cause.

1. If the majority of the governing body votes to terminate or accept the resignation of the Employee in-lieu of termination at a duly authorized public meeting, unless the termination is for cause as provided under Subsection B determination shall be without cause. Nothing in this employment agreement shall prevent, limit or otherwise interfere with the right of the City to immediately terminate the employee. If the termination is without cause the City agrees to provide a letter of written endorsement.

2. If the Employer, citizens or legislature act to amend any provisions of the City's Charter pertaining to the role, powers, duties, authority, responsibilities of the Employee's

position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination without cause. However, Employee may declare that such amendments constitute a termination only if Employee also reasonably declares that such amendments result in a material negative change to Employee in Employee's employment with Employer, such as the duties to be performed, the conditions under which the duties are to be performed, or the compensation to be received for employment with Employer.

3. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all department heads, Employee shall have the right to declare that the reduction constitutes a termination without cause.

**B. Termination for Cause.**

1. Employer may terminate Employee for cause as a result of violation of any of City's policies or directives, because of illegal action involving personal gain, violation of ICMA Code of Ethics or crimes of moral turpitude. Employee shall receive notice of any charges against her and possible sanctions being considered. The Employer and Employee shall meet in private at mutually convenient times for a period of up to five days to seek a resolution of any reported violation. After said five day period, if no resolution can be reached, Employee shall also be advised of the date and time when Employer will consider charges and possible sanction. She will be afforded an opportunity to refute the charges, either orally or in writing, before the Council, and to have representation of her choice at the hearing. Available options to Employer other than termination include oral or written reprimand and suspension with pay. In addition to the above, grounds for removal include but are not limited to:

- (a) Incompetence, inefficiency or inattention to or dereliction of duty.
- (b) Dishonesty, intemperance, addiction to drugs or controlled substances, immoral conduct, insubordination or discourteous treatment of the public or fellow employees.
- (c) Any other willful failure of good conduct tending to injure the public service.
- (d) Neglect of duty and excessive absence.

**Section 10: Severance**

Severance shall be paid to the Employee when employment is terminated as defined in Section 9(A) only. No severance will be paid if termination is during the probationary period. If the Employee is terminated, the Employer shall provide a 30 day notice period or pay in-lieu of notice and a minimum six months' severance payment equal to the unpaid salary at the current rate of pay with benefits (calculated as the employer paid share of the medical/dental/vision premium). This severance shall be payable in a lump sum at time of termination unless otherwise agreed to in writing by the Employer and the Employee.

**Section 11: Resignation**

In the event that the Employee voluntarily resigns her position with the Employer, the Employee



shall provide a minimum of sixty (60) days' notice unless Employer and Employee agree otherwise. No severance payment is due employee in the event of a voluntary termination.

## **Section 12: Performance Evaluation**

A. Employer shall annually review the performance of the Employee subject to a process, form, criteria, and format for the evaluation as determined by the City Council.

B. The annual evaluation process, at a minimum, shall include the opportunity for both parties to: 1) prepare a written evaluation, 2) meet and discuss the evaluation and 3) present a written summary of the evaluation results. Said evaluation shall remain private and confidential, unless State law requires otherwise. The final written evaluation should be completed and delivered to the Employee within 30 days of the evaluation meeting.

## **Section 13: Hours of Work**

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule with the approval of the Council.

## **Section 14: Ethical Commitments**

Employee will at all times uphold the tenets of the ICMA Code of Ethics, a copy of which is attached (marked 'B') hereto and incorporated herein. Specifically, Employee shall not endorse candidates, make financial contributions, sign or circulate petitions, or participate in fund-raising activities for individuals seeking or holding elected office, nor seek or accept any personal enrichment or profit derived from confidential information or misuse of public time.

Employer shall support Employee in keeping these commitments by refraining from any order, direction or request that would require Employee to violate the ICMA Code of Ethics. Specifically, neither the governing body nor any individual member thereof shall request Employee to endorse any candidate, make any financial contribution, sign or circulate any petition, or participate in any fund-raising activity for individuals seeking or holding elected office, nor to handle any matter of personnel on a basis other than fairness, impartiality and merit.

## **Section 15: Outside Activities**

The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements must neither constitute interference with nor a conflict of interest with his or her responsibilities under this Agreement. Employee must disclose to the City Council any such arrangement that may conflict with the best interests of the City as reasonably judged by the Employee.



## **Section 16: Residency and Relocation Expenses**

Employee agrees to establish residence within the corporate boundaries of the City of Milwaukie within twelve (12) months of employment, and thereafter to maintain residence within the corporate boundaries of the local government while employed as the City Manager. Council has determined that by employee establishing residency within twelve (12) is agreeable to Council and meets the intent of section 27(a) of the Milwaukie Charter.

A. Employer shall pay a lump sum payment (net amount) equivalent to the expenses of moving Employee and her family and personal property from Salt Lake, Utah to Milwaukie, or the place of initial residence, while employed for the City. Said moving expenses include packing, moving, storage costs, unpacking, and insurance charges. The lump sum payment will be based on the average quote of three professional moving companies. Employee may use the moving company of her choice. If Employee moves into temporary housing for a period of time, the City will pay relocation expenses for a second move, per the above, or for the storage of the items from the initial move for up to three months, not to exceed \$2,500. The second move must still be within twelve (12) months of employment.

B. Mileage costs for moving up to two personal automobiles shall be reimbursed at the current IRS allowable rate per mile.

## **Section 17: Indemnification**

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation chosen by Employee at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorney's fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available. Employee recognizes that Employer shall have the right to compromise and unless the Employee is a party to the suit in which case Employee shall have a veto authority over the settlement, settle any claim or suit; unless, said compromise or settlement is of a personal nature to Employee. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation.

## **Section 18: Bonding**

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

## **Section 19: Other Terms and Conditions of Employment**

A. The Employer, only upon written agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the City of Milwaukie Charter, local ordinances or any other law.

B. In the absence of any specific provision in this Agreement, City Employment Policies and Procedures will apply.

## **Section 20: Notices**

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, and addressed as follows:

(a) EMPLOYER: Mayor, City of Milwaukie  
10722 SE Main Street,  
Milwaukie, Oregon 97222

With a copy to: Jordan Ramis PC  
Tim Ramis  
Two CenterPoint Dr. 6<sup>th</sup> Fl.  
Lake Oswego, OR 97035

(b) EMPLOYEE: Ann Ober

With a copy to: \_\_\_\_\_  
Patrick A. Shea, Esq.  
252 S. 1300 East  
Salt Lake City, Utah 84102

Notice shall be given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

OR

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service. Either party may change such addresses from time to time by providing written notice to the other in the manner set forth above.

## **Section 21: General Provisions**

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provision of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest, except that Employee may not assign this Agreement without the prior written consent of Employer, which consent may be withheld for any or no reason.

C. Effective Date. This Agreement shall become effective on the date executed.

D. Severability. The invalidity or partial invalidity of any portion of the Agreement will not affect the validity of other provisions. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

E. Upon termination of this Agreement, Employee shall deliver all records, notes, data, memoranda, models, and equipment of any nature that are in Employee's possession or under her control and that are Employer's property or relate to Employer's business.

F. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

## **Section 22. Confidentiality**

A. Employee recognizes that Employer has and will have future plans, business affairs, employment, legal and litigation matters, and other proprietary information that are valuable, special and unique assets of City and need to be protected from improper disclosure. Employee agrees not to, at any time or in any manner, either directly or indirectly, use any information for her own benefit, or divulge in any manner to any third party without the prior written consent of Employer. Employee will protect the information as strictly confidential. A violation of this paragraph shall be a material violation of this Agreement.

B. If it appears that Employee has disclosed (or has threatened to disclose) information in violation of this Agreement, Employer shall be entitled to an injunction to restrain Employee from disclosing, in whole or in part, such information, or from providing any services to any party to whom such information has been disclosed or may be disclosed. Employer shall not be prohibited by this provision from pursuing other remedies, including a claim for losses and damages.

C. The confidentiality provisions of this Agreement shall remain in full force and effect after the termination of this Agreement.

### Section 23. Attorney Fees

In the event any action, suit, arbitration or other proceeding shall be instituted by either party to this Agreement to enforce any provision of this Agreement or any matter arising therefrom or to interpret any provision of this Agreement, including any proceeding to compel arbitration, the prevailing party shall be entitled to recover from the other a reasonable attorney fee to be determined by the Court or Arbitrator(s). In addition to recovery of a reasonable attorney fee, the prevailing party shall be entitled to recover from the other costs and disbursements, including all costs of Arbitration and the Arbitrator(s) fees, and expert witness fees, as fixed by the Court or tribunal in which the case is heard. In the event any such action, suit, arbitration or other proceeding is appealed to any higher court or courts, the prevailing party shall recover from the other a reasonable attorney fee for prosecuting or defending such appeal or appeals, in addition to the reasonable attorney fees in the lower court or courts or arbitration proceeding, such fee to be determined by the appellate court or lower court or arbitrator, as the appellate court may determine. In addition to recovery of a reasonable attorney fee on appeal, the prevailing party shall be entitled to recover from the other costs and disbursements and expert witness fees as fixed by the appellate court. All costs and disbursements which may be awarded pursuant to this paragraph shall bear interest at the maximum legal rate from the date they are incurred until the date they are paid by the losing party.

CITY



Mayor

Dated:

9-6-16

EMPLOYEE



Name

Dated:

9-13-16

APPROVED AS TO FORM:



City Attorney

11.4.

# Department Heads' Contract

## **EMPLOYMENT AGREEMENT**

THIS AGREEMENT is made and entered into this DATE, by and between the City of Milwaukie, Oregon ("CITY"), and NAME ("EMPLOYEE").

### **Recitals**

- A. CITY is a municipal corporation, duly organized under the statutory authority of the State of Oregon;
- B. CITY has offered and EMPLOYEE has accepted the position of \_\_\_\_\_.
- C. CITY and EMPLOYEE desire to enter into a written employment agreement that creates a professional and business like relationship, that serves as a basis for effective communication, and that avoids any misunderstanding between the parties as to the terms of the employment relationship.

### **Agreement**

NOW THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration, the parties hereto agree as follows:

#### **1. Appointment, Removal, and Supervision**

The City of Milwaukie shall be responsible for EMPLOYEE's appointment, removal, and supervision. EMPLOYEE shall serve at the pleasure of the City Manager and may be removed by the City Manager at any time without cause.

#### **2. Duties**

CITY agrees to employ EMPLOYEE as its \_\_\_\_\_ to perform the functions and duties specified in the CITY's charter and ordinances and EMPLOYEE's job description (attached hereto as Exhibit "A") and to perform such other proper and legal duties as the City Manager shall from time to time assign.

#### **3. Term**

CITY hereby employs EMPLOYEE as CITY's \_\_\_\_\_, and EMPLOYEE hereby accepts this employment, commencing on DATE, and continuing until the EMPLOYEE resigns or until the EMPLOYEE is terminated by the City Manager, whichever shall occur first.

#### **4. Termination/Severance Pay**

- A. Nothing in this Employment Agreement shall prevent, limit, or otherwise interfere with the right of the CITY to immediately terminate the EMPLOYEE. In the event CITY suspends EMPLOYEE's authority and responsibilities without providing a 30-day termination notice period, EMPLOYEE shall be entitled to additional severance pay through the expiration of the 30-day termination notice period.
- B. Nothing in this Employment Agreement shall prevent, limit, or otherwise interfere with the right of the EMPLOYEE to resign at any time by serving 30-days' written notice of such termination upon CITY.



- C. **Severance pay.** In the event EMPLOYEE is involuntarily terminated at Will, Not For Cause, by the City Manager or voluntarily resigns following a written request from the CITY that EMPLOYEE resign, then the CITY agrees to pay EMPLOYEE an amount equal to: three month's base salary thereafter; provided that such payment may be a lump sum cash salary payment or regular monthly payments, at the option of EMPLOYEE.

## **5. Salary**

CITY agrees to pay EMPLOYEE a monthly salary of \$X,XXX commencing, DATE, payable in installments at the same time as other CITY employees are paid.

## **6. Use of Automobile**

CITY agrees to make a CITY-owned automobile available to EMPLOYEE for EMPLOYEE's business related use. In the event a CITY-owned vehicle is not available, CITY agrees to reimburse EMPLOYEE for EMPLOYEE's business related use of a private vehicle at a rate provided in CITY's Vehicle Use Policy. CITY agrees to reimburse EMPLOYEE for mileage at the current IRS rate on a monthly basis.

## **7. Use of Cell Phone**

The City has authorized non-represented exempt employees, on a voluntary basis, to use a personal cellular device (smartphone only) for work purposes in-lieu of a City provided cellular device. If you choose this option, the City will compensate you with a taxable monthly allowance. The allowance is based on the cost savings for the City and not on the cost of your personal device or plan. The monthly allowance is subject to change. The allowance is currently set at \$65.00 per month. Your other option, if authorized, is to use a City provided cellular device for work purposes only, as detailed in the City's Cellular Telephone Use Policy (500.3).

## **8. Hours of Work**

The parties recognize that EMPLOYEE must devote time outside of normal office hours to the CITY's business. EMPLOYEE shall be allowed to work a flexible workweek, subject to the City Manager's review and direction.

## **9. Vacation, Sick, and Administrative Leave**

- A. Standard vacation accrual unless customized (details to be provided).
- B. EMPLOYEE shall accrue sick leave at the rate of eight (8) hours per month worked to the maximum in effect for management employees. EMPLOYEE agrees that there shall not be any compensation for any unused sick leave at the termination of employment.
- C. CITY agrees to credit EMPLOYEE with a prorated amount of hours of management leave for the remainder of the current fiscal year in accordance with the CITY Personnel Rules. Beginning in the following fiscal year, EMPLOYEE will receive normal management leave (96 hours) in accordance with CITY personnel rules. Any unused accrued management leave shall not carry over to any subsequent fiscal year, and EMPLOYEE shall not be entitled to any compensation for any unused management leave at the termination of employment.

## **10. Insurance Benefits**

CITY agrees to provide EMPLOYEE with the same insurance benefits as are provided to other management personnel and under the same conditions as provided to other management personnel.

## **11. Professional Liability**

CITY agrees to defend, hold harmless, and indemnify EMPLOYEE on any and all claims brought against EMPLOYEE arising out of EMPLOYEE's actions within the scope of the employment relationship with CITY. CITY agrees to carry appropriate insurance therefor through CITY's insurance program.

## **12. Retirement Plan**

CITY agrees to contribute to the Public Employees Retirement System an amount prescribed by State law, once the EMPLOYEE is eligible for participation in the program. There is an employee contribution of 6% of salary and an employer portion. The CITY contributes both the EMPLOYEE and CITY portion to the State public employee's retirement plan.

## **13. Deferred Compensation**

The CITY agrees to place an additional 2.5% of base salary into a deferred compensation program on behalf of the employee. CITY agrees to execute any agreements reasonably necessary to allow EMPLOYEE to defer payment of agreed-upon compensation in accordance with the deferred compensation programs offered by CITY.

## **14. Use and Return of City Property**

EMPLOYEE recognizes and agrees that all personal property provided by the CITY to the EMPLOYEE shall be and remain the property of the CITY. EMPLOYEE will preserve, use, and hold CITY property only for the benefit of the CITY and to carry out the CITY's business. When EMPLOYEE's employment is terminated, EMPLOYEE will immediately deliver to CITY all CITY property that EMPLOYEE has in EMPLOYEE's possession or control.

## **15. Relationship of the Parties**

The relationship between the parties hereto is that of Employer and Employee. EMPLOYEE shall have no authority to enter into any contracts binding upon CITY, except as shall be specifically authorized in writing by the City.

## **16. Outside Employment**

EMPLOYEE agrees that any outside business activities shall be performed without the use of any CITY resources and shall not interfere with EMPLOYEE's duties and employment with CITY. EMPLOYEE further agrees that any outside activity shall be consistent with the requirements of Oregon's government ethics laws, the City Charter, Code and employee policies.

## **17. Other Benefits**

CITY agrees to provide EMPLOYEE with the same benefits and allowances as paid and provided by CITY to other management employees, except as expressly provided herein.

**18. Attorney Fees**

In the event suit or action is instituted to interpret or enforce the terms of this Employment Agreement, the prevailing party shall be entitled to recover from the other party such sums as the court may adjudge reasonable as attorney fees at trial or on appeal of such suit or action.

**19. Modification or Amendments**

No amendment, change, or modification of this Employment Agreement shall be valid, unless in writing and signed by parties hereto.

**20. Entire Agreement**

This Employment Agreement constitutes the entire agreement between the parties, integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations of previous agreements between the parties with respect to all or any part of the subject matter hereof.

**21. Waiver**

Failure of either party at any time to require performance of any provisions of this Employment Agreement shall not limit the parties' right to enforce the provision, nor shall any waiver of any breach of any provision be a waiver of any succeeding breach of the provision itself or of any other provision.

**22. Severability**

If any provision, or any portion thereof, contained in this Employment Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Employment Agreement or portion thereof shall be deemed severable and shall not be affected and shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Employment Agreement voluntarily and upon proper authority, in duplicate, on this (date).

**CITY OF MILWAUKIE, OREGON**

**CITY MANAGER**

*BY:* \_\_\_\_\_

**EMPLOYEE**

*BY:* \_\_\_\_\_

# **12. Municipal Court**

12.1.

# Overview and Judge Bio

### Municipal Court Mission Statement

The mission of the Municipal Court is to serve as the judicial branch of the City government. Its mission is to provide a fair and impartial local forum for the resolution of the minor traffic violations, parking citations, minor in possession of tobacco, school attendance violations and violations to Municipal code.

### Purpose and Function of the Municipal Court

- Court staff responds to questions about the Court schedule, fine amounts and other administrative matter, but cannot give legal advice.
- Staff administers the court proceedings and docketing, coordinates court matters with defendants, the Judge, City Prosecutor, Finance, Code Enforcement, Police Department, and other criminal municipal, justice and state agencies.

### History

Most incorporated cities like Milwaukie have a Municipal Court as authorized by State law with jurisdiction over city ordinance violations and traffic violations, defined by Oregon State Statute and occurring within the City Limits. The City does not have a misdemeanor court and by statute has no jurisdiction over felonies. Milwaukie City Council minutes reveal the first discussion of a Municipal Court occurred January 1925.

Milwaukie is situated on two major highways, Hwy 99E and Hwy 224, so the Milwaukie Police Department conscientiously enforces traffic violations to protect community livability and to reduce the incidences of vehicular-involved accidents.

### Judge's Bio

Kimberly Graves was sworn in as the Municipal Court Judge on February 4, 2014. Judge Graves has worked as Deputy District Attorney in Clackamas County and a Hearings Officer for the City of Portland.

Judge Graves received her Juris Doctor, Criminal Law Certificate from Lewis and Clark Law School where she was a member of the Mock Trial Honor Board. She received her Bachelor of Arts degree in Political Science and Sociology from University of Colorado where she served on the student government legislative board.

Judge Graves is a member of the Clackamas County Oregon Women Lawyers and Oregon Women Lawyers.



12.2.

Personal Services  
Agreement for  
Municipal Court  
Judge Services



## Amendment #4 to Personal Services Agreement with Kimberly M. Graves for Municipal Court Judge Services

**This agreement** hereby amends the above entitled contract between the City of Milwaukie and Kimberly M. Graves, the original compensation amount of which was \$42,000 per year for performance of services.

This amendment is as follows:

To change the compensation amount to "Nine Hundred Dollars (\$900) per regular court session and five Hundred Dollars (\$500) per attendance court session, and up to \$5,000 per year for service performed outside of court sessions, for a total not to exceed Forty-Two Thousand Dollars (\$42,000)"

To extend the term of the agreement to February 1, 2020 by exercising the second of two two-year extensions.

Except for the above, all other conditions remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

**City of Milwaukie**

Signature

Ann Ober, City Manager  
Print Name & Title

1/17/18  
Date

**Kimberly M. Graves**

Signature

Kimberly Graves, Judge  
Print Name & Title

1/18/18  
Date



CITY OF MILWAUKIE

COUNCIL RESOLUTION No. 5-2018

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
EXTENDING THE MUNICIPAL COURT JUDGE SERVICES CONTRACT AND  
CLARIFYING PAYMENT TERMS**

**WHEREAS**, the Municipal Court for the City of Milwaukie constitutes the City's judicial tribunal and hears cases arising under the Municipal Code, the Development Code, and the Oregon Vehicle Code; and

**WHEREAS**, the City requires Municipal Court Judge Services for the operations of the City's Municipal Court; and

**WHEREAS**, the City is currently contracted with Kimberly M. Graves to provide Municipal Court Judge Services and the City is satisfied with performance under the contract to date; and

**WHEREAS**, the City desires to activate the second of two contract extension provisions, extending the existing contract to February 1, 2020; and

**WHEREAS**, the City desires to make minor modifications to the existing contract clarifying payment rate per attendance court sessions held.

**Now, Therefore, be it Resolved** that the City Council directs staff to extend the personal service contract with the existing Municipal Court Judge to February 1, 2020 and to clarify contract payment terms by amendment.

Introduced and adopted by the City Council on 1/16/18.

This resolution is effective on 1/16/18.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

Scott Stauffer, City Recorder

City Attorney



## **Amendment #3 to Personal Services Agreement with Kimberly M. Graves for Municipal Court Judge Services**

**This agreement** hereby amends the above entitled contract between the City of Milwaukie and Kimberly M. Graves, dated February 1, 2014 and amended April 2, 2014 and November 19, 2015, the original compensation amount of which was \$42,000 for performance of services.

This amendment is to acknowledge that the City Council may appoint a municipal court judge pro-tem and to clarify the terms of the Agreement should such an appointment occur. The parties agree to the following amendments:

A. Section 5 (Assignment/Delegation) is amended to read as follows:

### **ASSIGNMENT/DELEGATION**

Except for the appointment of municipal judges pro tem by Contractor, neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Contractor shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and City.

The City Council may appoint municipal judges pro tem outside of this Agreement, which judges shall serve at the pleasure of the Council. Should the City Council choose to appoint a municipal judge pro tem, the judge(s) will not be deemed to have been appointed by the Municipal Court Judge and shall not be included in or subject to the terms of this Agreement. Compensation for a municipal court judge pro tem appointed by the City Council shall be paid directly to the judge by the City under the terms of a separate agreement.

B. Scope of Work (Exhibit A) is amended to read as follows:

### **EXHIBIT A**

#### **SCOPE OF WORK (SERVICES TO BE PROVIDED)**

1. Act as the judicial officer of the City. The Municipal Court Judge shall be appointed by and hold office during the pleasure of the Council.
2. Be a member in good standing of the Oregon State Bar during the entire term of office. Disbarment shall be a basis for removal from office.
3. Hold a court within the City, which shall be known as the Municipal Court for the City of Milwaukie, Clackamas County, Oregon.
  - a. Court shall be open for transaction of judicial business most Wednesdays. Truancy court shall be open for transaction Monday evenings for the months of October through June unless changed by City Council.

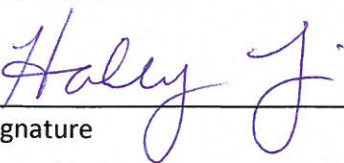


- b. The Court may be open for transaction of judicial business at such other times as the Municipal Court Judge, with the concurrence of the City Manager and Finance Director, determines to be necessary for the proper functioning of the court.
4. Conform to the general laws of the State of Oregon governing cities and the judiciary, including justice courts except as the City Charter or Code prescribes to the contrary.
5. The Municipal Court has original jurisdiction of all offenses defined and made punishable by ordinances of the City and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by any ordinance of the City. The Municipal Court Judge may:
  - a. Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;
  - b. Order the arrest of anyone accused of an offense against the City;
  - c. Commit to jail or admit to bail anyone accused of such an offense;
  - d. Issue and compel obedience to subpoenas;
  - e. Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;
  - f. Penalize contempt of court;
  - g. Issue process necessary to effectuate judgments and orders of the court;
  - h. Issue search warrants; and
  - i. Perform other judicial and quasi-judicial functions prescribed by ordinance.
6. The Municipal Court Judge may appoint municipal judges pro-tem, which judges shall serve at the pleasure of the Council.
7. In addition, it is understood that the City Council may appoint municipal judges pro tem, which judges shall serve at the pleasure of the Council.
8. Notwithstanding this section, the Council may transfer some or all of the functions of the municipal court to an appropriate state court.

Except for the above, all other conditions remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

**City of Milwaukie**

  
\_\_\_\_\_  
Signature

Haley Fish, Finance Director  
Print Name & Title

10/5/2016  
Date

**Kimberly M. Graves**

  
\_\_\_\_\_  
Signature

Kimberly M. Graves, Municipal Court Judge  
Print Name & Title

10/5/2016  
Date



CITY OF MILWAUKIE  
*"Dogwood City of the West"*

Resolution No. 108-2016

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
DIRECTING STAFF TO AMEND THE PERSONAL SERVICE AGREEMENT WITH  
KIMBERLY M. GRAVES FOR MUNICIPAL COURT JUDGE SERVICES AND  
DIRECTING THE FINANCE DIRECTOR TO EXECUTE THE AMENDMENT**

**WHEREAS**, the Municipal Court for the City of Milwaukie constitutes the City's judicial tribunal and hears cases arising under the Municipal Code, the Development Code, and the Oregon Vehicle Code; and

**WHEREAS**, the City Council adopted section 2.05.020 to the Milwaukie Municipal Code which provides that Council may appoint a Municipal Court Judge Pro Tem, consistent with Chapter VII, §28(e) of the City's Charter which provides judges shall serve at the pleasure of the Council; and

**WHEREAS**, the proposed amendment to the personal service agreement is to acknowledge that the City Council may appoint a municipal court judge pro-tem to address overflow and due process issues when and if necessary; and

**WHEREAS**, the agreement allows for direct payment to the judge pro tem;

**Now, Therefore, be it Resolved** that the City Council directs staff to amend and execute the amendment to the personal service agreement with the existing Municipal Court Judge to acknowledge that the City Council may appoint a municipal court judge pro-tem consistent with Milwaukie Municipal Code section 2.05.020.

Introduced and adopted by the City Council on 10/4/16.

This resolution is effective on 10/4/16.

Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

  
\_\_\_\_\_  
Scott S. Stauffer, City Recorder  
\_\_\_\_\_  
City Attorney





## Amendment #2 to Personal Services Agreement with Kimberly M. Graves for Municipal Court Judge Services

**This agreement** hereby amends the above entitled contract between the City of Milwaukie and Kimberly M. Graves, the original compensation amount of which was \$42,000 per year for performance of services.

This amendment is as follows:

To change the compensation amount to "Nine Hundred Dollars (\$900) per regular court session and One Hundred Dollars (\$100) per truancy court session, and up to \$5,000 per year for service performed outside of court sessions, for a total not to exceed Forty-Two Thousand Dollars (\$42,000)"

To extend the term of the agreement to February 1, 2018 by exercising the first of two two-year extensions.

Except for the above, all other conditions remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

**City of Milwaukie**

**Kimberly M. Graves**

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Signature

William Monahan, City Manager  
\_\_\_\_\_  
Print Name & Title

Kimberly Graves, Judge  
\_\_\_\_\_  
Print Name & Title

11/19/15  
\_\_\_\_\_  
Date

10/28/15  
\_\_\_\_\_  
Date



CITY OF MILWAUKIE  
*"Dogwood City of the West"*

Resolution No. 101-2015

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON,  
EXTENDING THE MUNICIPAL COURT JUDGE SERVICES CONTRACT AND  
CLARIFYING PAYMENT TERMS**

**WHEREAS**, the Municipal Court for the City of Milwaukie constitutes the City's judicial tribunal and hears cases arising under the Municipal Code, the Development Code, and the Oregon Vehicle Code; and

**WHEREAS**, the City requires Municipal Court Judge Services for the operations of the City's Municipal Court; and

**WHEREAS**, the City is currently contracted with Kimberly M. Graves to provide Municipal Court Judge Services and the City is satisfied with performance under the contract to date; and

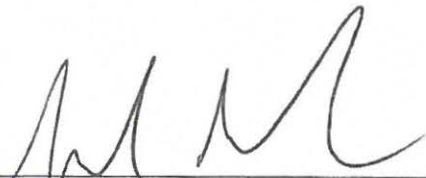
**WHEREAS**, the City desires to activate the first of two contract extension provisions, extending the existing contract to February 1, 2018; and

**WHEREAS**, the City desires to make minor modifications to the existing contract clarifying payment terms as depended on court sessions held.

**Now, Therefore, be it Resolved** that the City Council directs staff to extend the personal service contract with the existing Municipal Court Judge to February 1, 2018 and to clarify contract payment terms by amendment.

Introduced and adopted by the City Council on 11/17/15.

This resolution is effective on 11/17/15.

  
\_\_\_\_\_  
Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:  
Jordan Ramis PC

  
\_\_\_\_\_  
Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney



## Amendment to Personal Services Agreement with the City of Milwaukie, Oregon for Municipal Court Judge Services

**This agreement** hereby amends the above entitled contract between the City of Milwaukie and Kimberly M. Graves, the original compensation amount of which was \$37,000 per year for performance of services.

This amendment is as follows:

1. To change the compensation amount by adding \$5,000 per year making contract amount for up to \$42,000 per year.
2. To change scope of work to include, but not limited to, services performed outside of court sessions, such as meetings with other professionals, review of court procedures and fees, and meetings with court staff and management.

Except for the above, all other conditions remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

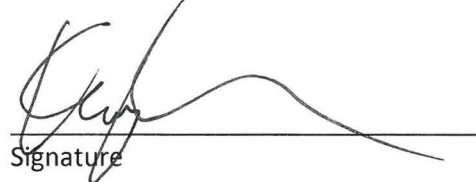
**City of Milwaukie**

  
Signature

Casey Camors, Finance Director  
Print Name & Title

April 2, 2014  
Date

**Kimberly M. Graves**

  
Signature

Kimberly M. Graves, Judge  
Print Name & Title

April 2, 2014  
Date





## **PERSONAL SERVICES AGREEMENT WITH THE CITY OF MILWAUKIE, OREGON FOR MUNICIPAL COURT JUDGE SERVICES**

**THIS AGREEMENT** made and entered into this 1<sup>st</sup> day of February, 2014 by and between the City of Milwaukie, a municipal corporation of the State of Oregon, hereinafter called City, and Kimberly M. Graves, hereinafter called Contractor.

### **RECITALS**

**WHEREAS** City has need for the services of a person or an entity with particular training, ability, knowledge, and experience as possessed by Contractor, and

**WHEREAS** City has determined that Contractor is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

**THEREFORE** the Parties agree as follows:

**1. SERVICES TO BE PROVIDED**

Contractor shall provide services as specified in the Scope of Work, a copy of which is attached hereto, labeled Exhibit A and hereby incorporated by reference. Contractor shall initiate services immediately upon receipt of City's notice to proceed, together with an executed copy of this Agreement.

**2. EFFECTIVE DATE AND DURATION**

This Agreement shall become effective upon the date of execution, and shall expire, unless otherwise terminated or extended, by February 1, 2016. The City reserves the right to extend this contract for two (2) two-year periods. Any extensions of the contract will require City Council authorization. All work under this Agreement shall be completed prior to the expiration of this Agreement.

**3. COMPENSATION**

City agrees to pay Contractor not to exceed Nine Hundred Dollars (\$900) per regular court session and One Hundred Dollars (\$100) per truancy court session for a total of \$37,000 per year for performance of those services described in the Scope of Work, which payment shall be based upon the following applicable terms:

- A. Payment by City to Contractor for performance of services under this Agreement includes all expenses incurred by Contractor, with the exception of expenses, if any identified in this Agreement as separately reimbursable.
- B. Payment will be made in installments based on Contractor's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- C. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.
- D. Where applicable, Contractor must make payment promptly as due to persons supplying Contractor labor or materials for the execution of the work provided by this order. Contractor

must pay all contributions or amounts due from Contractor to the Industrial Accident Fund incurred in the performance of this order. Contractor shall not permit any lien or claim to be filed or prosecuted against City or any subdivision of City on account of any labor or material to be furnished. Contractor further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

- E. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- F. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279B.020. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.
- G. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury to the employees of Contractor or all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- H. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.

#### **4. OWNERSHIP OF WORK PRODUCT**

City shall be the owner of and shall be entitled to possession of any and all work products of Contractor which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Contractor prior to termination of this Agreement by Contractor or upon completion of the work pursuant to this Agreement.

#### **5. ASSIGNMENT/DELEGATION**

Except for the appointment of municipal judges pro tem, neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Contractor shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and City.

**6. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR**

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent contractor as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.
- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Contractor certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.

Contractor is an independent contractor for purposes of the Public Employees Retirement System and will not work for City more than 600 hours in any calendar year.
- C. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.

**7. INDEMNIFICATION**

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except to the extent that the liability arises out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.



**8. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS**

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail, email or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

<b>City</b>	<b>Contractor</b>
City of Milwaukie	Company: Kimberly M. Graves
Attn: Accounts Payable	
10722 SE Main Street	Address: 17967 South Lake Vista Drive
Milwaukie, Oregon 97222	Oregon City, OR 97045
Phone: 503.786.7523	Phone: 503.816.9015
Fax: 503.786.7528	Fax:
Email Address: finance@milwaukieoregon.gov	Email Address: kimberlymartingraves@yahoo.com

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

**9. MERGER**

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

**10. TERMINATION WITHOUT CAUSE**

At any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving notice to Contractor. If City terminates the contract pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.

**11. TERMINATION WITH CAUSE**

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.

- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

- B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:
  - 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
  - 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee; provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

**12. ACCESS TO RECORDS**

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

**13. FORCE MAJEURE**

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

**14. NON-WAIVER**

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

**15. NON-DISCRIMINATION**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

**16. ERRORS**

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

**17. EXTRA (CHANGES) WORK**

Only the City Council, City Manager or Finance Director may authorize extra (and/or change) work. Failure of Contractor to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

**18. ATTORNEY'S FEES**

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

**19. GOVERNING LAW**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

**20. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES**

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this agreement.

**21. CONFLICT BETWEEN TERMS**

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

**22. AUDIT**

Contractor shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period. Contractor agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

**23. SEVERABILITY**

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

**24. COMPLETE AGREEMENT**

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

**IN WITNESS WHEREOF**, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written.


**CITY OF MILWAUKIE**

  
\_\_\_\_\_  
Signature

William Monahan, City Manager  
\_\_\_\_\_  
Printed Name & Title

2/10/14  
\_\_\_\_\_  
Date

**CONTRACTOR**

  
\_\_\_\_\_  
Signature

Kimberly Graves, Judge  
\_\_\_\_\_  
Printed Name & Title

2/2/14  
\_\_\_\_\_  
Date

**EXHIBIT A**  
**SCOPE OF WORK (SERVICES TO BE PROVIDED)**

1. Act as the judicial officer of the City. The Municipal Court Judge shall be appointed by and hold office during the pleasure of the Council.
2. Be a member in good standing of the Oregon State Bar during the entire term of office. Disbarment shall be a basis for removal from office.
3. Hold a court within the City, which shall be known as the Municipal Court for the City of Milwaukie, Clackamas County, Oregon.
  - a. Court shall be open for transaction of judicial business most Wednesdays. Truancy court shall be open for transaction Monday evenings for the months of October through June unless changed by City Council.
  - b. The Court may be open for transaction of judicial business at such other times as the Municipal Court Judge, with the concurrence of the City Manager and Finance Director, determines to be necessary for the proper functioning of the court.
4. Conform to the general laws of the State of Oregon governing cities and the judiciary, including justice courts except as the City Charter or Code prescribes to the contrary.
5. The Municipal Court has original jurisdiction of all offenses defined and made punishable by ordinances of the City and of all actions brought to recover or enforce forfeitures or penalties defined or authorized by any ordinance of the City. The Municipal Court Judge may:
  - a. Render judgments and, for enforcing them, impose sanctions on persons and property within the court's territorial jurisdiction;
  - b. Order the arrest of anyone accused of an offense against the City;
  - c. Commit to jail or admit to bail anyone accused of such an offense;
  - d. Issue and compel obedience to subpoenas;
  - e. Compel witnesses to appear and testify and jurors to serve in the trial of matters before the court;
  - f. Penalize contempt of court;
  - g. Issue process necessary to effectuate judgments and orders of the court;
  - h. Issue search warrants; and
  - i. Perform other judicial and quasi-judicial functions prescribed by ordinance.
6. The Municipal Court Judge may appoint municipal judges pro-tem, which judges shall serve at the pleasure of the Council.
7. Notwithstanding this section, the Council may transfer some or all of the functions of the municipal court to an appropriate state court.



CITY OF MILWAUKIE  
*"Dogwood City of the West"*

**Resolution No. 07-2014**

**A resolution of the City Council of the City of Milwaukie, Oregon, directing staff to execute a Personal Service Agreement with Kimberly Graves, for City Municipal Court Judge Services**

**WHEREAS**, the Municipal Court for the City of Milwaukie constitutes the City's judicial tribunal and hears cases arising under the Municipal Code, the Development Code, and the Oregon Vehicle Code; and

**WHEREAS**, the City requires Municipal Court Judge Services for the operations of the City's Municipal Court; and

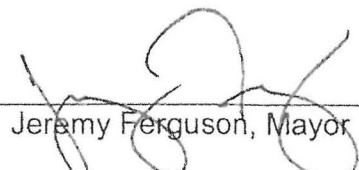
**WHEREAS**, the City has issued and received proposals responding to a request for proposal;

**WHEREAS**, the City's selection committee has reviewed such proposals and interviewed the qualified candidates and recommends Kimberly Graves as the City Municipal Court Judge;

**Now, Therefore, be it Resolved** that the City Council directs staff to enter into an agreement with Kimberly Graves, for City Municipal Judge Services for the term of two years.


Introduced and adopted by the City Council on January 23, 2014.


This resolution is effective on January 23, 2014.

  
\_\_\_\_\_  
Jeremy Ferguson, Mayor

APPROVED AS TO FORM:  
Jordan Ramis PC

ATTEST:

  
\_\_\_\_\_  
Pat DuVal, City Recorder

  
\_\_\_\_\_  
City Attorney



12.3.

# Personal Services Agreement for City Prosecutor Services



**Amendment to Personal Services Agreement  
with Rhett L. Bernstein  
for City Prosecutor Services**

**This agreement** hereby amends the above entitled contract between the City of Milwaukie and Rhett L. Bernstein, the original compensation amount of which was \$45,000 per year for performance of services.

This amendment is as follows:

To extend the term of the agreement in Section 2 to January 31, 2020 by exercising the first of two (2) two-year extensions.

Except for the above, all other conditions remain in full force and effect.

In Witness to the above, the following duly authorized representatives of the parties referenced have executed this agreement:

**City of Milwaukie**

  
\_\_\_\_\_  
Signature

Ann Ober, City Manager  
\_\_\_\_\_  
Print Name & Title

1-23-18  
\_\_\_\_\_  
Date

**Rhett L. Bernstein**

  
\_\_\_\_\_  
Signature

Rhett L. Bernstein, Attorney  
\_\_\_\_\_  
Print Name & Title

1/23/18  
\_\_\_\_\_  
Date



**PERSONAL SERVICES AGREEMENT  
WITH THE CITY OF MILWAUKIE, OREGON  
FOR CITY PROSECUTOR SERVICES**

**THIS AGREEMENT** made and entered into this 15th day of December, 2015 by and between the City of Milwaukie, a municipal corporation of the State of Oregon, hereinafter called City, and Rhett L. Bernstein, hereinafter called Contractor.

**RECITALS**

**WHEREAS** City has need for the services of a person or an entity with particular training, ability, knowledge, and experience as possessed by Contractor, and

**WHEREAS** City has determined that Contractor is qualified and capable of performing the professional services as City does hereinafter require, under those terms and conditions set forth,

**THEREFORE** the Parties agree as follows:

**1. SERVICES TO BE PROVIDED**

Contractor shall provide services as specified in the Scope of Work, a copy of which is attached hereto, labeled Exhibit A and hereby incorporated by reference. Contractor shall initiate services immediately upon receipt of City's notice to proceed, together with an executed copy of this Agreement.

**2. EFFECTIVE DATE AND DURATION**

This Agreement shall become effective on February 1, 2016, and shall expire, unless otherwise terminated or extended, by January 31, 2018. The City reserves the right to extend the term of this agreement for two (2) two-year periods. All work under this Agreement shall be completed prior to the expiration of this Agreement.

**3. COMPENSATION**

City agrees to pay Contractor not to exceed a monthly amount of three thousand seven hundred fifty dollars (\$3,750) for a total not to exceed forty-five thousand dollars (\$45,000) per year, and not to exceed \$500 per *de novo* trial, for performance of those services described in the Scope of Work. For services not described in the Scope of Work provision, the Contractor will bill the City on an hourly basis of \$150 per hour. Payment shall be based upon the following applicable terms:

- A. Payment by City to Contractor for performance of services under this Agreement includes all expenses incurred by Contractor, with the exception of expenses, if any identified in this Agreement as separately reimbursable.
- B. Payment will be made in installments based on Contractor's invoice, subject to the approval of the City Manager, or designee, and not more frequently than monthly. Payment shall be made only for work actually completed as of the date of invoice.
- C. Payment by City shall release City from any further obligation for payment to Contractor, for services performed or expenses incurred as of the date of the invoice. Payment shall not be considered acceptance or approval of any work or waiver of any defects therein.



- D. Where applicable, Contractor must make payment promptly as due to persons supplying Contractor labor or materials for the execution of the work provided by this order. Contractor must pay all contributions or amounts due from Contractor to the Industrial Accident Fund incurred in the performance of this order. Contractor shall not permit any lien or claim to be filed or prosecuted against City or any subdivision of City on account of any labor or material to be furnished. Contractor further agrees to pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.
- E. If Contractor fails, neglects or refuses to make prompt payment of any claim for labor or services furnished to Contractor or a subcontractor by any person as such claim becomes due, City's Finance Director may pay such claim and charge the amount of the payment against funds due or to become due the Contractor. The payment of the claim in this manner shall not relieve Contractor or their surety from obligation with respect to any unpaid claims.
- F. If labor is performed under this order, then no person shall be employed for more than eight (8) hours in any one day, or forty (40) hours in any one week, except in cases of necessity, or emergency or where the public policy absolutely requires it, and in such cases, except cases of contracts for personal services as defined in ORS 279A.055, the labor shall be paid at least time and a half for all overtime in excess of eight (8) hours a day and for all work performed on Saturday and on any legal holidays as specified in ORS 279B.020. In cases of contracts for personal services as defined in ORS 279A.055, any labor shall be paid at least time and a half for all hours worked in excess of forty (40) hours in any one week, except for those individuals excluded under ORS 653.010 to 653.260 or under 29 USC SS 201-209.
- G. Contractor shall promptly, as due, make payment to any person, co-partnership, association or corporation, furnishing medical, surgical and hospital care or other needed care and attention incident to sickness or injury to the employees of Contractor or all sums which Contractor agrees to pay for such services and all moneys and sums which Contractor collected or deducted from the wages of employees pursuant to any law, contract or agreement for the purpose of providing or paying for such service.
- H. The City certifies that sufficient funds are available and authorized for expenditure to finance costs of this contract.
- I. Payment by City to Contractor for performance of services under this Agreement outlined above is earned when paid and is not deposited in the Contractor's trust account. The City's tender of funds vests interest in the funds to the Contractor immediately on deposit. Payment by City to Contractor for performance of services under this Agreement will not be deposited into the Contractor's trust account and the deposit of the payment by City to the Contractor for performance of services under this Agreement means that the funds are the sole property of the Contractor. If the City otherwise becomes dissatisfied and discharges the Contractor from further performance of services under this Agreement, the City may be entitled to a refund of all or part of the fee if the services under this Agreement for which payment was made are not completed by Contractor.

#### 4. **OWNERSHIP OF WORK PRODUCT**

City shall be the owner of and shall be entitled to possession of any and all work products of Contractor which result from this Agreement, including any computations, plans, correspondence or pertinent data and information gathered by or computed by Contractor prior to termination of this Agreement by Contractor or upon completion of the work pursuant to this Agreement.



**5. ASSIGNMENT/DELEGATION**

Neither party shall assign, sublet or transfer any interest in or duty under this Agreement without the written consent of the other and no assignment shall be of any force or effect whatsoever unless and until the other party has so consented. If City agrees to assignment of tasks to a subcontract, Contractor shall be fully responsible for the acts or omissions of any subcontractors and of all persons employed by them, and neither the approval by City of any subcontractor nor anything contained herein shall be deemed to create any contractual relation between the subcontractor and City.

**6. STATUS OF CONTRACTOR AS INDEPENDENT CONTRACTOR**

Contractor certifies that:

- A. Contractor acknowledges that for all purposes related to this Agreement, Contractor is and shall be deemed to be an independent contractor as defined by ORS 670.700 and not an employee of City, shall not be entitled to benefits of any kind to which an employee of City is entitled and shall be solely responsible for all payments and taxes required by law. Furthermore, in the event that Contractor is found by a court of law or any administrative agency to be an employee of City for any purpose, City shall be entitled to offset compensation due, or to demand repayment of any amounts paid to Contractor under the terms of this Agreement, to the full extent of any benefits or other remuneration Contractor receives (from City or third party) as a result of said finding and to the full extent of any payments that City is required to make (to Contractor or to a third party) as a result of said finding.

- B. The undersigned Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, has or will receive any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Agreement, except as specifically declared in writing.

If this payment is to be charged against Federal funds, Contractor certifies that he/she is not currently employed by the Federal Government and the amount charged does not exceed his or her normal charge for the type of service provided.

Contractor and its employees, if any, are not active members of the Oregon Public Employees Retirement System and are not employed for a total of 600 hours or more in the calendar year by any public employer participating in the Retirement System.

- C. Contractor certifies that it currently has a City business license or will obtain one prior to delivering services under this Agreement.
- D. Contractor is not an officer, employee, or agent of the City as those terms are used in ORS 30.265.
- E. City requires that attorney services be provided without conflict by the attorney's representation of clients on matters contrary to City's legal interests. Thus, Contractor shall not engage services of other attorneys or other professionals who individually, or through members of a firm, represent one or more clients on matters contrary to City's interests.

Should Contractor, or a professional he or she has engaged, represent a client in a matter contrary to City's legal interests, Contractor shall promptly consult with the Finance Director or other designated official about the conflict. Contractor shall resolve the conflict to City's satisfaction within seven (7) days of consulting with the City official. Unresolved conflicts are grounds for termination of this agreement.

**7. INDEMNIFICATION**

City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of a contractor's work by City shall not operate as a waiver or release.

Contractor agrees to indemnify and defend the City, its officers, agents, employees and volunteers and hold them harmless from any and all liability, causes of action, claims, losses, damages, judgments or other costs or expenses including attorney's fees and witness costs and (at both trial and appeal level, whether or not a trial or appeal ever takes place) that may be asserted by any person or entity which in any way arise from, during or in connection with the performance of the work described in this contract, except to the extent that the liability arises out of the sole negligence of the City and its employees. Such indemnification shall also cover claims brought against the City under state or federal workers' compensation laws. If any aspect of this indemnity shall be found to be illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity of the remainder of this indemnification.

**8. INSURANCE**

Contractor and its subcontractors shall maintain insurance acceptable to City in full force and effect throughout the term of this contract. Such insurance shall cover all activities of the contractor arising directly or indirectly out of Contractor's work performed hereunder, including the operations of its subcontractors of any tier. Such insurance shall be primary and non-contributory.

The policy or policies of insurance maintained by the Contractor and its subcontractor shall provide at least the following limits and coverage:

**A. Commercial General Liability Insurance**

Contractor shall obtain, at contractor's expense, and keep in effect during the term of this contract, Commercial General Liability Insurance covering Bodily Injury and Property Damage on an "occurrence" form. This coverage shall include Contractual Liability insurance for the indemnity provided under this contract. The following insurance will be carried:

<u>Coverage</u>	<u>Limit</u>
General Aggregate	\$1,000,000
Products-Completed Operations Aggregate	1,000,000
Personal & Advertising Injury	1,000,000
Each Occurrence	1,000,000
Fire Damage (Any one fire)	500,000
Medical Expense (Any one person)	5,000



B. Professional Liability Insurance

Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this contract, Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. Combined single limit per occurrence shall not be less than \$1,000,000. Annual aggregate limit shall not be less than \$1,000,000. Coverage procured through the Oregon State Bar Professional Liability Fund shall be sufficient to comply with this section.

C. Additional Insured Provision

The Commercial General Liability Insurance and Commercial Automobile Insurance policies and other policies the City deems necessary shall include the City, its officers, directors, employees and volunteers as additional insureds with respect to this contract.

D. Notice of Cancellation

There shall be no cancellation, material change, exhaustion of aggregate limits or intent not to renew insurance coverage without 30 days written notice to the City. Any failure to comply with this provision will not affect the insurance coverage provided to the City. The certificates of insurance provided to the City shall state that the insurer shall endeavor to provide 30 days' notice of cancellation to the City.

E. Insurance Carrier Rating

Coverages provided by the Contractor must be underwritten by an insurance company deemed acceptable by the City. The City reserves the right to reject all or any insurance carrier(s) with an unacceptable financial rating.

F. Certificates of Insurance

As evidence of the insurance coverage required by the contract, the Contractor shall furnish a Certificate of Insurance to the City. No contract shall be effected until the required certificates have been received and approved by the City. The certificate will specify and document all provisions within this contract. A renewal certificate will be sent to the above address 10 days prior to coverage expiration.

Certificates of Insurance should read "Insurance certificate pertaining to contract for City Prosecutor Services. The City of Milwaukie, its officers, directors and employees shall be added as additional insureds with respects to this contract. A notation stating that "Insured coverage is primary" shall appear in the description portion of certificate.

G. Independent Contractor Status

The service or services to be rendered under this contract are those of an independent contractor. Contractor is not an officer, employee or agent of the City as those terms are used in ORS 30.265.

H. Primary Coverage Clarification

The parties agree that Contractor's coverage shall be primary to the extent permitted by law. The parties further agree that other insurance maintained by the City is excess and not contributory insurance with the insurance required in this section.

I. Cross-Liability Clause

A cross-liability clause or separation of insureds clause will be included in the general liability policy.

Contractor's insurance policy shall contain provisions that such policies shall not be canceled or their limits of liability reduced without thirty (30) days prior notice to City. A copy of each insurance policy, certified as a true copy by an authorized representative of the issuing insurance company, or at the discretion of City, in lieu thereof, a certificate in form satisfactory to City certifying to the issuance of such insurance shall be forwarded to:

City of Milwaukie  
Attn: Finance  
10722 SE Main Street  
Milwaukie, Oregon 97222

Business Phone: 503-786-7555  
Business Fax: 503-786-7528  
Email Address: finance@milwaukieoregon.gov

Such policies or certificates must be delivered prior to commencement of the work.

The procuring of such required insurance shall not be construed to limit contractor's liability hereunder. Notwithstanding said insurance, Contractor shall be obligated for the total amount of any damage, injury, or loss caused by negligence or neglect connected with this contract.

**9. METHOD & PLACE OF SUBMITTING NOTICE, BILLS AND PAYMENTS**

All notices, bills and payments shall be made in writing and may be given by personal delivery, mail, email or by fax. Payments may be made by personal delivery, mail, or electronic transfer. The following addresses shall be used to transmit notices, bills, payments, and other information:

City	Contractor
City of Milwaukie	Rhett L. Bernstein
Attn: Kelli Tucker, Accounts Payable	
10722 SE Main Street	Address: 1785 Willamette Falls Dr., Suite 4
Milwaukie, Oregon 97222	West Linn, OR 97068
Phone: 503-786-7523	Phone: 503-723-5566
Fax: 503-786-7528	Fax: 503-722-4549
Email Address: ap@milwaukieoregon.gov	Email Address: rlbernst@gmail.com

And when so addressed, shall be deemed given upon deposit in the United States mail, postage prepaid, or when so faxed, shall be deemed given upon successful fax. In all other instances, notices, bills and payments shall be deemed given at the time of actual delivery. Changes may be made in the names and addresses of the person to who notices, bills and payments are to be given by giving written notice pursuant to this paragraph.

**10. MERGER**

This writing is intended both as a final expression of the Agreement between the parties with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until it is made in writing and signed by both parties.

**11. TERMINATION WITHOUT CAUSE**

At any time and without cause, City shall have the right, in its sole discretion, to terminate this Agreement by giving thirty (30) days' notice to Contractor. If City terminates the contract pursuant to this paragraph, it shall pay Contractor for services rendered to the date of termination.



Contractor may terminate this agreement at any time and without cause, by giving thirty (30) days' notice to City. If Contractor terminates this agreement, contractor shall observe Oregon State Bar Rule of Professional Conduct 1.16 in its entirety, with particular attention to not causing material adverse effect on City's interests, informing all pertinent courts of law about any withdrawals from representation.

Contractor shall transfer custody of all files to the City upon termination of this agreement, whether for cause or for no cause.

**12. TERMINATION WITH CAUSE**

A. City may terminate this Agreement effective upon delivery of written notice to Contractor, or at such later date as may be established by City, under any of the following conditions:

- 1) If City funding from federal, state, local, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services. This Agreement may be modified to accommodate a reduction in funds.
- 2) If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this Agreement.
- 3) If any license or certificate required by law or regulation to be held by Contractor, its subcontractors, agents, and employees to provide the services required by this Agreement is for any reason denied, revoked, or not renewed.
- 4) If Contractor becomes insolvent, if voluntary or involuntary petition in bankruptcy is filed by or against Contractor, if a receiver or trustee is appointed for Contractor, or if there is an assignment for the benefit of creditors of Contractor.

Any such termination of this agreement under paragraph (a) shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination.

B. City, by written notice of default (including breach of contract) to Contractor, may terminate the whole or any part of this Agreement:

- 1) If Contractor fails to provide services called for by this agreement within the time specified herein or any extension thereof, or
- 2) If Contractor fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after receipt of written notice from City, fails to correct such failures within ten (10) days or such other period as City may authorize.

The rights and remedies of City provided in the above clause related to defaults (including breach of contract) by Contractor shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

If City terminates this Agreement under paragraph (B), Contractor shall be entitled to receive as full payment for all services satisfactorily rendered and expenses incurred, an amount which bears the same ratio to the total fees specified in this Agreement as the services satisfactorily rendered by Contractor bear to the total services otherwise required to be performed for such total fee;

provided, that there shall be deducted from such amount the amount of damages, if any, sustained by City due to breach of contract by Contractor. Damages for breach of contract shall be those allowed by Oregon law, reasonable and necessary attorney fees, and other costs of litigation at trial and upon appeal.

**13. ACCESS TO RECORDS**

City shall have access to such books, documents, papers and records of Contractor as are directly pertinent to this Agreement for the purpose of making audit, examination, excerpts and transcripts.

**14. FORCE MAJEURE**

Neither City nor Contractor shall be considered in default because of any delays in completion and responsibilities hereunder due to causes beyond the control and without fault or negligence on the part of the parties so disenabled, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, epidemic, quarantine restriction, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the parties so disenabled shall within ten (10) days from the beginning of such delay, notify the other party in writing of the cause of delay and its probable extent. Such notification shall not be the basis for a claim for additional compensation. Each party shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

**15. NON-WAIVER**

The failure of City to insist upon or enforce strict performance by Contractor of any of the terms of this Agreement or to exercise any rights hereunder should not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.

**16. NON-DISCRIMINATION**

Contractor agrees to comply with all applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations. Contractor also shall comply with the Americans with Disabilities Act of 1990, ORS 659A.142, and all regulations and administrative rules established pursuant to those laws.

**17. ERRORS**

Contractor shall perform such additional work as may be necessary to correct errors in the work required under this Agreement without undue delays and without additional cost.

**18. EXTRA (CHANGES) WORK**

Only the Finance Director, Casey Camors, may authorize extra (and/or change) work. Failure of Contractor to secure authorization for extra work shall constitute a waiver of all right to adjustment in the contract price or contract time due to such unauthorized extra work and Contractor thereafter shall be entitled to no compensation whatsoever for the performance of such work.

**19. WARRANTIES**

All work shall be guaranteed by Contractor for a period of one year after the date of final acceptance of the work by the owner. Contractor warrants that all practices and procedures, workmanship and materials shall be the best available unless otherwise specified in the profession. Neither acceptance of the work nor payment therefore shall relieve Contractor from liability under warranties contained in or implied by this Agreement.



**20. ATTORNEY'S FEES**

In case suit or action is instituted to enforce the provisions of this contract, the parties agree that the losing party shall pay such sum as the court may adjudge reasonable attorney fees and court costs, including attorney's fees and court costs on appeal.

**21. GOVERNING LAW**

The provisions of this Agreement shall be construed in accordance with the provisions of the laws of the State of Oregon. Any action or suits involving any question arising under this Agreement must be brought in the appropriate court of the State of Oregon.

**22. COMPLIANCE WITH STATE AND FEDERAL LAWS/RULES**

Contractor shall comply with all applicable federal, state and local laws, rules and regulations, including, but not limited to, the requirements concerning working hours, overtime, medical care, workers compensation insurance, health care payments, payments to employees and subcontractors and income tax withholding contained in ORS Chapters 279A and 279B, the provisions of which are hereby made a part of this agreement

**23. CONFLICT BETWEEN TERMS**

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument in the proposal of the contract, this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said proposal conflicting herewith.

**24. AUDIT**

Contractor shall maintain records to assure conformance with the terms and conditions of this Agreement, and to assure adequate performance and accurate expenditures within the contract period. Contractor agrees to permit City, the State of Oregon, the federal government, or their duly authorized representatives to audit all records pertaining to this Agreement to assure the accurate expenditure of funds.

**25. SEVERABILITY**

In the event any provision or portion of this Agreement is held to be unenforceable or invalid by any court of competent jurisdiction, the validity of the remaining terms and provisions shall not be affected to the extent that it did not materially affect the intent of the parties when they entered into the agreement.

**26. COMPLETE AGREEMENT**

This Agreement and attached exhibits constitutes the entire Agreement between the parties. No waiver, consent, modification, or change of terms of this Agreement shall bind either party unless in writing and signed by both parties. Such waiver, consent, modification, or change if made, shall be effective only in specific instances and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. Contractor, by the signature of its authorized representative, hereby acknowledges that he has read this Agreement, understands it and agrees to be bound by its terms and conditions.

IN WITNESS WHEREOF, City has caused this Agreement to be executed by its duly authorized undersigned officer and Contractor has executed this Agreement on the date hereinabove first written.

**CITY OF MILWAUKIE**

  
\_\_\_\_\_  
Signature

William Monahan, City Manager  
\_\_\_\_\_  
Printed Name & Title

11/19/14  
\_\_\_\_\_  
Date

**CONTRACTOR**

  
\_\_\_\_\_  
Signature

Rhett L. Bernstein, Attorney  
\_\_\_\_\_  
Printed Name & Title

12/23/2015  
\_\_\_\_\_  
Date



**EXHIBIT A**

**Scope of Work (Services to be Provided)**

- Manage approximately 75 cases assigned by the Municipal Court that include, but are not limited to: vehicle code, building code, development code, and municipal code violations.
- Attend court session one day per month to conduct attorney-represented trials.
- Respond to discovery requests and pretrial motions, developing and utilizing, as much as possible, a blank form.
- Maintain record of cases managed and report semi-annually to the Finance Director those cases actively managed in the past six months.
- Consult with Finance Director and Court Operations Supervisor to discuss statistical information, such as number of cases handled, outcomes, or time spent on cases. Draft a report semi-annually with content and format at direction of Finance Director.
- Answer case questions from client (usually from court staff and police department).
- Conduct De Novo trials at the state courts as needed.

**Performance Expectations Not Identified Elsewhere in this Scope of Work**

- **Attendance and dependability:** Contractor will report to court at scheduled times; will return phone calls and emails within 24 hours; will work conscientiously, accurately, and thoroughly.
- **Proper attire:** Contractor will observe Uniform Trial Court Rule 3.010 and wear court-appropriate attire during all appearances in Municipal Court and any non-appearance work task that may take place on City of Milwaukie government premises.
- **Preparation:** Contractor will interview and subpoena all necessary witnesses; conduct pretrial negotiation and site visits, where necessary; prepare exhibits; and conduct any necessary legal research and drafting. Documents needing court signature will be prepared in advance whenever possible.
- **Communication:** Contractor must create professional written correspondence and keep file copies of correspondence, either in paper or electronic format.
- **Oregon State Bar Statement of Professionalism:** Contractor is expected to abide by the Statement of Professionalism adopted by the Bar, available at this link and incorporated by reference: <http://www.osbar.org/docs/forms/Prof-ord.pdf>



**CITY OF MILWAUKIE**  
*"Dogwood City of the West"*

**Resolution No. 10-2016**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILWAUKIE, OREGON, authorizing the City Manager to sign a Personal Service Agreement with Rhett Bernstein, Attorney at Law, for City Prosecutor Services**

**WHEREAS**, the Municipal Court for the City of Milwaukie constitutes the City's judicial tribunal and hears cases arising under the Municipal Code, the Development Code, and the Oregon Vehicle Code; and

**WHEREAS**, the City of Milwaukie performed a request for proposal for City prosecutor services and

**WHEREAS**, one proposal was received and the contract was awarded to Rhett Bernstein, Attorney at Law for city prosecutor services.

**Now, Therefore, be it Resolved** that the City Council of the City of Milwaukie, Oregon, directs the City Manager to sign a personal services contract with Rhett Bernstein, Attorney at Law effective February 1, 2016.


Introduced and adopted by the City Council on 1/19/16


This resolution is effective on 1/19/16.

  
 Mark Gamba, Mayor

ATTEST:

APPROVED AS TO FORM:  
 Jordan Ramis PC

  
 Pat DuVal, City Recorder

  
 City Attorney



**SCHEDULE OF LOCATIONS**  
**Allstate Insurance Company**

Effective Date: 01-19-16  
12:01 A.M., Standard Time

Agent Name WORKMAN INSURANCE LLC

Loc. No.	Bldg. No.	Designated Locations (Address, City, State, Zip Code)	Occupancy
001	001	1785 WILLAMETTE FALLS DR, WEST LINN, OR 97068-4568	OFFICE



Policy Number:  
648563612

## BUSINESSOWNERS POLICY DECLARATIONS Allstate Insurance Company

Named Insured: RHETT BERNSTEIN

Effective Date: 01-19-2016  
12:01 A.M., Standard Time

Agent Name: WORKMAN INSURANCE LLC

Described Premises: See Schedule of Locations  
Mortgage Holder Name and Address: See Schedule Of Mortgagees

### SECTION I - PROPERTY

#### Blanket Insurance

Blanket #	Type of Property	Limit of Insurance

#### Deductibles (Apply per location, per occurrence)

Prem. No.	Property Deductible	Optional Coverage (Other Than Equipment Breakdown Protection Coverage) Deductible	Windstorm or Hail Percentage Deductible
001	\$ 250	\$ 500	

For Additional Deductible Information: See Schedule of Deductibles

#### Additional Coverages - Optional Higher Limits / Extended Number Of Days (Per Policy)

Coverage	Additional Premium	Limit of Insurance / Extended Number of Days
Forgery or Alteration		
Business Income – Extended Number of Days for Ordinary Payroll Expense		Days
Extended Business Income – Extended Number of Days		Days
Electronic Data - Increased Limit (Section I Property)		
Interruption of Computer Operations - Increased Limit		

#### Additional Coverages - Optional Higher (Per Premises)

Coverage	Prem No.	Additional Premium	Limit of Insurance

Other: See Schedule of Additional Coverages - Per Premises

	Prem No.	Optional Deductible	Optional Revised Time Deductible
Equipment Breakdown Protection Coverage			

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

DB CW 01 01 14

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Allstate Insurance Company





**SECTION II – LIABILITY AND MEDICAL EXPENSES**

Each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to **Section II - Liability** in the Businessowners Coverage Form and any attached endorsements.

Coverage	Limit of Insurance	
Liability And Medical Expenses	\$ 2,000,000	Per Occurrence
Medical Expenses	\$ 10,000	Per person
Damage To Premises Rented To You	\$ 50,000	Any One Premises
Other Than Products / Completed Operations Aggregate	\$ 4,000,000	
Products/Completed Operations Aggregate	\$ 4,000,000	

**Optional Coverages – Applicable only if an "X" is shown in the boxes below:**

Coverage		Limit of Insurance	
<input type="checkbox"/>	Broadened Coverage For Damage to Premises Rented to You		Per Occurrence
<input type="checkbox"/>	Self-storage Facilities – Customer Goods Legal Liability (Optional Increased Limits)		Per Occurrence
<input type="checkbox"/>	Motels – Liability for Guests' Property (Optional Limits)		Per Occurrence Per Guest
<input type="checkbox"/>	Motels – Liability for Guests' Property In Safe Deposit Boxes		Per Occurrence

**Deductible**

Optional Property Damage Liability Deductible:

☐

Per Claim

☐

Per Occurrence

Forms and Endorsements: See Schedule of Forms and Endorsements

Premium for this Businessowners Policy: \$350.00

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

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Property Details							
Property Coverage Limits of Insurance							
Premises Number	Building Number	Type of Property (Building Or Business And Personal Property)	Actual Cash Value of Building Option (Y/N)	Auto Incr Building Limit (%)**	Business Personal Property - Seasonal Increase (%)	Blanket # If applicable	Limit of Insurance*
		Building					
001	001	Business Personal Property	N		25		\$ 10,000

\*Includes Automatic Increase Building Limit Percentage  
 \*\*This percentage can only vary by premises, not by building.

Optional Coverages - Applicable only if an "X" is shown in the boxes below:			
Coverage		Limit of Insurance	
<input type="checkbox"/>	Outdoor Signs		Per Occurrence
<input checked="" type="checkbox"/>	Money And Securities	\$ 10,000 \$ 5,000	Inside the Premises Outside the Premises
<input type="checkbox"/>	Employee Dishonesty		Per Occurrence
<input checked="" type="checkbox"/>	Equipment Breakdown Protection Coverage	Included	
<input type="checkbox"/>	Burglary And Robbery (Named Peril Endorsement only)		
	Money And Securities (Amount included when Burglary and Robbery Option is selected)		Inside the Premises Outside the Premises
<input checked="" type="checkbox"/>	Other (specify): Please see the Schedule of Optional Coverages		

Additional Coverages / Coverage Extension - Optional Higher (Per Classification)			
Coverage	Class Code	Additional Premium	Limit of Insurance
Business Income - Dependent Properties			
Accounts Receivable			
Valuable Papers and Records			
Outdoor Property			
Business Personal Property Temporarily In Portable Storage Units			

Additional Coverage - Business Income From Dependent Properties	
Secondary Dependent Properties	<input type="checkbox"/> Yes <input type="checkbox"/> No

Theft Limitations - Optional Higher Limits (Per Policy)		
Description of Property	Additional Premium	Limit of Insurance

Earthquake/Volcanic Act Percentage Deductible:
------------------------------------------------

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

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BUSINESSOWNERS

AB CW 30 01 14

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**BUSINESS PERSONAL PROPERTY COVERAGE EXTENSION AS  
REQUIRED BY LEASE**

This endorsement modifies insurance provided under the following:

**BUSINESSOWNERS COVERAGE FORM****SECTION I – PROPERTY** is amended as follows:Under **A. Coverage**, the following provision is added to item **A.1. Covered Property**, sub item **b.**:

- (6) Property for which you have a contractual responsibility to insure as a tenant, including building fixtures, machinery, and equipment. The most we will pay in any one occurrence is \$10,000.

*All other policy terms, conditions, and exclusions apply.*

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>
THE CITY OF MILWAUKIE, ITS OFFICERS DIRECTORS & EMPLOYEES
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Liability** is amended as follows:

**A. The following is added to Paragraph C. Who Is An Insured:**

3. Any person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your ongoing operations or in connection with your premises owned by or rented to you.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.



**EXCESS PLAN NUMBER 16-723-5566**

CLAIMS MADE EXCESS PLAN. THIS EXCESS PLAN PROVIDES COVERAGE FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE COVERED PARTY DURING THE COVERAGE PERIOD OR THE EXTENDED REPORTING PERIOD, IF PURCHASED, AND REPORTED TO US IN ACCORDANCE WITH THE TERMS OF THIS EXCESS PLAN. PLEASE REVIEW THE EXCESS PLAN CAREFULLY.

THIS EXCESS CONTAINS PROVISIONS THAT REDUCE THE LIMITS OF COVERAGE STATED IN THE EXCESS PLAN BY THE COSTS OF LEGAL DEFENSE.

THIS EXCESS PLAN IS ASSESSABLE AS PROVIDED UNDER SECTION XI OF THE EXCESS PLAN AND IN THE APPLICATION.

**1. THE FIRM:**

RHETT L. BERNSTEIN, ATTORNEY AT LAW

**2. ADDRESS:**

1785 WILLAMETTE FALLS DR., STE 4  
WEST LINN, OR 97068

**3. COVERAGE PERIOD:**

JANUARY 28, 2016 TO DECEMBER 31, 2016

**4. LIMITS OF COVERAGE:**

\$700,000 EACH CLAIM  
\$700,000 AGGREGATE  
EXCESS OF PLF PRIMARY LIMITS

**5. DEDUCTIBLE:**

-- NONE --

**6. EXCESS PLAN ASSESSMENT:**

\$1,483

**7. ENDORSEMENTS:**

D - CYBER LIABILITY AND BREACH RESPONSE

**8. RETROACTIVE DATE:**

APPLICABLE 2016 PLF CLAIMS MADE PLAN RETROACTIVE DATE(S)  
OR 05/15/2005, WHICHEVER DATE IS MOST RECENT.

**9. EXCESS PLAN FORM:**

2016 CLAIMS MADE EXCESS PLAN

**10. FIRM ATTORNEYS:**

022536 RHETT L BERNSTEIN

**11. PREDECESSOR FIRMS:**

-- NONE --

**12. FORMER ATTORNEYS:**

-- NONE --

**13. OTHER CONDITIONS OR REQUIREMENTS:**

-- NONE --

**14. CURRENT NON-OREGON ATTORNEYS**

-- NONE --

**15. FORMER NON-OREGON ATTORNEYS**

-- NONE --

**16. EXCLUDED ATTORNEYS**

-- NONE --

**17. EXCLUDED FIRMS**

-- NONE --



# Professional Liability Fund

16037 SW Upper Boones Ferry Road, Suite 300  
Tigard, OR 97224

PO Box 231600 | Tigard, OR 97281-1600

phone: 503.639.6911  
Oregon toll free: 800.452.1639  
fax: 503.620.8637  
[www.osbplf.org](http://www.osbplf.org)

## 2016 Claims Made Plan Declarations

Rhett L Bernstein  
1785 Willamette Falls Dr Ste 4  
West Linn, OR 97068

CERTIFICATE NO. 022536

### **NAMED PARTY:**

Rhett L Bernstein

### **COVERAGE PERIOD:**

January 1, 2016 through December 31, 2016 unless terminated by the  
Named Party at an earlier date pursuant to PLF Policy 3.400

### **RETROACTIVE DATE:**

April 1, 2005

### **LIMITS OF COVERAGE:**

\$300,000 Aggregate / \$50,000 Claims Expense Allowance  
as provided in Section VI of the 2016 Claims Made Plan

### **DEDUCTIBLES:**

NONE

Your copy of the 2016 Claims Made Plan is published in your 2016 Oregon  
State Bar Resource Directory and on the PLF website, [www.osbplf.org](http://www.osbplf.org).  
Other formats may be available upon request.

### **WARNINGS**

This is a Claims Made Plan. This Plan contains provisions that reduce  
the Limits of Coverage stated in the Plan by the costs of legal  
defense. See Sections IV, V, and VI of the 2016 Claims Made Plan.

Various provisions in this Plan restrict coverage. Read the entire  
Plan to determine rights, duties, and what is and is not covered.





Policy Number:  
 648563612

## BUSINESSOWNERS POLICY DECLARATIONS

### Allstate Insurance Company

Named Insured: RHETT BERNSTEIN

 Effective Date: 01-19-2017  
 12:01 A.M., Standard Time

Agent Name: WORKMAN INSURANCE LLC

 Described Premises: See Schedule of Locations  
 Mortgage Holder Name and Address: See Schedule Of Mortgagees

#### SECTION I - PROPERTY

##### Blanket Insurance

Blanket #	Type of Property	Limit of Insurance

##### Deductibles (Apply per location, per occurrence)

Prem. No.	Property Deductible	Optional Coverage (Other Than Equipment Breakdown Protection Coverage) Deductible	Windstorm or Hail Percentage Deductible
001	\$ 250	\$ 500	

For Additional Deductible Information: See Schedule of Deductibles

##### Additional Coverages - Optional Higher Limits / Extended Number Of Days (Per Policy)

Coverage	Additional Premium	Limit of Insurance / Extended Number of Days
Forgery or Alteration		
Business Income – Extended Number of Days for Ordinary Payroll Expense		Days
Extended Business Income – Extended Number of Days		Days
Electronic Data - Increased Limit (Section I Property)		
Interruption of Computer Operations - Increased Limit		

##### Additional Coverages - Optional Higher (Per Premises)

Coverage	Prem No.	Additional Premium	Limit of Insurance

Other: See Schedule of Additional Coverages - Per Premises

	Prem No.	Optional Deductible	Optional Revised Time Deductible
Equipment Breakdown Protection Coverage			

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

DB CW 01 01 14

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 Allstate Insurance Company


**SECTION II – LIABILITY AND MEDICAL EXPENSES**

Each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to **Section II - Liability** in the Businessowners Coverage Form and any attached endorsements.

Coverage	Limit of Insurance	
Liability And Medical Expenses	\$ 2,000,000	Per Occurrence
Medical Expenses	\$ 10,000	Per person
Damage To Premises Rented To You	\$ 50,000	Any One Premises
Other Than Products / Completed Operations Aggregate	\$ 4,000,000	
Products/Completed Operations Aggregate	\$ 4,000,000	

**Optional Coverages – Applicable only if an "X" is shown in the boxes below:**

Coverage		Limit of Insurance	
<input type="checkbox"/>	Broadened Coverage For Damage to Premises Rented to You		Per Occurrence
<input type="checkbox"/>	Self-storage Facilities – Customer Goods Legal Liability (Optional Increased Limits)		Per Occurrence
<input type="checkbox"/>	Motels – Liability for Guests' Property (Optional Limits)		Per Occurrence Per Guest
<input type="checkbox"/>	Motels – Liability for Guests' Property In Safe Deposit Boxes		Per Occurrence

**Deductible**

Optional Property Damage Liability Deductible:

☐

Per Claim

☐

Per Occurrence

**Forms and Endorsements: See Schedule of Forms and Endorsements**

**Premium for this Businessowners Policy: \$350.00**

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

DB CW 01 01 14

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 Allstate Insurance Company



Property Details							
Property Coverage Limits of Insurance							
Premises Number	Building Number	Type of Property (Building Or Business And Personal Property)	Actual Cash Value of Building Option (Y/N)	Auto Incr Building Limit (%)**	Business Personal Property - Seasonal Increase (%)	Blanket # If applicable	Limit of Insurance*
		Building					
001	001	Business Personal Property	N		25		\$ 10,000

\*Includes Automatic Increase Building Limit Percentage  
 \*\*This percentage can only vary by premises, not by building.

Optional Coverages - Applicable only if an "X" is shown in the boxes below:			
Coverage		Limit of Insurance	
<input type="checkbox"/>	Outdoor Signs		Per Occurrence
<input checked="" type="checkbox"/>	Money And Securities	\$ 10,000 \$ 5,000	Inside the Premises Outside the Premises
<input type="checkbox"/>	Employee Dishonesty		Per Occurrence
<input checked="" type="checkbox"/>	Equipment Breakdown Protection Coverage	Included	
<input type="checkbox"/>	Burglary And Robbery (Named Peril Endorsement only)		
	Money And Securities (Amount included when Burglary and Robbery Option is selected)		Inside the Premises Outside the Premises
<input checked="" type="checkbox"/>	Other (specify): Please see the Schedule of Optional Coverages		

Additional Coverages / Coverage Extension - Optional Higher (Per Classification)			
Coverage	Class Code	Additional Premium	Limit of Insurance
Business Income - Dependent Properties			
Accounts Receivable			
Valuable Papers and Records			
Outdoor Property			
Business Personal Property Temporarily In Portable Storage Units			

Additional Coverage - Business Income From Dependent Properties	
Secondary Dependent Properties	<input type="checkbox"/> Yes <input type="checkbox"/> No

Theft Limitations - Optional Higher Limits (Per Policy)		
Description of Property	Additional Premium	Limit of Insurance

Earthquake/Volcanic Act Percentage Deductible:
------------------------------------------------

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

DB CW 02 01 14

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 Allstate Insurance Company

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>
THE CITY OF MILWAUKIE, ITS OFFICERS DIRECTORS & EMPLOYEES
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Liability** is amended as follows:

**A. The following is added to Paragraph C. Who Is An Insured:**

3. Any person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your ongoing operations or in connection with your premises owned by or rented to you.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.







**EXCESS PLAN NUMBER 17-723-5566**

CLAIMS MADE EXCESS PLAN. THIS EXCESS PLAN PROVIDES COVERAGE FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE COVERED PARTY DURING THE COVERAGE PERIOD OR THE EXTENDED REPORTING PERIOD, IF PURCHASED, AND REPORTED TO US IN ACCORDANCE WITH THE TERMS OF THIS EXCESS PLAN. PLEASE REVIEW THE EXCESS PLAN CAREFULLY.

THIS EXCESS CONTAINS PROVISIONS THAT REDUCE THE LIMITS OF COVERAGE STATED IN THE EXCESS PLAN BY THE COSTS OF LEGAL DEFENSE.

THIS EXCESS PLAN IS ASSESSABLE AS PROVIDED UNDER SECTION XII OF THE EXCESS PLAN AND IN THE APPLICATION.

**1. THE FIRM:**

RHETT L. BERNSTEIN, ATTORNEY AT LAW

**2. ADDRESS:**

1785 WILLAMETTE FALLS DR., STE 4  
WEST LINN, OR 97068

**3. COVERAGE PERIOD:**

FEBRUARY 28, 2017 TO DECEMBER 31, 2017

**4. LIMITS OF COVERAGE:**

\$700,000 EACH CLAIM  
\$700,000 AGGREGATE  
EXCESS OF PLF PRIMARY LIMITS

**5. DEDUCTIBLE:**

-- NONE --

**6. EXCESS PLAN ASSESSMENT:**

\$1,593

**7. ENDORSEMENTS:**

D - CYBER LIABILITY AND BREACH RESPONSE

**8. RETROACTIVE DATE:**

APPLICABLE 2017 PLF CLAIMS MADE PLAN RETROACTIVE DATE(S)  
OR 05/15/2005, WHICHEVER DATE IS MOST RECENT.

**9. EXCESS PLAN FORM:**

2017 CLAIMS MADE EXCESS PLAN

**10. FIRM ATTORNEYS:**

022536 RHETT L BERNSTEIN

**11. PREDECESSOR FIRMS:**

-- NONE --

**12. FORMER ATTORNEYS:**

-- NONE --

**13. OTHER CONDITIONS OR REQUIREMENTS:**

-- NONE --

**14. CURRENT NON-OREGON ATTORNEYS**

-- NONE --

**15. FORMER NON-OREGON ATTORNEYS**

-- NONE --

**16. EXCLUDED ATTORNEYS**

-- NONE --

**17. EXCLUDED FIRMS**

-- NONE --



# Professional Liability Fund

16037 SW Upper Boones Ferry Road, Suite 300  
Tigard, OR 97224

PO Box 231600 | Tigard, OR 97281-1600

phone: 503.639.6911  
Oregon toll free: 800.452.1639  
fax: 503.620.8637  
[www.osbplf.org](http://www.osbplf.org)

## 2017 Claims Made Plan Declarations

Rhett L Bernstein  
1785 Willamette Falls Dr Ste 4  
West Linn, OR 97068

CERTIFICATE NO. 022536

### NAMED PARTY:

Rhett L Bernstein

### COVERAGE PERIOD:

January 1, 2017 through December 31, 2017 unless terminated by the  
Named Party at an earlier date pursuant to PLF Policy 3.400

### RETROACTIVE DATE:

April 1, 2005

### LIMITS OF COVERAGE:

\$300,000 Aggregate / \$50,000 Claims Expense Allowance  
as provided in Section VI of the 2017 Claims Made Plan

### DEDUCTIBLES:

NONE

Your copy of the 2017 Claims Made Plan is published in your 2017 Oregon  
State Bar Resource Directory and on the PLF website, [www.osbplf.org](http://www.osbplf.org).  
Other formats may be available upon request.

### WARNINGS

This is a Claims Made Plan. This Plan contains provisions that reduce  
the Limits of Coverage stated in the Plan by the costs of legal  
defense. See Sections IV, V, and VI of the 2017 Claims Made Plan.

Various provisions in this Plan restrict coverage. Read the entire  
Plan to determine rights, duties, and what is and is not covered.



**SCHEDULE OF LOCATIONS**  
**Allstate Insurance Company**

Effective Date: 01-19-18  
12:01 A.M., Standard Time

Agent Name WORKMAN INSURANCE LLC



Policy Number:  
 648563612

## BUSINESSOWNERS POLICY DECLARATIONS

### Allstate Insurance Company

Named Insured: RHETT BERNSTEIN

 Effective Date: 01-19-2018  
 12:01 A.M., Standard Time

Agent Name: WORKMAN INSURANCE LLC

 Described Premises: See Schedule of Locations  
 Mortgage Holder Name and Address: See Schedule Of Mortgagees

#### SECTION I - PROPERTY

##### Blanket Insurance

Blanket #	Type of Property	Limit of Insurance

##### Deductibles (Apply per location, per occurrence)

Prem. No.	Property Deductible	Optional Coverage (Other Than Equipment Breakdown Protection Coverage) Deductible	Windstorm or Hail Percentage Deductible
001	\$ 250	\$ 500	%

For Additional Deductible Information: See Schedule of Deductibles

##### Additional Coverages - Optional Higher Limits / Extended Number Of Days (Per Policy)

Coverage	Additional Premium	Limit of Insurance / Extended Number of Days
Forgery or Alteration		
Business Income – Extended Number of Days for Ordinary Payroll Expense		Days
Extended Business Income – Extended Number of Days		Days
Electronic Data - Increased Limit (Section I Property)		
Interruption of Computer Operations - Increased Limit		

##### Additional Coverages - Optional Higher (Per Premises)

Coverage	Prem No.	Additional Premium	Limit of Insurance

Other: See Schedule of Additional Coverages - Per Premises

	Prem No.	Optional Deductible	Optional Revised Time Deductible
Equipment Breakdown Protection Coverage			

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

DB CW 01 01 16

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 Allstate Insurance Company




**SECTION II – LIABILITY AND MEDICAL EXPENSES**

Each paid claim for the following coverages reduces the amount of insurance we provide during the applicable annual period. Please refer to **Section II - Liability** in the Businessowners Coverage Form and any attached endorsements.

Coverage	Limit of Insurance	
Liability And Medical Expenses	\$ 2,000,000	Per Occurrence
Medical Expenses	\$ 10,000	Per person
Damage To Premises Rented To You	\$ 50,000	Any One Premises
Other Than Products / Completed Operations Aggregate	\$ 4,000,000	
Products/Completed Operations Aggregate	\$ 4,000,000	

**Optional Coverages – Applicable only if an "X" is shown in the boxes below:**

Coverage		Limit of Insurance	
<input type="checkbox"/>	Broadened Coverage For Damage to Premises Rented to You		Per Occurrence
<input type="checkbox"/>	Self-storage Facilities – Customer Goods Legal Liability (Optional Increased Limits)		Per Occurrence
<input type="checkbox"/>	Motels – Liability for Guests' Property (Optional Limits)		Per Occurrence Per Guest
<input type="checkbox"/>	Motels – Liability for Guests' Property In Safe Deposit Boxes		Per Occurrence

**Deductible**
**Optional Property Damage Liability Deductible:**
☐

Per Claim

☐

Per Occurrence

**Forms and Endorsements: See Schedule of Forms and Endorsements**
**Premium for this Businessowners Policy: \$350.00**

THESE DECLARATIONS ARE PART OF THE POLICY DECLARATIONS CONTAINING THE NAME OF THE INSURED AND THE POLICY PERIOD.

**DB CW 01 01 16**

 Copyright, Insurance Services Office, Inc., 2009  
 Allstate Insurance Company


Property Details							
Property Coverage Limits of Insurance							
Premises Number	Building Number	Type of Property (Building Or Business And Personal Property)	Actual Cash Value of Building Option (Y/N)	Auto Increase Limit (%)**	Business Personal Property - Seasonal Increase (%)	Blanket # If applicable	Limit of Insurance*
		Building					
001	001	Business Personal Property	N	2	25		\$ 10,000

\*Includes Automatic Increase Building and/or Business Personal Property Limit Percentage  
 \*\*This percentage can only vary by premises, not by building.

Optional Coverages - Applicable only if an "X" is shown in the boxes below:			
Coverage		Limit of Insurance	
<input type="checkbox"/>	Outdoor Signs		Per Occurrence
<input checked="" type="checkbox"/>	Money And Securities	\$ 10,000 \$ 5,000	Inside the Premises Outside the Premises
<input type="checkbox"/>	Employee Dishonesty		Per Occurrence
<input checked="" type="checkbox"/>	Equipment Breakdown Protection Coverage	Included	
<input type="checkbox"/>	Burglary And Robbery (Named Peril Endorsement only)		
	Money And Securities (Amount included when Burglary and Robbery Option is selected)		Inside the Premises Outside the Premises
<input checked="" type="checkbox"/>	Other (specify): Please see the Schedule of Optional Coverages		

Additional Coverages / Coverage Extension - Optional Higher (Per Classification)			
Coverage	Class Code	Additional Premium	Limit of Insurance
Business Income - Dependent Properties			
Accounts Receivable			
Valuable Papers and Records			
Outdoor Property			
Business Personal Property Temporarily In Portable Storage Units			

Additional Coverage - Business Income From Dependent Properties	
Secondary Dependent Properties	<input type="checkbox"/> Yes <input type="checkbox"/> No

Theft Limitations - Optional Higher Limits (Per Policy)		
Description of Property	Additional Premium	Limit of Insurance

Earthquake/Volcanic Act Percentage Deductible:
------------------------------------------------



**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

BUSINESSOWNERS COVERAGE FORM

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>
THE CITY OF MILWAUKIE, ITS OFFICERS DIRECTORS & EMPLOYEES
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**Section II – Liability** is amended as follows:

**A. The following is added to Paragraph C. Who Is An Insured:**

3. Any person(s) or organization(s) shown in the Schedule is also an additional insured, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf in the performance of your ongoing operations or in connection with your premises owned by or rented to you.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B. With respect to the insurance afforded to these additional insureds, the following is added to Paragraph D. Liability And Medical Expenses Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits Of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits Of Insurance shown in the Declarations.





**EXCESS PLAN NUMBER 18-723-5566**

CLAIMS MADE EXCESS PLAN. THIS EXCESS PLAN PROVIDES COVERAGE FOR ONLY THOSE CLAIMS THAT ARE FIRST MADE AGAINST THE COVERED PARTY DURING THE COVERAGE PERIOD OR THE EXTENDED REPORTING PERIOD, IF PURCHASED, AND REPORTED TO US IN ACCORDANCE WITH THE TERMS OF THIS EXCESS PLAN. PLEASE REVIEW THE EXCESS PLAN CAREFULLY.

THIS EXCESS CONTAINS PROVISIONS THAT REDUCE THE LIMITS OF COVERAGE STATED IN THE EXCESS PLAN BY THE COSTS OF LEGAL DEFENSE.

THIS EXCESS PLAN IS ASSESSABLE AS PROVIDED UNDER SECTION XII OF THE EXCESS PLAN AND IN THE APPLICATION.

**1. THE FIRM:**

RHETT L. BERNSTEIN, ATTORNEY AT LAW

**2. ADDRESS:**

1785 WILLAMETTE FALLS DR., STE 4  
WEST LINN, OR 97068

**3. COVERAGE PERIOD:**

JANUARY 26, 2018 TO DECEMBER 31, 2018

**4. LIMITS OF COVERAGE:**

\$700,000 EACH CLAIM  
\$700,000 AGGREGATE  
EXCESS OF PLF PRIMARY LIMITS

**5. DEDUCTIBLE:**

-- NONE --

**6. EXCESS PLAN ASSESSMENT:**

\$1,781

**7. ENDORSEMENTS:**

D - CYBER LIABILITY AND BREACH RESPONSE

**8. RETROACTIVE DATE:**

APPLICABLE 2018 PLF CLAIMS MADE PLAN RETROACTIVE DATE(S)  
OR 05/15/2005, WHICHEVER DATE IS MOST RECENT.

**9. EXCESS PLAN FORM:**

2018 CLAIMS MADE EXCESS PLAN

**10. FIRM ATTORNEYS:**

022536 Rhett L Bernstein

**11. PREDECESSOR FIRMS:**

-- NONE --

**12. FORMER ATTORNEYS:**

-- NONE --

**13. OTHER CONDITIONS OR REQUIREMENTS:**

-- NONE --

**14. CURRENT NON-OREGON ATTORNEYS**

-- NONE --

**15. FORMER NON-OREGON ATTORNEYS**

-- NONE --

**16. EXCLUDED ATTORNEYS**

-- NONE --

**17. EXCLUDED FIRMS**

-- NONE --



**Policy Number**  
**648563612**

**COMMON POLICY DECLARATIONS**  
**Allstate Insurance Company**  
2775 Sanders Road, Northbrook, IL 60062  
**A STOCK INSURANCE COMPANY**

<b>Item 1.</b>	<b>Named Insured and Mailing Address</b>	<b>Agent Name and Address</b>
	RHETT BERNSTEIN 2445 MICHAEL DR WEST LINN OR 97068	WORKMAN INSURANCE LLC 1751 WILLAMETTE FALLS DR WEST LINN OR 97068
<b>Item 2.</b>	<b>Policy Period</b>	<b>From: 01-19-2018 To: 01-19-2019</b>
	<b>at 12:01 A.M., Standard Time at your mailing address shown above.</b>	
<b>Item 3.</b>	<b>Business Description:</b>	
	<b>Form of Business:</b> INDIVIDUAL	
<b>Item 4.</b>	In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.	
	This policy consists of the following coverage parts for which a premium is indicated. Where no premium is shown, there is no coverage. This premium may be subject to adjustment.	
	<b>Coverage Part(s)</b>	<b>Premium</b>
	Commercial Property Coverage Part	
	Commercial General Liability Coverage Part	
	Crime and Fidelity Coverage Part	
	Commercial Inland Marine Coverage Part	
	Commercial Auto (Business or Truckers) Coverage Part	
	Commercial Garage Coverage Part	
	BUSINESSOWNERS POLICY	\$ 350.00
	Terrorism Risk Insurance Act Coverage	
	<b>Total Policy Premium</b>	<b>\$ 350.00</b>
<b>Item 5.</b>	<b>Forms and Endorsements</b>	
	Form(s) and Endorsement(s) made a part of this policy at time of issue:	
	<b>See Schedule of Forms and Endorsements</b>	

**SEE THE IMPORTANT PAYMENT INFORMATION FORM FOR DETAILS ABOUT PAYMENT OPTIONS**

Countersigned:

Date: 11-23-17

By: WORKMAN INSURANCE LLC  
Authorized Representative

THIS COMMON POLICY DECLARATION AND THE SUPPLEMENTAL DECLARATION(S), TOGETHER WITH THE COMMON POLICY CONDITIONS, COVERAGE PART(S), COVERAGE FORM(S) AND FORMS AND ENDORSEMENTS, IF ANY, COMPLETE THE ABOVE NUMBERED POLICY.

DM CW 02 01 10

Allstate Insurance Company

Insured Full Copy

## Important Payment Information – Please Read Carefully.

### Total Premium for the Policy Period

If you pay in installments*	\$350.00
If you pay in full (includes FullPay® Discount)**	\$350.00

#### Choose one of the following types of payment plans that best meets your needs:

\* **Pay in installments.** You will be sent a bill each month. The minimum amount due on each billing statement will include a \$3.50 installment fee. The installment fee may vary by payment method – see below. You can choose to pay more toward your premium, but the monthly installment fee will still apply.

\*\* **Pay your premium in full and receive the FullPay® Discount.** The amount to pay in full is shown above and will appear on your initial invoice for renewals only. To qualify for this discount on a new business policy, the policy must be paid in full at the time the policy was bound/issued. To qualify for this discount on a renewal policy, the policy must be paid in full by the effective date of the policy. This discount is not applicable to Umbrella or Excess policies. Other restrictions may apply.

## Ways to pay

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- **Pay using the Allstate® Easy Pay Plan.** You can have the payment automatically deducted from your checking account using the Allstate® Easy Pay Plan. There is a \$1.00 installment fee for each Allstate® Easy Pay Plan payment. (You may be eligible for an Allstate® Easy Pay Plan discount – contact your Allstate representative.)
- **Pay using Recurring Credit Card (RCC).** You can have your payment automatically taken from your credit card each month with recurring credit card payments. There is a \$3.50 installment fee for each Recurring Credit Card payment.
- **Call or Visit your Allstate Agent or Send by Mail.** You may pay your bill by mail or contact your Allstate representative to pay using a one-time electronic check, check, credit or branded debit card.
- **On-Line Banking.** Be sure to enter [account number] as the account number and P.O. BOX 4344, Carol Stream, IL 60197-4344 as the payment address.

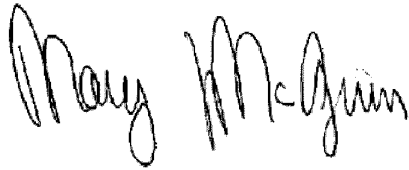
**Note: If you are on Allstate® Easy Pay Plan or Recurring Credit Card your automatic deductions will be scheduled based on the payment plan currently applied to your policy. You must contact your agent to change your payment plan.**

POLICY NUMBER: 648563612

MULTILINE  
AM CW 02 11 09

**WITNESS CLAUSE**

IN WITNESS WHEREOF, Allstate has caused this policy to be signed by its Secretary  
and its President at Northbrook, Illinois



Mary Jovita McGinn

Secretary



Thomas J. Wilson

President

Countersigned by : WORKMAN INSURANCE LLC, Authorized Representative