

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (“MOU”) is entered into by and between the City of Walla Walla (“Employer”) and AFSCME Local 1191-W (“Union”) as of the date set forth below unless otherwise indicated.

WHEREAS, in accordance with Article 11 Physical Examination, of the AFSCME Local 1191-W 2018-2020 collective bargaining agreement, a Labor/Management Committee reviewed and updated language regarding drug and alcohol testing to ensure compliance with applicable state and federal rules and regulations, and to separate protocols for CDL and non-CDL drivers; and

WHEREAS, in accordance with Article 19 Sick Leave, section 19.12 of the AFSCME Local 1191-W 2018-2020 collective bargaining agreement, the parties have negotiated the impacts of Initiative 1433 and updated language to comply with State law; and

WHEREAS, the City has created new classifications and pay grades for the Sanitation Lead and Landfill Lead, modified the title of the GIS Specialist to GIS Utility Specialist, and created a new pay grade for the Library Shelver position to ensure compliance with Washington State minimum wage laws; it is therefore

AGREED BY AND BETWEEN THE PARTIES HERETO, in consideration of the mutual promises contained herein and other good and valuable consideration, that:

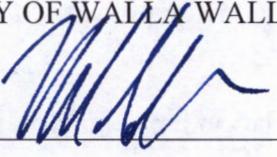
1. The parties agree to modify and replace the current Article 11 with the attached Article 11 – Physical Examination, Appendix B – “City Non-DOT Drug Testing Policy”, and Appendix C – “City of Walla Walla Drug and Alcohol Policy, For use with DOT regulated employees.”
2. The parties agree to modify and replace the current Article 19 with the attached Article 19 Sick Leave.
3. The parties agree to modify and replace the current Appendix A with the attached Appendix A – Salary Schedules: City Proposed Changes 3/9/2018 including (1) new positions Sanitation Lead and Landfill Lead, (2) change in title from GIS Specialist to GIS Utilities Specialist, and (3) new salary schedule/steps for Library Shelver, which will be implemented effective January 1, 2018. Employees currently in Library Shelver positions will transition through the new salary schedule as outlined in the attached tentative agreement dated March 9, 2018 and will maintain their current dates for Annual Step Increases.
4. This MOU does not establish a past practice and may not be used by either party as precedent in any future dispute.
5. This MOU is effective when signed by both parties.

6. This MOU shall be attached to and incorporated into the current collective bargaining agreement, and any dispute or difference as to the meaning, interpretation, or application of this MOU shall be resolved through the grievance procedure set forth in the current collective bargaining agreement.
7. Except as set forth above, the remaining terms and conditions of the collective bargaining agreement remain in full force and effect.

IN WITNESS WHEREOF, the parties indicate their agreement to the above terms and conditions of this Memorandum of Understanding by their signatures set forth below dated this 23 day of March, 2018.

CITY OF WALLA WALLA

AFSCME 1191-W UNION

By: 

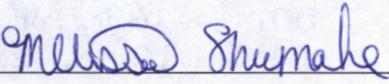
By: Kevin Dougherty

Name: Nabiel Shawa

Name: Kevin Dougherty

Date: 3/26/2018

Date: 3-23-18

By: 

Name: Melissa Shumake

Date: 3/23/2018

MOU – Effective Date: March 26, 2018

ARTICLE 11 - PHYSICAL EXAMINATION

11.01 Following a conditional offer of employment, an applicant may be required to take a physical exam to determine fitness to perform the essential functions of the position, and annually thereafter as a condition of continued employment. Annual physical examinations shall be taken on City time, unless the employee establishes conditions under which they cannot be examined during the year, during the normal hours a physician is available. All employees shall be required to make a reasonable effort to keep themselves in good health in keeping with the requirements of their particular position and/or classification. Documentation from the examining physician as to an employee's fitness for duty shall be made available to the City upon completion of such examination.

11.02 **SUBSTANCE ABUSE:** The City considers its employees to be its most valuable asset and believes that professionalism in the delivery of public services can only be maintained within a drug-and alcohol-free work environment. Further, the City and the Union believe that employees have a right to work in an environment free of drugs and alcohol and those employees have the obligation not to place themselves in a situation where job performance is impaired by substance abuse.

This Article has been developed in compliance with the Federal Drug-Free Workplace Act of 1988, regulations of the U.S. Department of Transportation ("DOT"), the Federal Transit Administration ("FTA"), and other relevant authorities. It also incorporated the City's Drug Free Work Place Policy adopted in 1989.

11.03 **Drug Free Work Place:** The City and the Union recognize that the maintenance of a drug-free workplace is essential to the safety and welfare of employees. This Article establishes programs and practices that promote and support a drug-free working environment and brings the parties into compliance with the Drug-Free Workplace Act of 1988.

Statement: The intent is to educate employees as to the dangers of drug abuse in the workplace, the commitment to a drug-free workplace, the penalties that may be imposed upon employees for drug violations in the workplace, and the commitment of support for employees undergoing treatment and rehabilitation of chemical dependencies.

11.04 Operational policies and procedures are outlined in Appendix B for the City of Walla Walla Non-Federal Drug & Alcohol Policy and Appendix C for the City of Walla Walla Drug and Alcohol Policy for use with DOT regulated employees.

11.05 Employee Sanctions: It is the responsibility of every employee to be aware of the above provisions and to abide by them. Failure to observe these provisions will result in immediate discipline of the employee, up to and including termination. The employee may be required to participate satisfactorily in an alcohol or drug abuse assistance or rehabilitative program.

11.06 Employee Assistance Program: The parties are committed to supporting employees undergoing treatment and rehabilitation for alcohol or other chemical dependency. The employer will provide information to employees on available drug counseling and rehabilitation programs.

11.07 Drug Abuse Education Program: The employer will utilize all available resources to educate employees as to the dangers of drug abuse.

11.08 Confidentiality: The confidentiality of all complaints and reported violations of the provisions of this directive will be strictly maintained, except as required by public disclosure laws or court order.

Appendix B

City Non-DOT Drug Testing Policy

1. **Controlled Substances:**
 - A. The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance or alcohol in the workplace is prohibited. Reporting to work under the influence of a controlled substance or alcohol is prohibited.
 - B. As a condition of employment, all employees must notify their Department Director of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such a conviction.
2. **Prescription or Over-the-Counter Drug Use:** The use of prescription and over-the-counter drugs which compromise the safety in the workplace or the quality of the employee's work product is prohibited. It is the employee's responsibility to check with their physician as to whether or not a prescription drug will impair performance. Under this Article employees are specifically required to notify their immediate supervisors when they are taking medications with warning labels. The City will make a form available to employees to assist them in reporting such authorized drug use. This form will be maintained in a separate confidential medical file in the Human Resources Department.
3. **Drug Use Away from the Workplace:** The use of a controlled substance off the work site by an employee may be grounds for disciplinary action if it results in an adverse impact on the employer.
4. **Employee Sanctions:** It is the responsibility of every employee to be aware of the above provisions and to abide by them. Failure to observe these provisions will result in immediate discipline of the employee, up to and including termination. The employee may be required to participate satisfactorily in an alcohol or drug abuse assistance or rehabilitative program.
5. **Employee Assistance Program:** The parties are committed to supporting employees undergoing treatment and rehabilitation for alcohol or other chemical dependency. The employer will provide information to employees on available drug counseling and rehabilitation programs.

6. **Drug Abuse Education Program:** The employer will utilize all available resources to educate employees as to the dangers of drug abuse.
7. **Confidentiality:** The confidentiality of all complaints and reported violations of the provisions of this directive will be strictly maintained, except as required by public disclosure laws or court order.

11.11 Drug and Alcohol Testing:

Purpose: This Article sets forth the alcohol and drug testing program which is intended to apply the same testing and reporting requirements, to all employees. The purpose of this Policy is to support the drug free work place.

Application: This Article applies to all employees. Contractors performing functions for the City of Walla Walla involving the use of a vehicle requiring a Commercial Driver's License, will be subject to specific alcohol and drug testing as required by Federal regulations.

Statement: The parties have a significant interest in the health and safety of employees. In furtherance of that interest, the employer will take those steps necessary to ensure that employees perform their duties and responsibilities and are free from the influence of drugs and alcohol. Employees who are having problems with alcohol or drug use are encouraged to seek voluntary, confidential counseling and treatment through the Employee Assistance Program. There will be mandatory drug and alcohol testing for employees and job applicants under the circumstances outlined in this Article. All drug and alcohol testing (pre-employment and reasonable suspicion) shall be conducted following the current testing standards and thresholds established by the U.S. Federal Department of Transportation.

Training and Education: Employee education and supervisor training are essential parts of this program. All existing and new employees will receive information on the impact of drug and alcohol use and will receive information on resources for assistance.

Supervisors will receive this same training as well as additional training in the recognition and detection of signs and symptoms of alcohol and drug misuse. Supervisors will not be permitted to make reasonable suspicion test referrals unless they have completed training. In addition, the City will make this same training available to Union Representatives in an effort to keep them up to date and educated in this area.

Definitions:

"Accident" - Accident means an occurrence involving the employee which results in (1) a fatality; (2) bodily injury of a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; (3) overall property/vehicle damage estimated at \$2,000 or more; (4) the employee cannot be completely discounted as a contributing factor to the accident;

(5) one or more motor vehicles incurring disabling damage requiring the vehicle to be transported away from the scene by a tow truck or other vehicle; or (6) a citation for a moving traffic violation arising from the accident.

“Alcohol” means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

“Alcohol concentration (or content), BAC” means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under 49 CFR Part 382.

“Alcohol use” means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

“Controlled substances” mean those substances identified in 49 CFR Part 40.85, as amended: marijuana, cocaine, opiates, amphetamines, and phencyclidine.

“Drug” has the meaning of any controlled substances, prescription, or over-the-counter medication.

“Refuse to submit (to an alcohol or controlled substances test)” means that a covered employee may not refuse to submit to a post accident, reasonable suspicion, or follow-up alcohol and drug test as directed by this Article and/or the Federal DOT regulations. In addition, employees required to have and maintain a CDL may not refuse to submit to random testing as directed by this Article and/or the Federal DOT regulations.

Prohibited Conduct:

The following conduct regarding alcohol and drug use or abuse is prohibited:

Alcohol Concentration: An employee may not report for or remain on duty, for the performance of duties covered under this Article while having an alcohol concentration of 0.04 or greater.

Alcohol Possession and On Duty Use of Alcohol: An employee may not possess or use alcohol while on duty or while operating a commercial vehicle.

Pre-Duty Use of Alcohol: An employee may not report for duty or operate a commercial vehicle within four hours after using alcohol. An on-call employee who consumes alcohol within four (4) hours of being called in must acknowledge the use of alcohol and may not report for duty.

Alcohol Use Following an Accident: An employee required to take a post-accident alcohol test may not use alcohol for eight (8) hours following the accident, or until a post-accident alcohol test is given, whichever comes first.

Use of Drugs: An employee may not report for duty, remain on duty, or drive a commercial vehicle when the employee has used a drug or drugs, except when the use is pursuant to instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely perform their duties or operate a commercial vehicle. Employees who are taking a prescription or over-the-counter medication that may impair their ability to perform their duties safely and effectively should provide written notice from their physician with respect to the effect of such substances. The City will make a form available to employees to assist them in reporting such authorized drug use. This form will be maintained in a separate confidential medical file in the Human Resources Department. Marijuana testing will be Delta 9 testing standards to indicate active impairment.

Refusal to Submit to a Required Test: An employee may not refuse to submit to a post-accident, reasonable suspicion, or follow-up alcohol and drug test as directed by this Article. In addition, employees required to have and maintain a CDL may not refuse to submit to random testing as directed by this Article.

Positive Drug Test: An employee may not report for duty, remain on duty, or perform a safety-sensitive function, if the employee tests positive for drugs or alcohol.

Tampering with a Required Test: An employee may not tamper with, adulterate, alter, substitute or otherwise obstruct any testing process required under this Article.

Possession, Transfer or Sale: No employee may possess, transfer or sell drugs or alcohol while on duty.

Other Related Alcohol Conduct

A driver tested under the requirements of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed immediately from performing safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the test administration.

Testing

Pre-Employment Drug Testing: Employees in safety sensitive positions will be tested for controlled substances unless the applicant participated in a DOT testing program within the past 30 days and:

- 1) Has passed a DOT controlled substance test within the past six (6) months; or
- 2) Was subject to DOT random controlled substance testing program for the previous 12 months; and
- 3) Has not violated any prohibitions of 49 CFR Part 382 within the past six (6) months.

Employee Testing and Reasonable Suspicion Testing: No employee shall be tested for drug abuse or alcohol misuse unless there is reasonable suspicion that the employee to be tested is under the influence of illegal drugs or alcohol. Reasonable suspicion is based on specific, contemporaneous, articulable facts, that discovery testing will produce evidence of illegal drug or improper alcohol use by that particular employee. Reasonable suspicion exists when a trained supervisor observes unusual employee behavior, appearance, body odor, and/or speech that causes the supervisor to question the employee's fitness for duty. Random or mass testing is prohibited. Employees shall submit to a drug and/or alcohol test when the City reasonably suspects that this policy may have been or is presently being violated. A referral for testing will be based on current, clearly described observations. Such referrals will be made by supervisory personnel who have received training concerning the signs and symptoms of drug and alcohol use, confirmed by a second trained supervisor. Prior to beginning a discussion with the employee about the observed behavior, the supervisor will inform the employee of their right to have applicable representation present during the meeting. Employee's requests for representation will be honored to the extent that honoring the request does not unreasonably delay testing. When reasonable suspicion exists, the affected employee will be observed. A decision to request a specimen will be based upon eye witness reports, facts of the event and observed physical and behavioral characteristics of the affected employee. The Supervisor must document in writing who is to be tested and why the testing was ordered.

Verification: A reasonable suspicion request will be documented in writing with a copy provided to the affected employee.

- B. **Relief of Duty:** The employee will be placed on leave until the results of the drug and/or alcohol test are complete and verified. If the test results are negative, the employee will be compensated during the waiting period for all work time lost. If the test results are positive employees will be allowed to use vacation, floating holiday, or compensatory time, at their discretion or sick leave if entitled or applicable during the period of absence to eliminate any loss of income. Personal leave is not authorized for this purpose. If an employee chooses to use paid leave during the period of absence they must notify the employer which type of paid leave will be used during the period of absence. The Employer shall have five (5) working days after positive test results, to notify the employee of disciplinary actions in accordance with Article 31.
- C. **Transportation Assistance:** The employee will be accompanied to the collection site by a supervisor, manager or director. The employee will be provided transportation home. If the employee refuses and demands to drive their vehicle, the employer shall notify law enforcement.

If removed from duty based on reasonable suspicion of alcohol use and an alcohol test is not administered within eight (8) hours, the employee will not be allowed to return to duty until:

- 1) an alcohol test is administered and the employee's breath alcohol concentration measures less than 0.02; or
- 2) 24 hours have elapsed following the determination that there is reasonable suspicion to believe that the employee has violated this Article concerning the use of alcohol.

Post-Accident Testing: Following an accident, as defined under definitions in this Article, the employee is required to submit to alcohol and drug tests. Testing should occur as soon as possible, but may not exceed eight (8) hours after the accident for alcohol testing and 32 hours after the accident for drug testing.

An employee who is subject to post-accident testing must remain readily available for such testing and may not take any action to interfere with testing or the results of testing. Employees who do not comply with post-accident testing requirements will be considered to have refused to submit to testing and will be subject to sanctions for refusal to test as provided in this Article.

Nothing in this policy should be construed to require the delay of necessary medical attention for the injured.

Confidentiality and Record Retention: All records related to drug and alcohol testing will be maintained in a secure location with controlled access. Record retention time frames shall be as follows; 1) records for negative tests shall be removed and destroyed after one (1) year and; 2) records of positive tests shall be removed and destroyed after five (5) years. These records will be kept separate from all other records.

Consequences of Engaging in Prohibited Conduct or Positive Drug or Alcohol Tests:

Discipline and Rehabilitation: An employee will be subject to appropriate disciplinary action up to and including termination from employment if:

- 1) the employee tests positive for a drug or drugs;
- 2) results from an alcohol test indicate a blood alcohol level of 0.04 or greater; and/or,
- 3) the employee has engaged in prohibited conduct as outlined in this article.

All employees, regardless of disciplinary action taken, will be advised of resources available to the employee in evaluating or resolving problems associated with drug use or alcohol misuse.

The City shall make reasonable efforts to afford employees the right to union representation whenever an employee is directed to submit to an alcohol or drug test which is for cause, post accident, or reasonable suspicion.

Positive Test Results and/or Engaging in Prohibited Conduct: If an employee tests positive for drugs or has an alcohol test that indicates blood alcohol level of .04 or greater from a reasonable suspicion, post-accident, or other authorized test, or engages in prohibited conduct as outlined in this Article, the employee will be immediately removed from all duties

The City will have the following options:

- A. Discharge the employee; or
- B. Provide the employee an opportunity to enter into a Last Chance Agreement. Included in the Last Chance Agreement, the employee will be evaluated by a qualified Substance Abuse Professional (SAP) to determine the extent of his/her chemical dependency. If, in the opinion of the SAP the employee requires rehabilitation services, the employee will be placed on a leave of absence for a period not to exceed ninety (90) days and enroll and complete a certified alcohol and/or drug rehabilitation program.
 - 1) An extension of the ninety (90) day period may be granted by the City.
 - 2) The employee must submit a written extension request prior to the end of the initial (90) day period.
 - 3) The request should include the reason for the extension and the amount of time needed based on the SAP recommendations.
 - 4) An employee must use all available accumulated leave during the ninety (90) day period.
 - 5) The employee will not be eligible for participation in the Shared Leave Program.
 - 6) If the employee successfully enrolls and completes the program within ninety (90) days, (or approved period) the employee will be reinstated to the employee's former position.
 - 7) Cost of the rehabilitation program will be paid by the employee or medical insurance provider (within contractual limitation). The employee will submit semi-weekly written progress reports from his/her counselor during the entire treatment

program. The employee will be reinstated to his/her former position when all of the following conditions have been met:

- a) The employee has successfully completed the treatment program;
- b) The attending counselor has formally released the employee to return to work;
- c) The employee agrees to submit to a return-to-work alcohol, drugs, and/or controlled substance test;
- d) The employee must have a verified negative result on a return-to-duty alcohol (<0.02) and/or drug test.

Upon completion of a recommended rehabilitation program and successful return to work, an employee will be subject to follow-up random testing for the presence of alcohol, drugs, and/or controlled substances at any time, with or without cause for up to sixty (60) months as recommended by the Substance Abuse Professional and the City, with a minimum of six (6) such unscheduled tests within the first twelve (12) months of returning to duty. Any subsequent violation of this Last Chance Agreement will be grounds for immediate discharge.

Alcohol Concentration of 0.02 but less than 0.04: Employees having a breath alcohol concentration of at least 0.02 but less than 0.04, shall be removed from duty requiring the driving of a commercial vehicle for at least 24 hours.

Employee Assistance Program/Voluntary Referral: The parties support employees who volunteer for treatment of alcohol or drug abuse. Employees are encouraged to seek treatment voluntarily and to utilize the Employee Assistance Program. Any employee who comes forth and notifies the City of alcohol or drug abuse problems will be given the assistance extended to an employee with any other illness.

Any such program, however, may not interfere with the tests required by these rules. For example, a driver may not identify themselves as unfit to drive after having been notified of a random or reasonable suspicion test and expect to avoid the consequences for a positive test or a refusal to test. In addition, voluntarily seeking assistance does not excuse any failure to comply with all of the provisions of this Article.

Sick leave, vacation leave, or leave of absence without pay may be granted for treatment and rehabilitation as in other illness. Insurance coverage for treatment will be provided to the extent of individual coverage. Confidentiality of information will be maintained as much as possible at all times.

An employee, who successfully completes a treatment or rehabilitation program, shall be returned to their regular duty assignment. Sixty (60) months after the initial positive test, if the employee has had no further positive testing or other alcohol or substance abuse related incidents, the employee's personnel file shall be purged of any reference to their drug and/or alcohol problem.

APPENDIX C

CITY OF WALLA WALLA Drug and Alcohol Policy For use with DOT regulated employees

Federal regulations require that employers conduct alcohol and controlled substances testing of drivers who operate commercial motor vehicles, mechanics, and supervisors with a commercial driver's license who fill in. For the purpose of this policy, the employee will be referred to as "driver" and the employer will be referred to as "Employer." This policy provides guidelines for circumstances under which the Federal Motor Carrier Safety Administration (FMCSA) and the United States Department of Transportation (DOT) mandated testing must be conducted. Of course, all the details of every possible situation cannot be anticipated, so the Employer reserves the right to determine the appropriate application of this policy and general employment policies to any particular case.

Employees covered by this policy have been provided a copy of these FMCSA/DOT provisions and by signature verify that they have read and understand the policy. **Drivers should note that in addition to the required DOT regulations, they are also subject to the Employer's drug and alcohol policy and all other policies and procedures applicable to all employees.**

The Employer expects all drivers to work drug- and alcohol-free at all times. If you have any questions about this policy, contact **Amy Strang, Human Resources Specialist, 509-524-4339 or the Human Resources Department at 509-527-4475.**

The following conditions and activities are expressly prohibited:

The manufacture, sale, use or possession of alcohol, any controlled or illegal substance (except strictly in accordance with medical authorization) or any other substances which impair job performance or pose a hazard, when use or possession occurs on Employer premises or property, or during work time, or while representing the Employer in any work-related fashion.

Reporting for work having consumed alcohol or used illegal drugs or controlled substances at a time, or in such quantities, or in a manner that may impair work performance. For purposes of this policy, having any detectable level of an illegal or controlled drug, or alcohol with an alcohol concentration of .02 or greater, in one's system while covered by this policy will be considered to be a violation.

Alcohol and drug problems

In some cases, alcohol and drug abuse can be a result of chemical dependency that can be successfully treated with professional help. Drivers who are having problems with alcohol or drug use are encouraged to seek voluntary counseling and treatment. It is the *driver's* responsibility to seek help when needed, and to do so *before* substance abuse causes problems on the job, results in a positive drug or alcohol test or results in disciplinary action.

Drivers who admit to alcohol misuse or controlled substances use are not subject to the referral, evaluation, and treatment requirements of 49 CFR Part 382 and 40, provided that:

- 1) The admission is in accordance with the Employer's written established voluntary self-identification policy;
- 2) The driver does not self-identify in order to avoid testing;
- 3) The driver makes the admission of alcohol misuse or controlled substances use before performing a safety-sensitive function;

- 4) The driver does not perform a safety-sensitive function until the Employer is satisfied that the driver has successfully completed education or treatment requirements in accordance with the self-identification program guidelines.

Normally, the Employer will:

- 1) Not take adverse action against a driver making a voluntary admission of alcohol misuse or controlled substances use provided that the admission occurs before the employee has been subject to disciplinary action or the use/misuse has affected job performance;
- 2) Allow the driver sufficient opportunity to seek an evaluation, education or treatment to establish control over the employee's drug or alcohol problem;

Permit the employee to return to safety sensitive duties **only** upon successful completion of an educational or treatment program, as determined by a substance abuse professional.

The following Substance Abuse Professional can provide help and referrals:

Employee Assistance Program (EAP) 1-800-570-9315

Barbara Strote - 509-579-0585
8390 W. Gage Blvd, Suite 209
Kennewick, WA 99336

Kim Funderburk – 509-240-2644
401 West Main Street
Walla Walla, WA 99362

Definitions

"Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols including methyl and isopropyl alcohol.

"Alcohol concentration (or content), BAC" means the alcohol in a volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test under 49 CFR Part 382.

"Alcohol use" means the drinking or swallowing of any beverage, liquid mixture or preparation (including any medication), containing alcohol.

"Commercial motor-vehicle" (or "CMV") means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

- Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
- Has a gross vehicle weight rating of 26,001 or more pounds; or
- Is designed to transport 16 or more passengers, including the driver; or
- Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, subpart F).

"Controlled substances" mean those substances identified in 49 CFR Part 40.85, as amended: marijuana, cocaine, opiates, amphetamines, and phencyclidine.

"DOT Agency" means an agency (or "operating administration") of the United States Department of Transportation administering regulations requiring alcohol and/or drug testing (14 CFR parts 61, 63, 65, 121, and 135; 49 CFR parts 199, 219, 382, and 655), in accordance with 49 CFR Part 40.

"Driver" means any person who operates a commercial motor vehicle. This includes, but is not limited to: full-time, regularly-employed drivers; casual, intermittent or occasional drivers; leased drivers and independent,

owner-operator contractors who are either directly employed by or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer.

"Drug" has the meaning of any controlled substances, prescription, or over-the-counter medication.

"EBT (or evidential breath testing device)" means an EBT approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurement Devices" (CPL), and identified on the CPL as conforming with the model specifications available from the National Highway Traffic Safety Administration, Office of Alcohol and State Programs.

"Employer" means an entity employing one or more employees (including an individual who is self-employed) that is subject to DOT agency regulations requiring compliance with 49 CFR Part 382. The term refers to the entity responsible for overall implementation of DOT drug and alcohol program requirements, as well as those individuals employed by the entity who take personnel actions resulting from violations of 49 CFR Part 382 and any applicable DOT agency regulations. Service agents are not employers.

"Licensed medical practitioner" means a person who is licensed, certified, and/or registered, in accordance with applicable Federal, State, local, or foreign laws and regulations, to prescribe controlled substances and other drugs.

"Medical Review Officer (MRO)" means a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

"Performing (a safety-sensitive function)" means a driver is considered to be performing a safety-sensitive function during any period in which he or she is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

"Refuse to submit (to an alcohol or controlled substances test)" means that a covered employee:

- Fails to show up for any test (except a pre-employment test) within a reasonable time after being directed to do so by the Employer. This includes the failure of an employee to appear for a test when called by a Consortium/Third Party Administrator);
- Fails to remain at the testing site until the testing process is complete; provided, that an applicant who leaves the testing site before the testing process commences for a pre-employment test is not deemed to have refused a test. The testing process commences once the applicant has been provided the specimen collection cup;
- Fails to provide a urine specimen for any drug test or breath or saliva sample for an alcohol test required by 49 CFR Part 382, if the employee leaves after the testing process has commenced;
- In the case of a directly observed or monitored collection in a drug test, fails to permit the observation or monitoring of the provision of a specimen;
- Fails to provide a sufficient amount of urine, breath or saliva when directed, unless it has been determined, through a required medical evaluation, that there was an adequate medical explanation for the failure to provide;
- Fails or declines to take a second test the employer or collector has directed following a negative dilute result as required by 40.197(b);
- Fails to undergo an additional medical examination, as directed by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER) concerning the evaluation as part of the "shy bladder" procedures in 49 CFR Part 40, subpart I; or fails to undergo a medical examination or evaluation as directed by the employer as part of the insufficient breath procedures outlined in 40.265(c);
- Fails to cooperate (e.g. refuses to empty pockets when directed by the collector, behaves in a confrontational way that disrupts the collection process, fails to wash hands after being directed to do so by the collector) or otherwise interferes with any part of the testing process;

- Fails to sign the certification at Step 2 of the alcohol testing form (ATF);
- Is reported by the MRO as having a verified adulterated or substituted test result;
- For an observed collection, fails to follow the observer's instructions to raise clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process;
- Possesses or wears a prosthetic or other device that could be used to interfere with the collection process;
- Admits to the collector or MRO to having adulterated or substituted the specimen.

"Safety-sensitive function" means all time from the time a driver begins to work or is required to be in readiness to work until the time he/she is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

- 1) All time at an employer or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the employer;
- 2) All time inspecting equipment as required by FMCSA regulations or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;
- 3) All time spent at the driving controls of a commercial motor vehicle in operation;
- 4) All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth (a berth conforming to the requirements of 49 CFR 393.76);
- 5) All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and
- 6) All time spent repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Prohibited conduct

The following is considered prohibited conduct under this policy:

- 1) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater.
- 2) No driver shall use alcohol while performing safety-sensitive functions.
- 3) No driver shall perform safety-sensitive functions within four hours after using alcohol.
- 4) No driver required to take a post-accident alcohol test under 49 CFR 382.303 shall use alcohol for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test, whichever occurs first.
- 5) No driver shall refuse to submit to a post-accident, random, reasonable suspicion, or follow-up controlled substance and/or alcohol test required by 49 CFR Part 382.
- 6) No driver shall report for duty, remain on duty or perform a safety-sensitive function when there is a quantifiable level of a controlled substance in the driver's body above the minimum thresholds established in 49 CFR Part 40. Although the personal use of marijuana is permitted under Washington law, federal law still prohibits the use and possession of marijuana. Employees must be aware that having a detectable level of marijuana in their body, regardless of whether their use was for recreational or medical purposes, constitutes prohibited conduct.
- 7) No driver shall report for duty or remain on duty requiring the performance of safety-sensitive functions when the driver uses any drug except when the use is pursuant to the instructions of a licensed medical practitioner, as defined in §382.107, who is familiar with the driver's medical history and has advised the driver that the substance will not adversely affect the driver's ability to safely operate a commercial motor vehicle. Notwithstanding the above, the medical use of marijuana that causes drug or drug metabolites to be present in the body above minimum thresholds established in 49 CFR Part 40 constitutes prohibited conduct regardless of whether the marijuana was used under the guidance of a medical practitioner and regardless of whether the medical practitioner advised that such use will not adversely affect the driver's ability to safely operate a commercial motor vehicle.
- 8) The Employer shall not permit a driver to continue to perform safety sensitive functions if the Employer has actual knowledge of a driver violating any of the aforementioned prohibitions. Actual knowledge may be based on the Employer's direct observation of the employee, information provided by the driver's previous employer(s), a traffic citation for driving a CMV while under the influence of alcohol or controlled substances, or an employee's admission of alcohol or controlled substances use, except as discussed in the Employer's voluntary self-identification program.

Prescription and other medications

No driver may possess any prescription medication or report to work while using any prescription medication, except when he/she is under a doctor's care and the doctor has advised the driver that the substance does not affect his/her ability to safely operate a commercial motor vehicle. The use of any medication, whether prescription or over-the-counter, that could affect a driver's safe job performance is prohibited while working. The driver shall report to **Amy Strang, HR Specialist, 509-524-4339, or the Human Resources Department, 509-527-4475**, the use of any prescribed medication and, without identifying the medication, shall provide a certificate from the driver's doctor that the use of the medication will not impair the ability to safely perform his/her duties. If, as a result of testing under this policy, the driver is found to have the presence of controlled substances in the body which is a result of the use of his/her legally prescribed medication that has not been reported, the driver shall be removed from service without pay until it is determined that the use of medication will not impair his/her ability to safely perform assigned duties. Notwithstanding the above, a driver may not possess or report to work while using marijuana under any circumstances, even if the marijuana was prescribed by a doctor.

Other related alcohol conduct

A driver tested under the requirements of this policy who is found to have an alcohol concentration of 0.02 or greater but less than 0.04 shall be removed immediately from performing safety-sensitive functions until the start of the driver's next regularly scheduled duty period, but not less than 24 hours following the test administration.

Controlled substances and alcohol testing

Submission to the controlled substance and alcohol testing described in this policy is a condition of employment with the Employer for those drivers covered by DOT and FMCSA regulations. A refusal to submit (as described above) will constitute a violation of this policy and be grounds for termination of employment. A driver may be tested for controlled substances at any time during his/her work day, except pre-employment, and alcohol testing will be conducted just before, during or after performing safety sensitive functions.

Drivers will be subject to testing as follows:

Pre-employment: Drivers will be tested for controlled substances unless:

- 1) The driver participated in a DOT testing program within the past 30 days and:
- 2) While participating in that program, either:
 - a. Was tested for controlled substances within the past 6 months (from the date of application with the Employer), or
 - b. Participated in the random controlled substances testing program for the previous 12 months (from the date of application with the Employer); and
- 3) No prior employer of the driver of whom the employer has knowledge has records of a violation of DOT controlled substances regulations within the previous 6 months.

A driver/applicant who tests positive on a pre-employment test will not be hired but may be eligible to reapply for employment with the Employer after **one (1) year** from the date of the positive test. In addition, an applicant who tested positive on any DOT mandated pre-employment drug test after August 1, 2001, must provide documentation of his/her successful completion of DOT return-to-duty requirements (i.e., an evaluation by a substance abuse professional, education and/or treatment, and a negative DOT pre-employment test, all of which meet the requirements of 49 CFR Part 40).

In the event a driver does reapply following a positive test, the driver/applicant will be responsible to pay for the pre-treatment evaluation, education and/or treatment, and the subsequent pre-employment test.

Post-accident: As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, each surviving driver shall be tested for controlled substances and alcohol if:

- 1) the driver was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life (fatality); or

- 2) the driver received a citation for a moving violation and the accident involved bodily injury to any person who, as a result of the accident, immediately receives medical treatment away from the scene of the accident; or
- 3) the driver received a citation for a moving violation and the accident involved one or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

A driver may not consume alcohol for eight (8) hours following an accident that requires the DOT alcohol test. The alcohol test must be completed within two (2) hours of the accident; if not, the supervisor must document the reasons for the delay, and shall continue to have the test conducted up to eight (8) hours following the accident. After eight (8) hours the attempt to test will be ceased, and the supervisor must again provide the reasons for the test not being administered.

A controlled substances test shall be administered as soon as practicable up to 32 hours following the accident. After 32 hours the attempt to test will be ceased, and the supervisor must provide the reasons for the test not being administered promptly. A driver must remain readily available for testing or may be deemed by the Employer to have refused to submit to testing.

Nothing in this policy should be construed to require the delay of necessary medical attention for the injured.

In addition, any driver involved in any commercial motor vehicle accident involving an injury requiring immediate medical attention or any vehicle towed away because of disabling damage, will be required to submit to testing, even if the driver is not issued a citation. Testing will be to determine the presence, use, or any involvement with alcohol or drugs unless the Employer determines, in its discretion, that the accident could not have been caused by alcohol or drug use.

The driver will submit to an alcohol test within eight (8) hours and a controlled substances test within 32 hours of the accident. The Employer/driver must advise the collection site and alcohol testing personnel that the test being required is an Employer-required test, and not a mandated DOT test.

Random: The Employer is using a consortium/third party administrator to facilitate the random selection of drivers and notification to the employer of the driver(s) selected for testing. The consortium/third party administrator is:

A WorkSAFE Service, Inc.
1696 Capitol St NE
Salem OR 97301
(503) 391-9363

Drivers will be subject to random alcohol and controlled substance testing under the following program:

- 1) Random selection of drivers will be made by a scientifically valid method using a computer-based random number generator that is matched with drivers' social security numbers.
- 2) Each driver shall have an equal chance of being drawn each time selections are made.
- 3) Selections for testing are unannounced and reasonably spread throughout the calendar year.
- 4) Random selections are made to ensure testing for controlled substances is conducted at not less than the minimum annual 25% rate and alcohol is conducted at not less than the minimum annual 10% rate, or the rates as established by the FMCSA.
- 5) A driver shall only be tested for alcohol just before, during, or after performing safety-sensitive functions; however, he/she may be tested for controlled substances any time while performing work for the Employer.
- 6) Once a driver is notified of selection for random alcohol and/or controlled substances testing, he/she shall proceed to the test site immediately.

Reasonable suspicion: Drivers will be tested for alcohol and/or controlled substances whenever the employer has reasonable suspicion that the individual is under the influence of alcohol or a controlled substance. Reasonable suspicion will be based on specific, contemporaneous, articulable observations concerning the

behavior, speech, appearance or body odors of the driver, including any indicators of the chronic and withdrawal effects of controlled substances. Drivers required to be tested under reasonable suspicion testing will be removed from performing safety-sensitive functions pending the outcome of the test result(s) and be transported to the testing facility by the Employer.

Reasonable suspicion drug testing is authorized when the supervisor's observation of the driver's behavior occurs any time during the workday. Reasonable suspicion alcohol testing is authorized only if the supervisor's observation of the driver's behavior has been made during, just preceding, or just after performing any safety-sensitive function.

The alcohol test must be completed within two (2) hours of the observation; if not, the Employer must document the reasons for the delay, and shall continue to have the test conducted up to eight (8) hours following the observation. After eight (8) hours, the attempt to test will cease. If an alcohol test is not completed within the two (2) or eight (8) hour time periods, the employer shall prepare and maintain on file a record stating the reasons the test was not administered within the appropriate time frames.

The Employer shall not permit a driver to report for duty, remain on duty, perform, or continue to perform any safety-sensitive functions while the driver is impaired by alcohol, as shown by the behavioral, speech, or performance indicators of alcohol misuse, until:

- 1) An alcohol test is administered and the driver's alcohol concentration measures less than 0.02 percent; or
- 2) The start of the driver's next regularly-scheduled duty period, but not less than twenty four (24) hours following the supervisor's determination that reasonable suspicion exists.

Supervisors and any Employer representative that may be expected to serve in a supervisory capacity, and who may be required to make a reasonable suspicion determination, must have received at least 60 minutes of training on the indications of probable drug use and an additional 60 minutes training on the indicators of probable alcohol misuse. Only those individuals who have received this training are qualified to make these decisions.

Return-to-duty: No driver found to be in violation of the Employer drug and alcohol policy will be permitted to return to duty involving safety-sensitive functions until the driver undergone an assessment with a Substance Abuse Professional as required by 49 CFR Part 40 and has a verified negative controlled substances test and/or an alcohol test with a result less than 0.02 alcohol concentration. All controlled substances return-to-duty tests will be conducted by same-gender direct observation. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

Follow-up: Any driver in need of assistance in resolving problems associated with alcohol misuse and/or controlled substances use as identified through the evaluation by the Substance Abuse Professional will, if still employed, be required to enter into a Last Chance Agreement as a condition of continued employment and to submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional. The Employer may perform follow-up testing for five years. All controlled substances return-to-duty tests will be conducted by same-gender direct observation. Refusing to permit an observed collection will constitute a refusal to test with the same consequences as testing positive.

Failure to cooperate

Employees who are subject to this policy are expected to comply fully with any required testing. Failure to do so (including, for example, refusing to sign consent or refusing to test, obstructing the testing process, failing to make themselves available for a required test, failing to provide an adequate sample for testing, attempting to adulterate or substitute a specimen, or in any way tampering with a required test, failure to empty pockets or wash hands as requested by collection site personnel, refusing to permit an observed collection, possessing or wearing a prosthetic or other device that could be used to interfere with the collection process) will cause the driver to be immediately relieved from performing safety-sensitive functions, and will also be considered a violation of Employer policy that will subject the employee to discipline, up to and including termination of employment. The Employer also reserves the right to involve law enforcement officials for any conduct that it believes might be in violation of state or federal law.

Testing procedures

Urine specimen collection: Specimen collections will be conducted in accordance with the procedures of 49 CFR Part 40, as amended. The collection procedures are designed to ensure the security and integrity of the specimen provided by each covered employee, and those procedures will strictly follow federal chain-of-custody guidelines. Moreover, every reasonable effort will be made to preserve the individual's privacy as much as possible consistent with ensuring an accurate result. Covered employees will be required to empty their pockets before providing the drug test specimen.

Under normal circumstances, the applicant or covered employee will be afforded complete privacy in the restroom for providing the urine sample. Certain situations do require the urine sample be provided under same-gender direct observation. Those situations include:

- The temperature on the original specimen was out of range; or
- The original specimen appeared to have been tampered with (i.e. unusual color, odor, foam, etc.); or
- The collector observes materials brought to the collection site or the individual's conduct clearly indicates an attempt to tamper with a specimen; or
- The laboratory reported to the MRO that a specimen is invalid, and the MRO reported to the Employer there was not an adequate medical explanation for the result; or The MRO reported to the Employer that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed; or
- The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5mg/dL, and the MRO reported the specimen to the Employer as negative-dilute and a second collection must take place under direct observation; or
- All return-to-duty or follow-up drug tests.

When that occurs, the individual subjected to testing will be required to follow the observer's instructions to raise their clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if there is any type of prosthetic or other device that could be used to interfere with the collection process.

Refusing to permit an observed collection, or possessing or wearing a prosthetic or other device that could be used to interfere with the collection process, are considered a refusal to test and will constitute a verified positive drug test result.

Laboratory analysis: As required by 49 CFR Part 40, only a laboratory certified by the Department of Health and Human Services (DHHS) will be retained by the Employer to perform the analysis of the urine specimen for controlled substances. The initial screening test will be performed by immunoassay and will test for substances and at cutoff levels required by 49 CFR Part 40, as amended. All specimens identified as positive on the initial screening test will be confirmed using gas chromatography/mass spectrometry techniques at cutoff levels required by 49 CFR Part 40, as amended.

Breath alcohol: Testing will be conducted by a qualified technician according to 49 CFR Part 40 procedures using a DOT-approved device. If an initial test indicates an alcohol concentration of less than 0.02, no further testing will be conducted. If the initial test result is 0.02 or greater, a confirmation test will be conducted by a Breath Alcohol Technician using an Evidential Breath Testing (EBT) device. Testing will be conducted in a manner that protects the confidentiality of the employee's testing information as well as the integrity of the testing process.

Medical review

All controlled substances test results will be reviewed by a Medical Review Officer (MRO) before results are reported to the Employer. The MRO will attempt to contact the driver to discuss the test results before reporting positive results to the Employer.

The Employer Medical Review Officer is:
Dee J. McGonigle, M.D.
4545 Sand Point Way NE, #608
Seattle, Washington 98105
(206) 528-1930

Notification of results

The Employer will notify the affected driver of any controlled substances test that is reported as positive by the MRO. The Employer will notify driver-applicants of the results of pre-employment controlled substances testing if the applicant requests that information in writing within 60 days after the Employer notifies the applicant that he/she has or has not been hired.

Analysis of split sample

A urine sample will be split at the time of collection. Within 72 hours of the MRO notifying the driver of a verified positive controlled substances test, or an adulterated or substituted specimen, the driver may request the split sample to be tested. Only the MRO may authorize such testing, which may take place only at laboratories certified by the Department of Health and Human Services (DHHS). If the split sample test fails to reconfirm the presence of the drug or drug metabolite, the MRO shall cancel the test or take such steps as are directed by DOT regulations.

All applicants/drivers have a right to request testing of the split sample. The applicant/driver will be responsible for the cost of testing the split sample.

Confidentiality

Records required under this policy, including test results, will be maintained in a secure location with controlled access. Each driver shall, upon written request, be entitled to receive copies of his/her own records, and to have copies of his/her records made available to any subsequent employer. Information may also be disclosed to the relevant state or federal agencies, or in connection with judicial, administrative or related proceedings (e.g., grievances and arbitration) initiated by or on behalf of the driver, or where otherwise required by law.

Evaluation and referral

DOT regulations require that any driver who violates the alcohol and controlled substances rules of 49 CFR Part 382 be advised of available evaluation resources and be evaluated by a Substance Abuse Professional. The driver must complete an appropriate education and/or treatment program before being eligible to return to safety sensitive duty.

Before returning to performing safety-sensitive functions for **any** DOT employer, a driver must be tested for controlled substances with a verified negative controlled substances test result and/or alcohol with a test result less than 0.02 alcohol concentration. The driver will be subject to follow-up testing of at least six tests in the first 12 months of returning to duty, and follow-up testing may continue for five years.

Information on effects and signs of alcohol and controlled substance use

DOT regulations require employers to furnish information regarding the effects of alcohol and controlled substance use, as well as the signs and symptoms of such use. Included in an appendix to this policy are fact sheets regarding alcohol and various controlled substances. Any employee who suspects a co-worker has an alcohol or drug problem may refer the co-worker to contact information for the Substance Abuse Professional identified in this policy, the City's Employee Assistance Program, or to management.

Personnel responsible for supervising and managing employees subject to testing under this policy must attend at least two hours of training on alcohol and drug misuse symptoms and indicator used in making determinations for reasonable suspicion testing.

Consequences

Under normal circumstances, employees violating this policy or federal regulations will be suspended from performing any safety-sensitive functions with a commercial motor vehicle and will be subject to disciplinary

action up to and including termination of employment. Under some circumstances, however, the Employer may agree to return an employee to performing these functions following treatment and rehabilitation. When that occurs, the employee must pay the cost of any treatment. The Employer medical plan, if available to the employee, may cover a portion of the costs associated with the pre-treatment evaluation and treatment. Uncovered costs of treatment are the employee's responsibility to pay.

When, at the Employer's discretion, an employee is returned to work, the driver will be required to enter into a Last Chance Agreement and to submit to unannounced follow-up testing for controlled substances and/or alcohol as directed by the Substance Abuse Professional in order to continue to perform safety-sensitive functions and operate a commercial motor vehicle requiring a CDL.

The Employer reserves the right to take disciplinary action up to and including termination for violation of the Employer drug and alcohol policy where and when deemed appropriate.

Certificate of receipt

I hereby certify that on the date shown below, I received and read a copy of the City of Walla Walla Drug and Alcohol Policy for Use With FMCSA/DOT-Regulated Employees, consisting of eleven (11) pages including these Certificates of Receipt, and a copy of drug and alcohol awareness training materials. I understand and agree to comply with this policy, including any required alcohol or controlled substance testing.

EMPLOYEE - PRINT NAME

EMPLOYEE - SIGNATURE

DATED: _____

(Original to be kept in employee personnel file. Employee to receive duplicate copy.)

MOU – Effective Date: March 26, 2018

ARTICLE 19 - SICK LEAVE

19.01 Sick leave shall be accumulated to a maximum of nine hundred and sixty (960) hours as of December 31st of each year. Sick leave shall be earned at a rate of ninety-six (96) hours per year, or eight (8) hours per month, and indicated on the employee's records on a monthly basis. Part-time employees will accrue on a prorated basis. In no event will employees accrue less than one hour for every forty hours worked.

19.02 An employee may use their sick leave as accumulated. Sick leave is not available for use until earned and posted to the employees accrued sick leave following the end of the current pay period.

Sick leave is provided to the employee as a protection against loss of income in the event of absence from work for medical reasons, including extended absence on account of illness or injury, and as otherwise provided by law. Employees are encouraged to accumulate sick leave to carry them through unforeseen and lengthy illness.

19.03 Personal illness or physical incapacity resulting from causes beyond the employee's control as well as quarantine of employees in accordance with State or community health regulations are approved grounds for sick leave. Sick leave or other appropriate paid time off may be granted in accordance with City policy as follows:

- i) The employee's own illness, injury, or health condition; to accommodate the need for medical diagnosis, care, or treatment of a health condition; or preventive medical care.
- ii) The employee's care for a family member with illness, injury, or health condition; care for family member who needs medical diagnosis, care, or treatment; care for family member who needs preventive medical care. Family members include an employee's child (whether biological, adoptive, foster, step-child, or child for whom employee stands in loco parentis, is a legal guardian for, or is a de facto parent, and regardless of age or dependency status); parent (whether biological, adoptive, in-law, de facto, step-parent, legal guardian, or person who stood in loco parentis to employee when employee was a child); spouse or registered domestic partner; grandparent; grandchild; or sibling.
- iii) An absence due to closure of the City's offices by order of public official for any health-related reason, or where the employee's child's school or day care is closed for such a reason.
- iv) Absences covered by the Domestic Violence/Sexual Assault/Stalking leave policy.

19.04 Continuance of sick leave pay during absence from duty is contingent upon the employee or someone on his/her behalf notifying his immediate supervisor of reason for

absence within one (1) hour of the start of his regular work shift on his first day off duty. If the immediate supervisor, or his/her designee, is not available, the employee shall leave a message. The employee shall be excused from making the notification if extenuating circumstances prevent the opportunity to notify, in which event notification shall be made as soon as possible. Failure to report shall result in non-payment of sick leave.

19.05 When an employee files an Industrial Insurance claim, the employee may receive sick leave pay. (See Article 30 - Adjustments for Workers' Compensation.)

19.06 Sick leave time which is used by an employee shall be deducted from their accumulated sick leave time.

19.07 Sick leave shall be earned by regular, part-time employees based on the ratio of scheduled work hours in a week to 40 hours.

19.08 The City may, at its discretion, request a certification of health care provider statement providing the medical evidence of disability or illness when an employee has been absent for more than three (3) consecutive work days. Verification of sick leave taken under the domestic violence law will be in accordance with City policy.

19.09 This does not apply to sick leave that is subject to the Family and Medical Leave Act.

19.10 Upon resignation after completing ten (10) years of continuous service, death or retirement an employee shall be paid for 25% of their accumulated sick leave.

19.11 Employees shall have the option of electing not to participate in the following sick leave conversion programs by notifying payroll in writing:

Employees who have accumulated 480 hours of sick leave will automatically be enrolled by payroll to participate in a leave conversion program that provides for an automatic conversion of additionally earned sick leave to vacation leave at the rate of 1.33 hours per month;

Employees who have accumulated 720 hours of sick leave will automatically be enrolled by payroll to participate in a leave conversion program that provides for an automatic conversion of additionally earned sick leave to vacation leave at the rate of 2.67 hours per month;

Employees who have accumulated 960 hours of sick leave will automatically be enrolled by payroll to participate in a leave conversion program that provides for an automatic conversion of additionally earned sick leave to vacation leave at the rate of 4.00 hours per month.

As of December 31st of each year Employees who have accumulated nine hundred sixty (960) hours of sick leave shall annually receive a cash-out of twenty-five percent (25%) of any sick leave in excess of that amount whether or not they elect to convert a portion to vacation leave.

19.12 The minimum amount of time to be charged to sick leave shall be fifteen (15) minutes.

