

**RESOLUTION NO. R24-110**

**A RESOLUTION BY THE TROTWOOD CITY COUNCIL AUTHORIZING THE CITY MANAGER TO EXECUTE A COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF TROTWOOD, OHIO, AND THE TEAMSTERS LOCAL UNION; NO. 957 (PUBLIC WORKS) FOR THE PERIOD OF JANUARY 1, 2025 THROUGH DECEMBER 31, 2027.**

**WHEREAS**, the current Collective Bargaining Agreement between the City and the Teamsters Local Union; No. 957 expires December 31, 2024; and

**WHEREAS**, the City Manager and the Teamsters Local Union No. 957 have engaged in negotiations and an agreement has been reached for a new three-year Collective Bargaining Agreement for the period of January 1, 2025 through December 31, 2027; and

**WHEREAS**, the City Manager and Human Resources Manager recommend City Council authorize the City Manager to sign, on behalf of the City, the new Collective Bargaining Agreement with the Teamsters Local Union; No. 957.

**NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROTWOOD, STATE OF OHIO:**

**SECTION I:** The Trotwood City Council hereby approves the terms as negotiated and the recommendation that these terms be accepted. Accordingly, City Council hereby authorizes the City Manager to sign, on behalf of the City, the Collective Bargaining Agreement attached hereto and incorporated herein by reference as Exhibit "A".

**SECTION II:** This Resolution shall take effect and be in full force from and after the date of its passage.

Passed this 2nd day of December, 2024.

TROTWOOD, OHIO 45426

3035 OLIVE ROAD

CITY OF TROTWOOD

ATTEST:

  
KARA B. LANDIS  
CLERK OF COUNCIL

APPROVED:

  
YVETTE F. PAGE  
MAYOR

  
TYNA R. BROWN  
VICE-MAYOR

**CERTIFICATE OF RECORDING OFFICER**

I, the undersigned, hereby certify that the foregoing is a true and correct copy of Resolution No. R24-110 adopted by the Trotwood City Council at a regular scheduled meeting held on the 2nd day of December, 2024, and that I am duly authorized to execute this certificate.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
CLERK OF COUNCIL

**CITY OF TROTWOOD**  
  
**and**  
  
**TEAMSTERS LOCAL UNION; NO. 957**  
  
**COLLECTIVE BARGAINING AGREEMENT**  
**(Public Works)**

January 1, 2025-December 31, 2027

SERB CASE NO. 2016-MED-08-0834

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**TIDS AGREEMENT WAS MADE AND ENTERED INTO** by and between the City of Trotwood, Ohio, hereinafter referred to as the "City" and the General Truck Drivers, Chauffeurs & Helpers Local Union No. 957, hereinafter referred to as the "Union."

**ARTICLE 1**  
**PURPOSE/COOPERATION**

**Section 1.1.** The purpose of this agreement is to establish the wages, hours, fringe benefits, terms and conditions of employment, and agreed-to-working conditions for all employees represented by the Union and to provide for the peaceful adjustment of differences which may arise.

**ARTICLE 2**  
**RECOGNITION**

**Section 2.1.** As the result of the procedure established for recognizing employee organizations, and the certification issued by the State Employment Relations Board in Case No. 02-REP-10-0209, the City recognizes the Union as the certified employee organization and the exclusive negotiating spokesman of full-time employees in the Trotwood Public Works Department in the following classifications:

**Included:** All regular full-time and regular part-time employees classified as Maintenance Worker, Maintenance Technician and Mechanic I in the Trotwood Public Works Department.

**Excluded:** All supervisors including Maintenance Leader, Maintenance Supervisor and Mechanic II in the Trotwood Public Works Department and all employees in the Trotwood Parks and Recreation Department and all others excluded by R.C. 4117.

**Section 2.2.** Should the City create a new position or reclassify a position presently in the bargaining unit, the City shall meet with the Union to discuss the inclusion of the new position in the bargaining unit. Should the City and the Union disagree as to whether or not the new position belongs in the bargaining unit, the City and the Union will jointly submit the question to the State Employment Relations Board (SERB). Should the City and the Union agree to the inclusion of the position in the bargaining unit, the City and the Union will file a Joint Petition for Amendment of Certification with the State Employment Relations Board (SERB). Should the parties fail to agree on the appropriate wage rate, the matter shall be subject to arbitration.

**Section 2.3.** No employee covered by the provisions of this agreement shall be required, as a condition of employment, to acquire and/or maintain membership in the Union.

**Section 2.4.** The Union recognizes the city council of the City as the elected representatives of the citizens of the City of Trotwood, and the Public Works Director as the administrative and operational head of the Public Works Department; and the City Manager as the appointed chief executive officer and chief negotiating spokesman of the City of Trotwood, Ohio, consistent with the laws of the State of Ohio.

**Section 2.5.** The City and the Union recognize the requirement to provide uninterrupted services to the citizens of the City of Trotwood, Ohio and said services must be provided in the most efficient manner and at the least possible burden to the citizens of the City of Trotwood, Ohio.

**Section 2.6.** All employees who are not members of the Union shall pay to the Union, through payroll deduction, a fair share fee as provided for and determined by the provisions of Section 4117.09(C) of the Ohio Revised Code. The fair share fee is automatic and does not require any employee to become or remain a member of the Union, nor shall the fair share fee exceed the dues paid by members of the Union. The Union will certify to the City the amount of the fair share fee. The fair share fee shall not be used to finance political and/or ideological activity. The fair share fee is strictly to finance the proportionate share of the cost of collective bargaining, contract administration and pursuing matters directly affecting wages, hours and other terms and conditions of employment of the employees. The City shall implement the fair share deductions subject to the provisions of this section. The Union represents to the City that it has in place a rebate and challenge procedure which complies with Section 4117.09(C) of the Ohio Revised Code, federal law, and any judicial decisions interpreting such laws. The Union agrees to abide by all rules and decisions of the State Employment Relations Board or the courts in regard to the fair share fee deductions.

**Section 2.7.** Employees who are members of and adhere to established and traditional tenets and teachings of a bona fide religion or religious body which has historically held conscientious objections to joining or financially supporting an employee organization, as set forth in Section 4117.09(C), Ohio Revised Code, shall have such alternative contribution rights as are provided by law under such conditions and in accordance with such procedures as are required by law.

**Section 2.8.** The Union shall indemnify and save the City harmless against any and all claims that shall arise out of or by reason of action taken by the City pursuant to the fair share fee provision of this Agreement.

### **ARTICLE 3 GENDER AND PLURAL**

**Section 3.1.** Whenever the context so requires, the use of the words herein in the singular shall be construed to include the plural, and words in the plural, the singular, and words whether in the masculine, feminine, or neuter genders shall be construed to include all genders. By the use of either the masculine or feminine genders, it is understood that said use is for convenience purposes only and is not to be interpreted to be discriminatory by reason of sex.

### **ARTICLE 4 NONDISCRIMINATION**

**Section 4.1.** There shall be no discrimination by the City or the Union against any employee on the basis of such employee's membership or non-membership in the Union.

**ARTICLE 5**  
**MANAGEMENT TERMS AND RESPONSIBILITIES**

**Section 5.1.** The City retains all rights except those that this agreement specifically and expressly provides to the contrary. The management and direction of the affairs of the city are retained by the City. This includes, but is not limited to: The selection, transfer, assignment, promotion and layoff of personnel, the termination of probationary personnel; the termination for just cause of other personnel; the making, amending and enforcement of reasonable work rules and regulations, including the right to establish the work week of employees; the securing of the revenues of the city, and exercise of all functions of government granted to the city by the State Constitution, the City Charter and the statutes of the State of Ohio, the determination from time to time as to what services the city shall perform; the establishment or continuation of policies, practices or procedures for the conduct of its affairs and, from time to time, the changing or abolition of such practices or procedures; the determination of the number of hours per day or week any operation may be carried on; the selection and determination of the number and types of personnel required; the establishment of training programs and upgrading requirements for employees; the establishment of and the changing of work schedules and shift assignments; the contracting for the performance of such work as the City determines advisable and the taking of such other measures as the City may determine to be necessary for the orderly and efficient operation of the city and the determination of the size and composition of the work force including the use of part-time personnel.

The City retains the right at its discretion to subcontract work to third parties; however subcontracting that results in layoffs must be for valid operational needs, economic benefit, and overall efficiency. In the event that the Employer contemplates the subcontracting of work from the Public Works Department to an outside third party that would result in the layoff of any employee covered by this Agreement, the Employer shall provide at least 30 days prior written notice to the Union and meet with the Union upon request to examine alternatives to the proposed subcontracting and the effects upon the affected employee(s). Subcontracting that result in layoff is subject to grievance and arbitration under this Agreement.

**Section 5.2.** The Employer has the right to establish work rules, policies and procedures to regulate employees in the performance of their job. To the extent any work rules, policies, and procedures have been or will become reduced to writing, each shall be posted at a conspicuous location at the Department. The Union shall be provided with a copy of the same. Except in cases of emergency the posting of the rule, policy or procedure shall occur at least 7 days prior to its effective date. The Union retains the right to challenge the reasonableness of said work rules through the grievance procedure.

**ARTICLE 6**  
**PROHIBITION OF STRIKES AND LOCKOUTS**

**Section 6.1.** Neither the Union nor any employee shall take part in, cause, or aid any strike, slowdown, picketing (so as to encourage employees not to work), or any interference with the operations of the city during the term of this agreement. In addition to other rights and remedies prescribed by law, the City shall have the right to discipline employees violating this section, and no such discipline may be set aside unless the employee is found innocent of any violation of this section. This section shall not deny the Union's right to grieve on behalf of the disciplined

employees. However, nothing in this section shall preclude the City and Union from negotiating a settlement regarding any disciplinary action which was taken as a result of an employee(s) violation of this section, when it is determined by the City to be in the City's best interest to negotiate such a settlement.

The City agrees that there shall be no lockout of the employees during the term of this Agreement.

**Section 6.2.** If there is an unauthorized strike, work stoppage, interruption or impeding of work, or other job actions designed to change the course of or influence the negotiation process, the Union together with its officers and agents shall publicly denounce said strike, work stoppage, interruption or impeding of work; disclaim approval, order those taking part in such strike, work stoppage, interruption or impeding of work to return to work immediately and instruct all interested employees of the City or other employers, that said strike is not authorized and that work shall be continued. Employees engaged in such activity as defined herein shall be subject to appropriate discipline.

#### **ARTICLE 7 DUES DEDUCTION**

**Section 7.1.** During the period this agreement is in effect, the City will deduct the regular Union dues from the wages of employees who individually and voluntarily authorize and direct such deduction in writing. Such deduction shall be made biweekly and shall begin on the 31<sup>st</sup> day of employment. Dues shall be promptly forwarded to the Union using such methods as are mutually agreed upon, including direct deposit.

**Section 7.2.** The Union shall hold the City harmless from all liability arising out of any action taken by it or omitted by it in compliance with or in an attempt to comply with the provisions of this article.

#### **ARTICLE 8 UNION BUSINESS**

**Section 8.1.** The Union shall select a reasonable number of Stewards and Alternates (the "local representatives") for the purpose of conducting Union business. Said stewards shall be certified to the City Manager in writing by the Union.

**Section 8.2.** In case of disciplinary action or grievance, one of the local representatives shall be allowed reasonable time without loss of pay to investigate a disciplinary action and/or grievance and consult with the City in the processing of the disciplinary action and/or grievance, if he first receives permission from the director of Public Works. Such permission will not be unreasonably denied. The City agrees to cooperate with the Union in conducting an investigation of a grievance.

**Section 8.3.** The City shall provide the Union with the names of new full-time employees within twenty one (21) calendar days after the new employees are hired.

**Section 8.4.** All members attending Union meetings shall attend said meetings during hours when they are not regularly scheduled to work.



**Section 8.5.** A staff representative of the Union may consult with the employees at the work site before the start of and at the completion of the day's work. With the consent of the Public Works Director, said representative(s) shall be permitted access to a meeting room at the Public Works Garage at all reasonable times for the purpose of adjusting grievances and assisting in the settlement of disputes. This privilege is extended subject to the understanding that the work assignments are not, in fact, interfered with. The consent of the Public Works Director shall not be unreasonably withheld.

**Section 8.6.** The Union shall provide to the City an official roster of its Stewards and Alternates which is to be kept current at all times and shall include the following:

1. Name
2. Home and/or cellular telephone number
3. Union office held

No employee shall be recognized by the Employer as a Union representative until the Union has presented the Employer with written certification of that person's selection.

## **ARTICLE 9**

### **DISCIPLINARY ACTION AND APPEALS**

**Section 9.1.** Disciplinary action involving oral or written reprimands and appeal thereon shall be handled in accordance with Part III Disciplinary Procedures and Processes of the Personnel Rules and Regulations and as modified from time to time. Any inquiry directed to the employee shall be narrowly tailored to the incident in question. Discipline involving suspension or termination shall be subject to Article 10 - Grievance Procedure and Article 11 - Arbitration Procedure.

**Section 9.2.** Discipline shall be applied in a corrective, progressive and uniform manner. Progressive discipline shall take into account the nature of the violation, the employee's prior history of discipline, and the employee's record of performance and conduct contained in the employee's official personnel file. The concept of "progressive discipline" normally involves a progression through verbal counseling, oral reprimands, written reprimands, suspension and discharge; however the severity of the offense may require the imposition of more severe discipline on a case by case basis.

**Section 9.3.** Employees may be disciplined for just cause. In the event that an employee is to be given disciplinary action for behavior or conduct which warrants time-off, suspension or removal, a predisciplinary conference between the employer and the employee and a local representative of the Union shall be arranged. If the employee elects not to have a representative present, such waiver shall be in writing. This conference shall be scheduled not earlier than 24 hours after the time the employee is notified of the discipline and the predisciplinary conference. The employee may have a local representative plus the Union staff representative present at the predisciplinary conference. The employee shall be responsible to notify the representatives. The employer may have additional personnel present at the predisciplinary conference.

**Section 9.4.** In the event of an accusation of serious misconduct an employee may be placed on paid administrative leave pending the holding of a predisciplinary conference. If the matter

involves a documented accusation of serious misconduct involving criminal activity the suspension may be without pay provided a predisciplinary conference is scheduled to be held within the next three (3) business days.

**Section 9.5.** A non-probationary employee who receives disciplinary action subsequent to the predisciplinary conference referenced above shall be given written notice regarding the reasons for the disciplinary action with a copy to the local representative.

**Section 9.6.** Complaints from third parties which may result in disciplinary action must be in writing and signed by the complainant.

**Section 9.7.** Employees may review their personnel file at reasonable times upon written request. Employees may request, through the Public Works Director that the individual responsible for their personnel file remove inaccurate materials from their file. If the individual declines the request, the employee shall have the right to have a memorandum attached to the document in question, stating the employee's concerns. An employee's medical records shall be confidentially maintained in accordance with applicable state and federal law. Copies of documents relating to the investigation of an employee's performance of his duties shall be provided to an employee at such time as said documents are placed into the employee's personnel file.

**Section 9.8.** All actions of record will be maintained in each employee's personnel file throughout his period of employment, with the exception that any of the following records will be removed from the official personnel file, located in Human Resources, according to the following schedule:

- A. **Documented Verbal Counseling.** Reference to verbal counseling shall be removed from any file maintained by the Employer after three (3) months, provided that no further discipline of the same or similar nature is imposed within three (3) months of the verbal counseling.
- B. **Documented Oral Reprimand.** An oral reprimand shall be removed from any file maintained by the Employer after six (6) months, provided that no further discipline of the same or similar nature is imposed within six (6) months of the oral reprimand.
- C. **Written Reprimand.** A written reprimand shall be removed from any file maintained by the Employer after 12 months, provided that no further discipline of the same or similar nature is imposed within one (1) year of the written reprimand.
- D. **Suspension.** A suspension shall be removed from any file maintained by the Employer, after two (2) years of the suspension.

No records regarding prior discipline or performance evaluation may be used in connection with disciplinary or promotion/retention related matters unless such records are maintained in personnel files that are readily accessible to the employee for inspection upon request.

**Section 9.9.** The commencement of the taking of disciplinary action<sup>1</sup> or notification that asserted charges/complaints are unfounded shall occur within thirty (30) calendar days after the incident at issue first comes to the attention of the Director of Public Works. In the event that the Director of Public Works determines that additional investigation into a potential disciplinary matter is warranted, the Director of Public Works may extend the above referenced time periods by an additional thirty (30) days upon notice to the employee and the Union representative. Upon the commencement of disciplinary action, and reasonably prior to any hearing(s) conducted therewith, the employee shall be entitled to copies of such internal documents as may constitute "public records" under R.C. §149.43 which are being utilized in connection with said disciplinary proceedings

**Section 9.10.** At any disciplinary meeting, the Steward shall be furnished copies of those written records and/or documents which are presented to the employee.

**Section 9.11.** For purposes of this Agreement, use of the term "days" shall mean "calendar days" unless otherwise specified.

## **ARTICLE 10**

### **GRIEVANCE PROCEDURE**

**Section 10.1. Grievance Defined.** A grievance is defined as a difference, dispute, or complaint between the Union and the Employer, or between the employees covered herein and the Employer over the interpretation or application of the contents of this Agreement. An honest and earnest effort will be made to settle grievances informally before resort to the following steps and procedures. All grievances shall be in writing on forms provided by the Union, and shall set forth the article or section of the agreement alleged to have been violated. Grievances involving disciplinary action shall be handled in accordance with Article 9 of this agreement. Probationary employees shall not be entitled to grieve matters involving discipline or discharge. Disputes over an issue that involves more than one employee may be filed as a "group" or collective grievance rather than requiring separate grievances.

**Section 10.2. Timeliness of Grievance.** The time limits provided herein will be strictly adhered to and any grievance not filed initially or appealed within the specified time limits will be deemed waived, forfeited and void. The time limits specified for either party may be extended only by written mutual agreement.

All grievances must be filed, in writing on forms provided by the Union with the Public Works Director within fourteen (14) calendar days after occurrence of the circumstance given rise to the grievance. It is understood that the grievant may be present at all steps of the grievance procedure.

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<sup>1</sup>The commencement of the taking of disciplinary action" c  
an include a notice of referral to the City Manager for suspension or discharge, (ii) the notice of discipline being immediately imposed; (iii) the notice of the scheduling of a predisciplinary conference; or (iv) the notice of discipline to be imposed at a reasonable date in the future. Once the discipline is determined it shall be imposed within thirty (30) days unless otherwise extended by mutual agreement of the City and the employee being disciplined.

**Step 1:** If the dispute is not resolved informally, it shall be reduced to writing by the grievant and presented as a grievance to the Public Works Director within fourteen (14) calendar days of the occurrence of the facts giving rise to the grievance. The Public Works Director shall give his written answer within fourteen (14) calendar days of the date the grievance is received.

**Step 2:** If the grievant is not satisfied with the written decision at the conclusion of Step 1, a written appeal of the decision may be filed with the City Manager within fourteen (14) calendar days from the date of the rendering of the decision of Step 1. Copies of the written decisions shall be submitted with the appeal. The City Manager or his designee shall within fourteen (14) calendar days of the receipt of the appeal meet with the grievant, his Union representative and any other party necessary to provide the required information for the rendering of a proper decision. The City Manager or his designee shall issue a written decision to the employee and his Union representative within fourteen (14) calendar days from the date of the meeting. If the grievant is not satisfied with the decision at Step 2, the Union may proceed to arbitration pursuant to the Arbitration Procedure herein contained.

## **ARTICLE 11**

### **ARBITRATION PROCEDURE**

**Section 11.1.** In the event a grievance is unresolved after being processed through all steps of the Grievance Procedure, unless mutually waived, then within fourteen (14) calendar days after the rendering of the decision at Step 2, the Union Local may submit the grievance to arbitration. Within this fourteen (14) day period, the parties may meet to mutually agree upon an arbitrator. If such meeting is not held, or if agreement is not reached, the Union shall request a panel of nine (9) arbitrators that have a primary residence in the State of Ohio from the Federal Mediation and Conciliation Service (FMCS). Upon receipt of the list, the parties shall alternately strike the names of the arbitrators with the Union striking first until only one (1) name remains. Either party may one (1) time reject a list and request another list of nine (9) arbitrators. The party rejecting the list shall be responsible for the fee for the subsequent list.

**Section 11.2.** The arbitrator shall have no power or authority to add to, subtract from, or in any manner, alter the specific terms of this agreement or to make any award requiring the commission of any act prohibited by law or to make any award that itself is contrary to law or violates any of the terms and conditions of this agreement.

**Section 11.3.** The hearing or hearings shall be conducted pursuant to the Rules of Voluntary Arbitration of the AAA.

**Section 11.4.** The fees and expenses of the arbitrator and the cost of the hearing room, if any, will be borne by the parties equally. All other expenses shall be borne by the party incurring them. Neither party shall be responsible for any of the expenses incurred by the other party. The Union shall have the right to voluntarily dismiss and withdraw a matter submitted to arbitration subject to payment of any applicable cancellation fee.

**Section 11.5.** An employee requested to appear at the arbitration hearing by either party shall attend without the necessity of subpoena, and shall be compensated at his regular hourly rate for all hours during which his attendance is required by either party. Any requests made by either party for the attendance of witnesses shall be made in good faith.

**Section 11.6.** The arbitrator's decision and award will be in writing and the parties shall request that it be issued within thirty (30) days from the date the record is closed. The decision of the arbitrator shall be final and binding upon the parties, subject only to such limited rights of appeal as are provided by law.

## **ARTICLE 12 WAIVER**

**Section 12.1.** The parties acknowledge that during the negotiations which resulted in this agreement, each had unlimited right and opportunity to make demands and proposals with respect to any subject or matter not removed by law from the areas of collective bargaining, and that the understanding and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this agreement. If the City proposes changes to the contract that require a vote of the bargaining unit, the City shall provide the Union at least fourteen (14) calendar days advance notice prior to implementation.

## **ARTICLE 13 HOURS OF WORK AND OVERTIME**

**Section 13.1.** The Public Works Department standard work schedule is Monday through Friday. Normal work hours shall be 7:00 a.m. to 3:30 p.m. with an unpaid ½ hour for lunch and two (2) fifteen minute breaks. The City retains the right at any time to assign by rotation for two (2) week periods, two (2) employees to cover a shift from 8:00 a.m. to 4:30 p.m. Permanent changes in shift times require 24 hour advance written notice. The City retains the right to make occasional changes or temporary adjustments in the schedule with verbal notice by noon of the previous day.

**Section 13.2. Definitions of Overtime.** Overtime must first be approved by the Public Works Director or his designee, and shall be considered as authorized time worked in excess of regularly scheduled work week. For purposes of computing overtime, a "regularly scheduled workweek" shall include time spent on paid vacation and holidays. The normal workweek shall be 40 hours. For employees on a special schedule the normal workweek shall be their posted schedule. Those hours in excess of the normal workweek shall be compensated at a rate of one and one-half times employee's regular rate of pay. In computing time worked, each completed fifteen (15) minute interval will be used for payroll purposes.

**Section 13.3. Assignment of Overtime.** The City shall make every effort to distribute overtime in a fair and equitable manner. Overtime assignments shall be mandatory.

- A. Overtime shall be assigned according to the following three (3) categories of overtime: regular, snow, and emergency.
  - 1. **Regular Overtime** shall be distributed on a rotating basis within each classification - Maintenance Technicians/Worker and Mechanic I based on the nature of the work to be performed. The City will make every effort to ensure that employees within each classification receive an equitable distribution of overtime.

The Employer shall call the first employee on the list with the fewest hours of overtime worked. The employee may request to decline the opportunity for good cause, which shall be subject to the approval of the director or designee. If there is approval, the employee shall be, for purposes of equalization, deemed to have taken the assignment for the purpose of equal distribution of overtime.

Non-bargaining unit employees shall not be used to perform bargaining unit work unless a bargaining unit employee is not available to perform the work. This does not apply to Maintenance Leaders who are assigned to lead a crew and are performing in such capacity.

2. Snow and Ice Control Overtime shall be available to all employees possessing the appropriate qualifications (CDL). Primary drivers with an assigned snow zone will be called first; if unavailable, back-up drivers will be called.
  3. Emergency Overtime shall be defined as overtime required by a situation that could not be reasonably foreseen, and which would compromise public safety if not given immediate attention. Emergency overtime will be offered to the employee with the ability to respond in the shortest time period. When contacted by the supervisor or designee for such emergency overtime, the employee must report to work within 30 minutes of travel time/distance from home to work. These assignments will be taken into consideration in balancing the overtime distribution.
- B. A record of all overtime worked shall be maintained and displayed within each department unit.
- C. A compilation of overtime will be reviewed, as needed, by a labor management committee to make adjustments in distribution, if necessary, for equity purposes.
- D. Mistakes in assigning overtime shall be corrected by offering the employee who was missed the next available non-emergency opportunity.
- E. When overtime is between sunset to sunrise, and the employee is assigned a job he/she feels a second person is needed for safety reasons, the employee shall first contact law enforcement on duty and then notify the immediate supervisor or designee who shall first determine and, if appropriate, call a second person to assist with the job.
- When employees are expected to go to the Main Street facility (778 Main) between sunset to sunrise, the supervisor or designee will call a second person to assist with the job.
- F. All employees shall provide the Public Works Superintendent with a current phone number where the employee can be reached for unscheduled overtime.

**Section 13.4. Show Up Time.** Any regular employee who is scheduled to work on any day and who reports for work as scheduled will be guaranteed three (3) hours of work for that day, unless the City has properly notified them in advance not to report for work. Employees who are absent the day before and did not call in will not be covered by this Section 13.4.

**Section 13.5. Compensatory Time.** With the consent of the Public Works Director or his designee, employees may elect to have some or all overtime hours worked credited as compensatory ("comp") time. Said comp time shall not accumulate beyond forty (40) comp time hours, and shall be taken within thirty (30) days of the time earned in increments of four (4) or eight (8) hours; provided the departmental scheduling and operational needs are not unduly disrupted. Unused comp time shall be paid at separation.

**ARTICLE 14**  
**OTHER COMPENSATED TIME**

**Section 14.1. Required Court Time.** When an employee is required to attend court during nonscheduled work hours for duty related items he shall be paid a minimum of 2 hours pay at applicable rates.

**Section 14.2. Call-out Pay.** An employee called out shall receive a minimum of three (3) hours worked time for each call-out provided it is not an extension of their scheduled shift. The call out shall be treated as time worked for purposes of computing overtime.

**Section 14.3. Training and Departmental Meetings.** Training and departmental meetings during non-scheduled work hours shall be credited with a minimum of one (1) hour pay at applicable rates.

**ARTICLE 15**  
**HOLIDAYS**

**Section 15.1.** All employees will receive the following paid holidays:

New Year's Day	Martin Luther King Jr. Day
Memorial Day	Independence Day
Juneteenth	Day after Thanksgiving
Thanksgiving Day	Christmas Day
Labor Day	

**Section 15.2.** Any employee working a holiday will be paid one and one-half (1-1/2) times the employee's normal pay. Every employee will receive eight (8) hours regular pay for each holiday, regardless if he worked it or not.

**ARTICLE 16**  
**VACATIONS**

**Section 16.1.** Each full-time employee shall earn and be entitled to a paid vacation in accordance with the following schedule:

<u>Length of Service</u>	<u>Hours of Vacation</u>
After 1 year but less than 2 years	40 hours
After 2 years, but less than 5 years	80 hours
After 5 years, but less than 8 years	96 hours
After 8 years, but less than 10 years	104 hours

After 10 years, but less than 13 years	120 hours
After 13 years, but less than 15 years	136 hours
After 15 years, but less than 20 years	160 hours
After 20 years continuous service	200 hours

**Section 16.2.** Earned vacation shall be awarded each pay period in accordance with the above schedule, provided the employee is employed by the employer at that time. However, if an employee terminates their employment, the employee shall receive a pro-rata payment for unused benefits. For the Calendar year 2024 on 12/31/2024 each employee employed on that date shall receive vacation credit equal to the amount the employee has accrued since the employee's last anniversary date. Commencing with the first pay period in 2025, the employee shall accrue vacation hours based on employee years of service. For 2025 only, each employee will be allowed to carry over to 2026, 50% additional hours of accrual vacation. Any hours carried over into 2026 must be used in 2026 in compliance with Section 16.4 of this Contract. Any employee who resigns, terminates or retires from the City shall be paid in a lump sum for all earned but unused vacation payable on an hour-for-hour basis at the employee's current base hourly rate. In the event of the death of an employee, all earned but unused vacation shall be paid in a lump sum to the employee's next of kin or estate as designated by the employee up to the maximum allowable accrual.

**Section 16.3.** Vacation time shall be taken at a time approved by the scheduling supervisor. Employees shall receive timely notice of the approval of their requested vacation leave and said approval shall not be unreasonably withheld.

Employees will bid weeks of vacation for the coming year December 1 through December 31 of each year, and bids submitted during this time will be awarded based on seniority and operational concerns. Employees will be notified by the second week of January concerning these vacation requests. Vacation requests after January 1 will be awarded on a first-come, first-served basis based on seniority and operational concerns.

**Section 16.4.** The maximum vacation carry over shall not exceed an amount equal to twice what an employee can accrue in one (1) year. Hours in excess shall be forfeited; however, the Director may authorize a six (6) month delay of vacation if work schedules or situations warrant such delay.

## **ARTICLE 17**

### **SICK LEAVE**

**Section 17.1.** Full-time employees may use sick leave subject to the approval of the Public Works Director , or designee, for absence, including:

- A. Illness or injury of the employee when such illness or injury prohibits the employee from performing the normal duties of the employee's work assignments;
- B. Exposure of the employee to a contagious disease which could be communicated to and jeopardize the health of other employees. Use of sick leave for this purpose may require the confirmation of necessity by a licensed medical practitioner and the Employer;
- C. Illness in the employee's immediate family which requires the presence of the employee.



"Immediate family" as used herein shall include the employee's spouse, dependent child, or mother or father.

Employees on sick leave shall be at home or obtaining medical treatment (drugstore, physician or hospital) and subject to verification by the City. Exceptions may be made by the City for good cause.

**Section 17.2.** All full-time employees shall earn sick leave at the rate of ten (10) hours per month and may accumulate such sick leave without limit if hired before January 1, 2004 otherwise limited to 1200 hours; provided, however, that an employee must work at least 60% of the available work days during a month to accumulate sick leave. Sick leave shall not be accumulated during any period of absence, except for approved vacation leave.

**Section 17.3.** An employee who is absent on sick leave shall make a good faith effort to notify his supervisor of such absence and the reason therefore at least one (1) hour before the start of their shift.

**Section 17.4.** Sick leave must be used in segments of not less than one (1) hour during the shift or ½ hour at the end of the shift.

**Section 17.5.** Abuse of sick leave shall be just and sufficient cause for discipline, which is subject to the grievance and arbitration procedure.

**Section 17.6.** An employee who transfers to this department from another department of the employer shall be allowed to transfer his accumulated sick leave.

**Section 17.7.** Any employee of the department who has accumulated sick leave earned from being employed by another political subdivision shall be allowed to transfer said accumulation to his sick leave accumulation with the employer up to 400 hours. However, sick leave transferred from another political subdivision is not eligible for cash out upon retirement as provided in Section 17.13.

**Section 17.8.** Sick time may be exchanged for vacation days by employees hired before January 1, 2004 after a balance of 600 sick leave hours are accumulated. The employee can exchange three (3) sick leave days (24 hours) for one (1) vacation day of 8 hours or for 8 hours of pay. During a calendar year an employee may exchange up to a maximum of 30 days (240 hours) of sick leave for 10 days (80 hours) of vacation or pay provided the exchange does not reduce the employee's balance below 600 hours.

**Section 17.9.** When an employee is absent on sick leave for twenty-four (24) or more hours of uncertified leave he shall be required to submit a doctor's excuse upon the employer's prior request. Certification must be by a physician.

**Section 17.10.** Up to five (5) sick leave days may be used for paternity leave; however, in unusual circumstances the Public Works Director has the discretion to permit an employee to use additional paid sick leave for matters involving serious, documented illnesses involving members of the employee's immediate family (spouse, children, parent, or person acting in loco parentis of employee) living in an employee's home. In addition an employee may use any or all of her sick time for purposes of maternity leave, but said leave (whether paid or unpaid) shall not exceed 12 weeks as provided under the Family Medical Leave Act.

**Section 17.11.** The Public Works Director may require an employee who has been absent due to serious illness or injury, prior to and as a condition of his return to duty, to be examined by a physician designated and paid for by the employer to establish that he is not disabled from the performance of his normal duties and that his return to duty will not jeopardize the health and safety of other employees. In the event of a dispute between the employee's physician and the physician

designated by the City a third physician shall be mutually selected by the prior two physicians. The decision of this third physician (whose costs will be paid by the City) shall be issued within seven (7) days and shall be final.

**Section 17.12.** The City's policy on donation of sick leave in effect as of the date of this agreement is incorporated by reference herein.

**Section 17.13.** Upon eligibility for and commencement of retirement under applicable provisions of the Ohio Public Employees Retirement System, employees hired before January 1, 2004 who retire from service with the City with more than 10 years of service may convert accrued sick leave at a rate of 3 for 1 and receive a lump sum payment for up to 1000 hours. Employees hired before January 1, 2004 who retire with more than 20 years of service may convert accrued sick leave at a rate of 2 for 1 and receive a lump sum payment for up to 1040 hours. Employees hired on and after January 1, 2004, who retire with more than 10 years of service may convert accrued sick leave at a rate of 3 for 1 and receive a lump sum payment for up to 480 hours. Employees hired on and after January 1, 2004, who retire from service with the City with more than 20 years of service may convert accrued sick leave at a rate of 2 for 1 and receive a lump sum payment for up to 480 hours.

## **ARTICLE 18** **PERSONAL LEAVE**

### **Section 18.1.**

A. Employees who qualify under applicable federal requirements shall be granted family and/or medical leave of absence without pay in accordance with the provisions of the Family Medical Leave Act (FMLA) which entitles an eligible employee to a maximum of 12 workweeks of unpaid leave during any 12 month period for (a) the birth and subsequent care of the employee's child; (b) placement of a child with the employee for adoption or foster care; (c) care for the employee's spouse, son, daughter or parent suffering from a serious health condition; and/or (d) a serious health condition that makes the employee unable to perform the functions of the position of employment.

The taking of such leave shall not result in the loss of any accrued employment benefits. Health insurance coverage shall be maintained during the period of such leave.

B. In the event an employee uses paid leave to which he is eligible under any other section of this agreement for any of the purposes for which he would be entitled to unpaid leave under the FMLA, said paid leave shall be included as part of the 12 week total period of leave to which an employee is entitled under the FMLA.

**Section 18.2.** Personal days shall only be taken with the advanced approval of the shift supervisor.

**Section 18.3.** Employees, in addition to all other leave benefits, will be granted five (5) personal leave days each year which are to be taken within the year earned.

**Section 18.4.** Employees may earn twelve (12) additional personal leave hours for every six (6) months, which is twelve (12) hours for not utilizing any sick time for that prior six (6) month period. The employee will have the option to cash in the SP days in accordance with the City benefits ordinance. Employees may elect to utilize unpaid leave in lieu of paid sick leave for purposes that qualify under the Family Medical Leave Act and still remain eligible for the additional personal leave under this Section.

Personal leave under this Section shall not be accumulated over twelve (12) hours and any excess must be used within the following six (6) month period. However, any personal day under this Section which cannot be scheduled within the appropriate six month period due to the operational needs of the Department may be carried over for an additional six (6) month period as approved by the Supervisor.

#### **ARTICLE 19 FUNERAL LEAVE**

**Section 19.1.** An employee shall be granted time off with pay for the purposes of attending the funeral of a member of the employee's immediate family. The employee shall be entitled to three (3) workdays off not deducted from any leave in the case of death of the spouse, child, stepchild, or parent of the employee or his spouse. In case of death of the brother, sister or grandparent of an employee or spouse, the employee will be granted up to 3 days funeral leave, with such time to be deducted from any available leave time as designated by the employee. [An additional 2 deductible days may be granted if travel exceeding 350 miles (one way) is necessary.]

#### **ARTICLE 20 LIMITED TRANSITIONAL DUTY AND INJURY LEAVE**

**Section 20.1.** Transitional duty work within or assisting the Public Works Department may be assigned at the sole discretion of the Public Work Director or his designee to a temporarily disabled employee whose injury or illness is work related and who is otherwise eligible for lost time wage benefits under a workers compensation claim. Such assignments may be for periods of up to 90 days and may be extended as the City determines appropriate. During such periods of transitional duty, the employee shall continue to receive his regular rate of pay and be entitled to all benefits under this Agreement. Disputes over an employees' physical ability to perform said transitional duty shall be resolved by medical examination by a qualified professional mutually selected by the City and Employee and paid for by the City. The physician will specify any limits on the duties to be performed.

**Section 20.2.** When an employee is injured in the line of duty while actually working for the employer and is not physically able or is not assigned by the City to perform limited transitional duty, he shall be eligible for a paid leave not to exceed ninety (90) calendar days. The City may require the employee to file for Worker's Compensation and sign a waiver assigning to the employer those sums of money (temporary total benefits) he would ordinarily receive as his weekly compensation as determined by law for those number of weeks he receives benefits under this article.

**Section 20.3.** If at the end of this ninety (90) day period, the employee is still disabled, the leave

may, at the employer's sole discretion, be extended for an additional period up to ninety (90) calendar days.

**Section 20.4.** The employer shall have the right to require the employee to have a physical exam by a physician appointed and paid by the employer resulting in the physician's certification that the employee is unable to work due to the injury as a condition precedent to the employee receiving any benefits under this article.

## **ARTICLE 21 LEAVES OF ABSENCE**

**Section 21.1. Jury Duty.** Any employee who is called for jury duty, either: federal, county, or municipal, during normally scheduled work hours shall be paid his or her regular salary less any compensation received from such court for jury duty, as provided for in the Ohio Revised Code.

**Section 21.2.** The Employer may grant a leave of absence without pay for periods greater than one (1) month and up to three (3) months to employees for personal reasons without loss of seniority. During this time the employee will be in a non-pay status. After the three (3) month absence the City will determine the employee's status on a month to month basis. The employee is responsible for paying the entire portion of the health insurance premium (employee and employer contribution) during the leave of absence, unless it is covered by FMLA, and then the employee will be responsible for the normal employee monthly contribution.

The granting of any leave of absence is subject to approval of the Employer. Except for emergencies, employees will advise the employer sixty (60) days prior to commencement of the desired leave so that the functions of the Department may proceed properly.

**Section 21.3. Military Leave.** An employee who enters military service and has re-employment rights under applicable Federal and State regulations shall be considered on military leave of absence and shall retain and continue to accrue seniority during such leave of absence. Returning service men and women shall have such re-employment or other rights as are guaranteed to them under applicable state or federal law. Upon entering military service, an employee shall receive all accrued vacation and/or all other monetary benefits to which he is entitled with the last paycheck prior to entering service. Military leave shall be in accordance with the federal law and the Ohio Revised Code.

**ARTICLE 22  
COMPENSATION**

**Section 22.1.** During the term of this Agreement, wages for employees shall be as follows:

Public Works- Maintenance Worker	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6
	17.24	18.31	19.40	20.52	21.97	23.40
<u>01/01/2025-12/31/2025</u>	18.10	19.23	20.37	21.55	23.07	24.57
<u>01/01/2026-12/31/2026</u>	18.83	19.99	21.18	22.41	23.99	25.55
<u>01/01/2027-12/31/2027</u>	19.39	20.59	21.82	23.08	24.71	26.32
 Public Works- Maintenance Tech/Mech 1	 Step 1	 Step 2	 Step 3	 Step 4	 Step 5	 Step 6
	21.22	23.09	25.07	27.04	29.01	30.94
<u>01/01/2025-12/31/2025</u>	22.28	24.24	26.32	28.39	30.46	32.49
<u>01/01/2026-12/31/2026</u>	23.17	25.21	27.38	29.53	31.68	33.79
<u>01/01/2027-12/31/2027</u>	23.87	25.97	28.20	30.41	32.63	34.80

**Section 22.2.** Provided their evaluation under the criteria set forth in Article 15 achieve an average overall rating of at least "3" ("satisfactory") employees shall proceed through the wage step schedule by receiving step increases annually on their anniversary date of employment until they reach the Top Step. An employee whose evaluation is less than satisfactory may receive his step increase earlier than his next anniversary date provided the Director determines in his discretion that the employee's interim performance has improved to the point that a wage increase is appropriate. All new employees (including lateral transfer employees) will be placed on a one (1) year probationary period. Promotions from Grade 3 to Grade 5 shall require that (a) the employee possess the qualifications for the position and (b) a vacancy exist.

**Section 22.3.** Lateral transfer employees will start on a step determined by the City.

**Section 22.4.** During the first payroll period in January, which shall be paid in a separate check to employees according to the following criteria:

Completed Years of Employment As of January 1	Longevity Supplement
10 to 14 years	\$520.00
15 to 19 years	\$1,040.00
20 years and above	\$1,560.00

In accordance with requirements of the FLSA, said longevity supplement shall be added to the employee's total wages for the previous 12 month period for purposes of computing an adjusted regular hourly rate and computing additional overtime to which the employee may be entitled.

### **ARTICLE 23 UNIFORM ALLOWANCE**

**Section 23.1.** Employees shall be provided with the following uniform articles from the approved list as determined by the Director of Public Works or his designee: safety vest and other safety equipment, Carhart's, and caps/hats with the City's logo.

**Section 23.2.** Employees shall maintain all uniform articles in acceptable condition. Any piece of protective clothing or safety equipment in need of repair shall be presented to the Director of Public Works or his designee, and if determined to be damaged, repaired by qualified personnel or replaced at the City's option as soon as is practicable.

**Section 23.3.** If an employee loses or damages prescription eyeglasses or contact lenses, or watch during laborious activity, the City shall reimburse the employee 100% of the replacement cost up to a maximum of \$150 during a calendar year.

**Section 23.4.** Upon an employee's leaving the Department, all issued or purchased equipment and uniform items shall be promptly returned to the Department.

**Section 23.5.** During the first full pay period in January of each succeeding year of the agreement, employees shall receive a uniform allowance of ~~\$975.00~~ 1,100.00. The uniforms to be purchased by the employee shall consist of the following: steel toe work boots, navy blue pants (no denim), and safety orange, yellow, or dark blue tee shirts or polo shirts. Uniforms must be purchased from a vendor approved by the City. The City's logo will be affixed to all shirts at the employee's expense.

**Section 23.6.** During the summer months, in the event of a heat advisory or with prior approval by the employee's supervisor, employee's assigned designated tasks will be permitted to wear shorts that comply with the uniform policy, so long as there is no issue of safety involved.

### **ARTICLE 24 INSURANCE**

**Section 24.1.** The City shall make available to all full-time bargaining unit employees the general insurance and hospitalization plans as provided to all other non-bargaining full-time City employees. All requirements of the plan(s) (e.g., premium contributions, co-payments, deductibles, fees, eligibility, etc.) applicable to non-bargaining unit City employees shall also be applicable to bargaining unit employees, except as outlined in this Article. This policy shall be identified as the

"Core Plan".

**Section 24.2.** Payment of the health insurance "Core Plan" premium shall be as follows:

- City will pay 87% of the premium for Core coverage options
- Employees shall pay 13% of the premium for Core coverage options

**Section 24.3.** The City may also offer an enhanced group medical insurance coverage known as the "Buy-Up Plan," as follows:

- Any additional costs over and above what the City would pay for coverage under the "Core Plan" shall be paid 100% by employees who elect coverage under the "Buy-Up Plan."

## **ARTICLE 25** **EVALUATIONS**

**Section 25.1.** Each employee shall be evaluated every twelve (12) months by the supervisor(s) for whom the employee has worked during the previous twelve (12) months. The final score of the evaluation will be determined by the average score given by the supervisor(s) in each category. The City (with input from the Union) will draw up definitions and standards of performance for each rating category. Employees will be expected to perform at no less than an average overall rating of three (3) and shall receive advance notice of such deficient performance with sufficient time to remedy said deficiencies prior to the evaluation deferring a step increase in wages. In the event of a deferral of a step increase the employee will be re-evaluated within ninety (90) days to determine performance in the deficient categories.

## **ARTICLE 26** **MISCELLANEOUS**

**Section 26.1.** In any instance where the employer sends an employee for any type of medical examination, the employer shall pay the cost of the examination.

**Section 26.2.** The Union will be allowed to provide a bulletin board for official Union notices. The bulletin board will be located at a place mutually agreed upon.

**Section 26.3.** Employees will be permitted to obtain outside employment which does not conflict with departmental rules and regulations.

## **ARTICLE 27** **LABOR/MANAGEMENT COMMITTEE**

**Section 27.1.** There is hereby established a Union/Management committee. This committee shall be composed of not more than 3 persons appointed by the Union (which shall include a Union staff representative) and not more than 3 appointed by Management. This committee shall meet on an as needed basis at the request of either party to provide a forum for the discussion and possible resolution of problems with the Public Works Department. This committee is to provide an informal format to discuss mutual problems, and the recognition of issues by either party is not to be construed

as to expand the scope of the grievance procedure, or to obligate either party to additional bargaining.

**ARTICLE 28**  
**SAVINGS CLAUSE**

**Section 28.1.** In the event any one or more provisions of this agreement is or are deemed invalid or unenforceable by any final decision of a court or governmental agency, that portion shall be deemed severable from the rest of the agreement, and all such other parts of this agreement shall remain in full force and effect. In such event, the employer and the Union will, at the request of either party hereto, promptly enter into negotiations relative to the particular provisions deemed invalid or unenforceable.

**ARTICLE 29**  
**DURATION OF AGREEMENT**

**Section 29.1.** This agreement represents the complete agreement on all matters subject to bargaining between the employer and the Union and except as otherwise noted herein shall become effective upon ratification and shall remain in full force and effect until December 31, 2027.

**ARTICLE 30**  
**JOB ASSIGNMENTS**

**Section 30.1.** Effective with the commencement of this Agreement, and thereafter, a notice concerning an available job vacancy other than short term assignments which are made based on the operational needs of the department within the bargaining unit shall be posted for a period of ten (10) days to permit interested candidates to apply for the position. No job vacancy will be filled until the posting requirement is complied with. Short term assignments shall be defined for purposes of this Article as no more than 3 months in duration which can be extended for good cause shown by an additional 3 months with notice to the Union.

**Section 30.2.** Job-assignments that constitute a promotion and pay increase shall be awarded on the basis of merit and fitness and shall include consideration of job performance as determined in the employee evaluation process, work related experience, training and education related to the performance of the duties of the posted position. If employees are equal in merit and fitness, the position shall be awarded on the basis of seniority.

**ARTICLE 31**  
**SUBSTANCE TESTING**

**Section 31.1.** The cost of any required substance testing or related medical examination shall be borne by the City. Substance testing shall occur during an employee's scheduled work shift or immediately prior to or after the completion of the employee's shift.

**Section 31.2.** The City's policy on substance abuse and testing, and the Department's CDL substance testing policy are incorporated by reference herein.

**Section 31.3.** In the event that an employee tests positive for use of a controlled substance or alcohol in violation of the City's policy or in violation of state and/or federal requirements applicable to a



holder of a CDL (commercial driver's license) the employee shall be subject to discipline *up to and including* discharge.

The City may, at its discretion, reduce a discharge down to a suspension subject to the employee's completion of a substance abuse rehabilitation program and no further violations of the City's drug and alcohol policy.

All discipline shall be subject to the grievance and arbitration provisions of this Agreement.

## **ARTICLE 32** **SENIORITY**

**Section 32.1.** The term "Seniority", as used in this Agreement, is defined as an employee's continuous service with the Public Works Department as a full-time regular employee to be computed from the employee's last date of hire. Classification seniority shall be defined as computed from the employee's latest date of entry into a classification. For those employees who were employed by Madison Township and/or the City prior to the effective date of the merger, their seniority date is governed by Article 3 of the Terms and Conditions of the Merger. Absent a specific grant in this Agreement, the retention of seniority during layoff or leave of absence does not automatically entitle an employee to receive benefits provided to those on the active payroll. Employees whose date of hire is the same will have their seniority determined by their placement on the then applicable eligibility list.

**Section 32.2.** An employee's seniority shall cease and his employment terminated upon any of the following:

- A. Resignation or "Quit";
- B. Termination;
- C. Retirement (Years of service and/or retirement disability);
- D. Layoff in excess of eighteen (18) months;
- E. Absence from work (resulting from City work-related injury or illness compensated by workers compensation) in excess of accrued paid leave or eighteen (18) months, whichever is longer;
- F. Absence from work (resulting from non-City work related injury or illness or FMLA approved reason) in excess of accrued paid leave or six (6) months whichever is longer. The Employer, with the consent of the Union has the discretion to extend the period for an additional three (3) months.

**Section 32.3.** Employees shall continue to be eligible for health insurance coverage as follows:

- A. After resignation or quit - as determined by COBRA;

- B. During layoff for a period of ninety (90) days after which as determined by COBRA;
- C. During military leave, in excess of 31 days - as determined by COBRA and USERRA;
- D. During absence from work (resulting from City work-related injury or illness compensated by workers compensation) for a maximum of twelve (12) months.
- E. Absence from work (resulting from non-City work related injury or illness or FMLA approved reason) for a maximum of accrued paid leave or twelve (12) weeks, whichever is longer.

**ARTICLE 33**  
**LAYOFFS**

**Section 33.1.** Bargaining unit employees may be laid off only for lack of work, lack of funds or abolishment of a position. Said layoff shall take effect only after being given fifteen (15) days prior written notice.

**Section 33.2.** In the event of a layoff situation, bargaining unit employees will be laid off in accordance with their Departmental Seniority (last hired, first laid off)..

**Section 33.3.** A bargaining unit employee who is laid off shall be subject to recall from layoff for up to twelve (12) months provided he is qualified to perform the job and holds all required certifications.

**Section 33.4.** A recall from layoff will be based upon seniority (last laid off, first recalled) with no new employees hired until all eligible employees have been offered a recall from layoff. When an employee is recalled from layoff he/she shall be notified of the offer of recall by phone followed up with a certified letter addressed to the last known address. Each such employee shall be allowed five (5) calendar days from the receipt of the letter to notify the appointing authority of his intent to return to work, and an additional nine (9) calendar days to return to active service. If the employee declines the offer of recall, he/she shall have given up all rights of recall and shall be permanently removed from the recall list. The recall notification shall first be transmitted verbally to the employee and the Secretary Treasurer of the Union, and then followed up by written correspondence to the affected parties via U.S. mail.

**Section 33.5.** For purposes of recall, it shall be the employee's responsibility to have a current address and phone number on file with the Employer.

**Section 33.6.** Short Term Recalls - less than 30 days. The Employer may recall a laid off employee for periods of less than 30 days, upon a 24 hour notification. The employees shall have 24 hours to accept or decline such recall. If the employee declines the offer of recall, the next employee on the recall list shall be notified.

If the employee declines the recall, he/she shall still be on the regular recall list for other recalls and no adverse action shall be taken on the employee. The rehire of the laid off employee shall affect the number of seasonal/part time employees hired.

If the employee accepts the recall, he/she shall work the assignment and then be placed back on the

recall list in the original order. While on assignment, if the employer finds additional work for the recalled employee to perform, the employee shall also perform the additional work. The employer shall not be required to provide any additional notice of enforcement from the original layoff.

The short term notification shall first be transmitted verbally to the employee and the Secretary Treasurer of the Union, and then followed up by written correspondence to the affected parties via U.S. mail. The notification shall include the duration of the recall.

#### **ARTICLE 34** **PROBATIONARY PERIOD**

**Section 34.1.** New employees shall serve a probationary period of one (1) year from their date of full-time hire. An employee shall not be entitled, during his probationary period, to the processing of grievances.

#### **ARTICLE 35** **EMERGENCY**

**Section 35.1.** In case of emergency declared by the President of the United States, the Governor of the State of Ohio, the Sheriff, City Manager, Mayor, City Council, or the Federal or State Legislature the following conditions of this Agreement may be temporarily suspended by the Employer:

- A. Time limits for the processing of grievances and for the commencement of disciplinary action; and
- B. Selected work rules and/or agreements and practices relating the assignment of employees.

**Section 35.2.** Upon the termination of the emergency, should valid grievances exist, they shall be processed in accordance with the provisions outlined in the grievance procedure of this Agreement, the grievance shall proceed from the point in the grievance procedure to which they, the grievance(s) had properly progressed, prior to the emergency.

#### **ARTICLE 36** **PREEMPTION OF STATUTORY RIGHTS**

**Section 36.1.** In accordance with Ohio Revised Code Section 4117.10, provisions in this agreement relating to wages, hours and terms and conditions of employment for employees covered herein shall pre-empt all otherwise applicable state or local laws including, but not limited to: (a) injury and disability leave under the Ohio Administrative Code; (b) seniority, job posting, layoff/ recall, sick leave and probationary periods under R.C. Chapter 124; (c) hours of work and overtime under R.C. Chapter 4111; (d) vacation and holidays under R.C. Chapter 325; and (e) civil service provisions under Trotwood Civil Service Rules and Regulations.

#### **ARTICLE 37** **PAST PRACTICE**

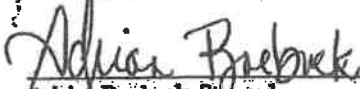
Section 37.1. In the event of a dispute in the interpretation of any provision of this Agreement, the parties may refer to past practice to resolve ambiguities. Past practice which is found to be contrary to the terms of this Agreement shall no longer be binding after the date notice is provided to the other party of an intent to no longer be bold. Disputes are subject to the grievance and arbitration procedure.


**ARTICLE 38  
EXECUTION**

Section 38.1. IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed.

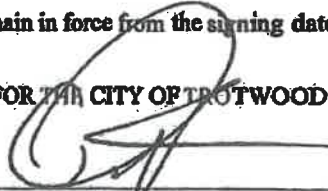
Section 38.2. All parties agree that this Agreement shall remain in force from the signing date of this contract through December 31, 2027.

FOR THE TEAMSTERS LOCAL 957:

  
Adrian Roebuck, Steward

  
Troy Loin, Alternate Steward

FOR THE CITY OF TROTWOOD

  
Quincy E. Pope, City Manager

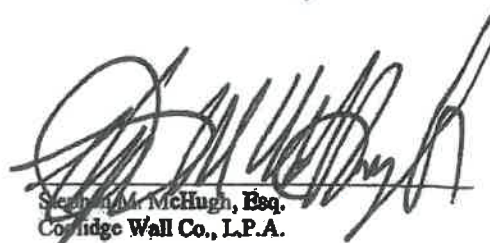
  
Stephanie Kellum, Deputy City Manager

  
Johnny McCluskey, Operations Manager

  
Chris Peoples, Finance Director

APPROVED AS TO CONTENT:

  
Darryl Paschal, V.P. Teamsters

  
Stephen M. McHugh, Esq.  
Covidge Wall Co., L.P.A.

Date: 11-14-21

APPENDIX A  
CITY OF TROTWOOD  
SUBSTANCE ABUSE POLICY  
FOR COMMERCIAL DRIVER LICENSED DRIVERS

- 1.0 Purpose and Responsibility.  
The Drug Program Coordinator shall plan for, implement, administer, coordinate and evaluate the City of Trotwood's Commercial Driver's License Substance Abuse Policy, including any testing and education programs developed for City commercial licensed drivers, and shall ensure City of Trotwood's compliance with provisions of the federal Drug-Free Workplace Act of 1988 and 49 CFR Parts 40, 382, 391, 392 and 395 and any subsequent amendments for the safety of Trotwood City's employees and the general public.
- 2.0 Scope.  
This policy applies to all employees of the City of Trotwood holding a commercial driver's license (CDL) as a part of their work duties, such as to operate a commercial motor vehicle or perform a safety sensitive function as defined for drivers in 49 CFR §382.109.
- 3.0 Distribution.  
This policy is distributed to all Appointing Authorities, Office, Departments, and Employees of the City of Trotwood.
- 4.0 Definitions of Terms.  
For purposes of this policy:
- (A) "Abuse" means:
    - (1) Any use of an illegal drug;
    - (2) Intentional misuse of any over-the-counter drug in cases where such misuse impairs job performance or behavior;
    - (3) Use of any prescription drug in a manner inconsistent with its medically prescribed intended use, or under circumstances where use is not permitted;
    - (4) Use of alcohol where such use impairs job performance or behavior; and
    - (5) Intentional and inappropriate use of any substance, legal or illegal, which impairs job performance or behavior.
  - (B) "Agency" means any office, department, commission, board, institution or facility under the direction of the City of Trotwood.
  - (C) "Alcohol" means the intoxicating agent in beverage alcohol, ethyl alcohol or any other alcohol defined in 49 CFR §382.107.
  - (D) "Alcohol test" means, evidential breath testing, or non-evidential saliva testing, as defined in 49 CFR Parts 40 and 382, to determine the concentration of alcohol in an employee's system.
  - (E) "Applicant testing" means testing of final applicants for position in City service who appear to have tentatively met all relevant employment criteria but have not been formally offered employment with the City.
  - (F) "Appointing Authority" means the officer, commission, board, or body having the power of appointment to, or removal from, positions in any office, department, commission, board, institution, or facility.

- (G) "Chain of Custody" means procedures to account for the integrity of each specimen for testing by tracking its storage from point of collection to final disposition.
- (H) "Collection Site" means a place designated by the City Manager where individuals present themselves for the purpose of providing a specimen to be analyzed for the presence of drugs or alcohol.
- (I) "Confirmation Test" means a second test or analytical procedure that identifies the presence of a specific drug or metabolite or provides quantitative data of alcohol concentration. For controlled substances the confirmation method must utilize gas chromatography/mass spectrometry (GC/MS).
- (J) "Controlled Substance" means those drugs defined in 49 CFR § 382.107 (marijuana, cocaine, opiates, amphetamines, phencyclidine).
- (K) "Drug" means:
  - (1) Any drug which, under the Federal Food, Drug and Cosmetic Act, federal narcotic law, Sections 3715.01 to 3715.72, or Chapter 3719 of the Ohio Revised Code, may be dispensed only upon a prescription;
  - (2) Any drug which contains a Schedule V controlled substance and which is exempt from Chapter 3719 of the Ohio Revised Code, or to which such chapter does not apply; or
  - (3) Any other substance defined in Section 4729.02 of the Ohio Revised Code.
- (L) "Drug Program Coordinator" means the person responsible for implementing, directing and managing the substance abuse policy within the City. The Drug Program Coordinator serves as the City's principal contact with the testing laboratory and maintains the effective operation of the policy within the City.
- (M) "Drug Test" means a chemical test administered for the purpose of determining the presence or absence of a controlled substance in a person's bodily fluids.
- (N) "Employee" means any person holding a CDL in a position subject to appointment, removal, promotion, or reduction by an appointing officer who is paid by warrant of the City.
- (O) "Employee Assistance Program" means the program through which employees, whom have City Health Insurance, may secure confidential counseling for personal behavior and/or health issues, including assessment of drug and alcohol dependency and rehabilitation.
- (P) "Follow-up Test" means drug and/or alcohol test requirements for employees referred to a counseling or rehabilitation program, such as those recommended by or associated with the Employee Assistance Program, who are identified as needing assistance in resolving alcohol misuse and/or controlled substance use problems. Such employees shall undergo unannounced follow-up testing for a time period and frequency stipulated by the Drug Program Coordinator. Such testing also may be in addition to testing which may be imposed as a component of the counseling or rehabilitation program itself.
- (Q) "Illegal Drug" means any controlled substance as defined in this policy, and any drug defined in this policy that is used, possessed or distributed (1) for purposes other than as prescribed or manufactured; or (2) in violation of any federal, state or local law. •
- (R) "Initial Test" means an immunoassay screen to determine the presence or absence of controlled substances or their metabolites in specimens, and an analytical procedure to determine alcohol concentration in an employee's body.

- (S) "Laboratory" means a facility authorized under 49 CFR Part 40 to perform testing for drugs or alcohol for employees of any office, department, commission, board, institution or facility of City government.
- (T) "Medical Review Officer" (MRO) means a person who is a licensed physician and a certified MRO with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all confirmed positive test results together with an employee's medical history and other relevant biomedical information.
- (U) "City of Trotwood Commercial Driver's License Substance Abuse Policy" means the implementation of drug-free workplace programs to ensure the City of Trotwood's compliance with provisions of the federal Drug-Free Workplace Act of 1988, the federal 49 CFR Parts 40, 382, 391, 392, and 395, and/or subsequent amendments.
- (V) "Positive Test Result" means a confirmed drug or alcohol test result which indicates the presence of a controlled substance, or of alcohol, at a level prohibited under the Department of Transportation's ("DOT's") controlled substance and alcohol testing regulations, 49 CFR Parts 40 and 382.
- (W) "Prescription" means a written or oral order for a drug for the use of a particular person given by a practitioner in the course of professional practice and in accordance with the regulations promulgated by federal, state and/or local laws.
- (X) "Reasonable suspicion testing" means alcohol or controlled substance testing based on a belief that an employee is under the influence of, or is using, possessing, or distributing controlled substances or alcohol, or is otherwise in violation of the City's policy. Such a belief may be drawn from specific objective and articulable facts and reasonable inferences drawn from those facts in light of experience, and may be based upon, among other things:
  - (1) Observable phenomena, such as direct observation of drug use and/or the appearance, behavior, speech, body odor or physical symptoms or manifestations of using or being under the influence of a drug or alcohol;
  - (2) A report of drug use provided by reliable and credible sources;
  - (3) Evidence that an individual has tampered with a drug or alcohol test during his/her employment;
  - (4) Evidence that an employee is involved in the use, possession, sale, solicitation, or transfer of alcohol and/or other drugs while working, or while on the employer's premises or operating the employer's vehicle, machinery, or equipment;
  - (5) The occurrence of an incident involving an employee's on the job actions which has resulted in the personal injury of any person, or in which property damage has occurred, and any of one (1) through five (5) above apply.
- (Y) "Specimen" means urine, breath, saliva or blood obtained from the human body.
- (Z) "Refusal" means conduct that obstructs or delays compliance with any provision of this policy (including any part of the testing process), failure to provide adequate breath for alcohol testing without a valid medical explanation, or failure to provide an adequate urine sample not due to a genuine inability.
- (AA) "Safety sensitive" 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 work, and includes the functions listed in 49 CFR § 382.107.

(BB) "Workplace" means a City-owned or utilized premise for official City business or any place where official City business is conducted.

## 5.0 Policy.

### Voluntary Compliance.

Employees who - before committing a violation of this policy - voluntarily disclose to their employer that they have a drug and alcohol problem, will be offered confidential assistance in contacting counseling and treatment programs and provided information about any available insurance coverage or benefits. Depending on the nature of their problem, their job duties, and work history, such employees may be placed on unpaid leaves of absence, transferred to non-safety-sensitive jobs, and/or otherwise reasonably accommodated as may be required by law. Such employees shall be required to document to the City's satisfaction their successful completion of, or participation in, an appropriate, supervised treatment program. Such employees also may be required to comply with other appropriate conditions of treatment and/or continued employment as the City may determine, including, but not limited to, agreeing to take and pass drug and/or alcohol tests at any time or during a specified period of time as may be requested by the City of Trotwood.

If, at any time after voluntarily coming forward under this provision, should said employee violate any provision of this policy, he/she will become subject to the disciplinary consequences as defined in this policy.

### Prohibited Conduct.

The following shall be considered "prohibited conduct" for purposes of this policy:

No employee shall report for duty or remain on duty while having an alcohol concentration of .04 or greater.

No employee shall be on duty or operate a commercial motor vehicle while possessing alcohol unless the alcohol is manifested and transported as part of a shipment.

No employee shall use alcohol while performing safety-sensitive functions.

No employee shall perform safety-sensitive functions within four (4) hours after using alcohol.

No employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test, whichever occurs first.

No employee shall refuse to submit to a post-accident, random, reasonable suspicion, return-to-duty, or follow-up alcohol or drug test.

No employee shall report for duty or remain on duty when the employee possesses or uses any controlled substance, except when possession or use is pursuant to the instructions of



a physician who has advised the employee that the substance does not adversely affect the employee's ability to perform his/her job and/or operate a commercial motor vehicle.

If an employee engages in prohibited conduct, the employee is not qualified to perform a safety-sensitive position and/or drive a commercial motor vehicle. Such employee shall be immediately removed from service and will be subject to the disciplinary consequences set forth in this policy.

#### Alcohol Testing Techniques and Methods.

The City of Trotwood will perform alcohol testing using a device that is on the National Highway Traffic Safety Administration's (NHTSA) Conforming Products List (CPL) and meets the DOT's testing requirements. This may be a breath testing device or a saliva-based testing device provided through a vendor or agent. The device will be operated by a technician who is certified and trained on the specific device he or she will be operating. If directed to submit to alcohol testing, the employee shall report to the alcohol testing site as notified by the City. The employee shall follow all instructions given by the alcohol technician.

As applicable, any initial test indicating a blood alcohol concentration (BAC) of .02 or greater will be confirmed on an evidential breath testing device (EBT) operated by a breath alcohol technician (BAT). The confirmation test should be performed no sooner than 15 minutes and no later than 30 minutes following the completion of the initial test. In the event the confirmation test indicates a BAC of .02 to .0399, the employee shall be removed from duty for 24 hours or until his/her next scheduled on-duty time, whichever is longer. Employees with tests indicating a BAC of .04 or greater are considered to have engaged in prohibited conduct, which subjects them to the disciplinary consequences set forth in this policy. With respect to timing, all alcohol tests shall be performed just prior to, during, or just after duty.

- (A) All procedures and protocols for collection and testing of an employee's breath or saliva for alcohol shall conform to the methods and procedures set forth in this policy or in DOT regulations.
- (B) Test results shall be reported to the Medical Review Officer (MRO) within twenty-four hours of the testing procedure.
- (C) The employee assistance program shall provide to the Drug Program Coordinator a monthly statistical summary of all alcohol testing information including the number of employees tested and the results of that testing. This information should be forwarded no later than fourteen calendar days after the end of the month covered by the summary.

#### Drug Testing Techniques and Methods.

Drug testing normally will be performed through urinalysis. Urinalysis will test for the presence of drugs and/or metabolites of the following controlled substances: (1) marijuana; (2) cocaine; (3) opiates; (4) amphetamines; and (5) phencyclidine (PCP).

The urinalysis procedure starts with the collection of a urine specimen. Urine specimens will be submitted to a SAMHSA-certified laboratory for testing. As part of the collection process, the

specimen provided will be split into two vials: a primary vial and a secondary vial. The SAMJ-ISA-certified laboratory will perform initial screenings on all primary vials. In the event that the primary specimen tests positive, a confirmation test of that specimen will be performed before being reported by the laboratory to the MRO as a positive.

All laboratory results will be reported by the laboratory to a Medical Review Officer (MRO) designated by the City of Trotwood. Negative test results shall be reported by the MRO to the City. Before reporting a positive test result to the City, the MRO will attempt to contact the employee to discuss the test result. If the MRO is unable to contact the employee directly, the MRO will contact the City management official designated in advance by the City, who shall, in turn, contact the employee and direct the employee to contact the MRO. Upon being so directed, the employee shall contact the MRO immediately or, if after the MRO's business hours and the MRO is unavailable, at the start of the MRO's next business day. In the MRO's sole discretion, a determination will be made whether a result is positive or negative. If, after failing to contact the MRO after 5 days, or if the employee cannot be contacted at all within 30 days, the MRO may verify the test as positive.

Pursuant to DOT regulations, individual test results will be released to the City of Trotwood and will be kept strictly confidential unless consent for the release of the test results has been obtained. Any individual who has submitted to drug or alcohol testing in compliance with this policy is entitled to receive the results of such testing upon timely written request.

An individual testing positive may make a request of the MRO to have the secondary vial tested. The secondary vial must be tested by a different SAMHSA-certified lab than tested the primary specimen. The individual making the request for a test of the second specimen must pre-pay all costs associated with the test. The request for testing of a secondary specimen is timely only if it is made to the MRO within 72 hours of the individual receiving notice of a positive test result.

- (A) The initial drug testing protocol for City employees and applicants for City employment shall use an assay technique which SAMJ-ISA requires. The initial cutoff levels and the drug panel for testing shall meet National Institute on Drug Abuse criteria to determine whether specimens are negative for the following five drugs or classes or drugs:

DRUG CLASS	INITIAL TEST LEVEL (ng/ml)
Marijuana metabolites	50
Cocaine metabolites	300
Opiate metabolites	300
Phencyclidine	25
Amphetamines	1,000

- (B) These test levels and initial test methods shall be subject to change by the City of Trotwood if advances in technology, changes in regulations or other consideration warrant identification of these substances at other concentrations. Initial test methods and test levels for other drugs meeting certification criteria of the National Institute On Drug Abuse shall be added to the testing protocol as deemed necessary by the Drug Program Coordinator.

Confirmatory Testing

- (A) All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry (GC/MS) techniques at the cutoff values listed below:

DRUG CLASS	CONFIRMATORY TEST LEVEL (ng/ml)
Marijuana metabolites	15
Cocaine metabolites	150
Opiate: Morphine Codeine	*300 *300
Phencyclidine	25
Amphetamines: Amphetamine Methamphetamine	500 500

\*25 ng/ml if immunoassay specific for free morphine.

- (B) All confirmations shall be by quantitative analysis. Concentrations which exceed the linear region of the standard curve shall be documented in the laboratory record as "greater than highest standard curve value."
- (C) Confirmatory test levels shall be subject to change if advances in technology, changes in regulations, or other considerations warrant identification of these substances at other concentrations. Confirmatory test methods and testing levels for other drugs meeting certification criteria of the National Institute On Drug Abuse shall be added to the testing protocol as deemed necessary by the Drug Program Coordinator.

Collection and Handling of Specimens.

The testing laboratory and any collection facility with which it is affiliated are responsible for conducting specimen collection and handling for drug and alcohol testing pursuant to 49 CFR Parts

40 and 382 of the federal Department of Transportation's regulations. Employees directed to submit to a drug and/or alcohol test must fully cooperate with the testing process, and comply with all specimen collection and chain of custody procedures and requirements, as a condition of continued employment. Employees who fail or refuse to do so will be subject to the disciplinary consequences set forth in this policy.

#### Reporting of Test Results.

- (A) The laboratory shall report test results to the MRO. All test results shall be certified as accurate by the responsible person at the laboratory. Results should not be transmitted by telephone, and transmission by other electronic means (computer, teleprinter or facsimile) shall be permissible. All specimens which test negative on the initial test or negative on the confirmatory test shall be reported as negative. Only specimens confirmed positive shall be reported positive for a specific drug or drugs.
- (B) The Medical Review Officer may, at his/her discretion, request that the laboratory provide quantitation of test results. The Medical Review Officer will not normally report quantitation of test results, but will only report whether the test was positive or negative unless prior written approval to provide other information is authorized by the Drug Program Coordinator.
- (C) The employee assistance program shall provide to the Drug Program Coordinator a monthly statistical summary of urinalysis testing information or any other documentation pertaining to the testing process as requested by the Drug Program Coordinator. This information should be forwarded by registered or certified mail no later than fourteen calendar days after the end of the month covered by the summary.

#### Records and Specimen Retention.

- (A) Unless otherwise instructed in writing by the Drug Program Coordinator, all records pertaining to a given specimen should be maintained by the laboratory for a minimum of two years.
- (B) All positive urine specimens shall be routinely retained in frozen storage (-20 degrees C or less) so as to be available for any necessary retest for a period of one year, unless authorized otherwise in writing by the Drug Program Coordinator.

#### Applicant Testing.

- (A) Every application for employment with the City of Trotwood service shall state: "All applicants tentatively selected for this position will be required to submit to urinalysis to test for illegal drug use prior to appointments. An applicant with a positive test shall not be offered employment."
- (B) Each applicant shall be notified that appointment to the position will be contingent upon a negative test result and the City's final overall assessment of the applicant for employment

with the City. Failure of the vacancy announcement to contain this statement shall not preclude applicant testing and the City's final overall assessment.

- (C) The Drug Program Coordinator shall direct applicants to the appropriate collection site. The test must be undertaken as soon after notification as possible. A driver/applicant is not required to submit to a urine drug test if (1) the City of Trotwood can verify that the driver has participated in a valid drug testing program within the preceding thirty (30) days; (2) while participating in that program, was either tested within the past six (6) months or participated in a random selection program for the previous twelve (12) months; and (3) no prior employer has knowledge that the driver violated any part of the regulations within the last six (6) months.
- (D) Applicants shall be advised of the opportunity to offer an explanation or submit medical documentation of legally prescribed medications which may explain a positive test result. Such information will be reviewed only by the Medical Review Officer in conjunction with his/her determination of the validity of a positive confirmatory test result.
- (E) Any office/department of City government shall decline to extend a final offer of employment to any applicant with a verified positive test result or who refuses to submit to testing. Such applicant will not be reconsidered for City employment for a period of one year.
- (F) DOT regulations may require that the City of Trotwood obtain certain drug and alcohol testing records from employee's previous employers for the previous two years. The City may verify that no prior employer of the employee has records indicating a violation of any DOT rule pertaining to controlled substance or alcohol use within the previous two (2) years. As a condition to employment, the employee shall provide the City with a written authorization for all previous employers within the past two years to release such drug and alcohol testing records.

#### Reasonable Suspicion Testing.

- (A) Where there is reasonable suspicion to believe that an employee, when appearing for duty or on the job, is using, possessing or under in influence of, or that his/her job performance or behavior is impaired by, alcohol or a controlled substance, or if he/she is otherwise exhibiting conduct or behavior that falls within this policy's "reasonable suspicion testing" definition, the employee may be required to submit to drug and/or alcohol testing.
- (B) As applicable, reasonable suspicion will be assessed by at least.
  - (1) One supervisor trained in compliance with 49 CFR §382.603;
- (C) Reasonable suspicion testing shall also include incident-based accident or unsafe practice testing. Such testing may be required of employees involved in on-the-job accidents or who engage in unsafe on-duty job-related activities that pose a danger to themselves, to others, or overall operations. Such incident-based testing can also be for conditions and

situations and according to procedures prescribed in the section below entitled, "Post-Accident Testing."

- (D) The employee shall be asked to provide the urine sample or submit to a breath or saliva test for alcohol in accordance with criteria delineated in this policy.
- (E) The City will endeavor to train supervisors and managers properly in accordance with §382.603 to address the abuse of alcohol or other drugs by employees, to recognize facts that give rise to reasonable suspicion, and to document facts and circumstances of a finding of reasonable suspicion as prescribed in this policy. Failure to receive such training shall not, however, invalidate otherwise proper reasonable suspicion testing.
- (F) Employees shall be given the opportunity to offer an explanation or submit medical documentation of legally prescribed medications or exposure to toxic substances which may explain a positive test result. Such information shall be reviewed only by the Medical Review Officer in conjunction with his/her determination of the validity of a positive confirmatory test and shall be released to the employer only to explain a test result.

Random Testing.

- (A) All employees to whom this policy applies are subject to random testing at any time during working hours.
- (B) Employees to be tested will be selected using a computer-based random selection.
- (C) The number of such tests per calendar year shall equal or exceed:
  - (1) 50% for illegal drugs
  - (2) 10% for alcohol

of the average number of employment positions covered by this policy and shall be spread throughout the year as determined by the City.

- (D) No supervisor, official, and/or manager shall have any control over the probability of an individual's selection for random testing. Random selection, by its very nature, may result in employees being selected in successive random selections or selected more than once in a calendar year. Alternatively, some employees may not be selected in a calendar year.
- (E) A City official shall notify an employee when that employee is selected. Once notified, every work-related action the employee takes must lead to a collection. If the employee engages in conduct that does not lead to a collection as soon as possible after notification, such conduct may be considered a refusal to test and will subject the employee to the disciplinary consequences set forth in this policy. However, employees who, for legitimate reasons, are unavailable on the day of their selection shall be returned to the selection pool.
- (F) Employees shall be given the opportunity to offer an explanation or submit medical documentation of legally prescribed medications or exposure to toxic substances which may explain a positive test result. Such information shall be reviewed only by the Medical

Review Officer in conjunction with his/her determination of the validity of a positive confirmatory test and shall be released to the employer only to explain a test result.

#### Post-Accident Testing.

An employee must submit to drug and alcohol testing any time he or she is involved in an accident where 1) a fatality is involved; or 2) the employee receives a citation for a moving violation arising from the accident, and any party involved requires immediate treatment for an injury away from the accident scene, or if any vehicle involved incurs "disabling damage" (i.e., must be towed away). Following any accident, the driver must contact the City of Trotwood as soon as possible. If the employee previously has been presented with an information card setting forth certain instructions for post-accident drug and alcohol testing, the employee shall follow the instructions contained on the information card as well as any additional instructions from the City or its representatives.

Any time a post-accident drug or alcohol test is required, it must be performed as soon as possible following the accident. If no alcohol test can be made within eight (8) hours, attempts to perform an alcohol test should cease. If no urine collection can be obtained for purposes of post-accident drug testing within thirty-two (32) hours, attempts to make such collection should cease.

In the event that federal, state, or local officials, following an accident, conduct breath or blood tests for the use of alcohol, and/or urine tests for the use of controlled substances, these tests may meet the requirements of this section, provided the tests conform to applicable federal, state, or local requirements. The City of Trotwood may request testing documentation from such officials and/or the persons or entities who performed the collection and testing. If applicable, the City may ask the employee to sign a release allowing the City to obtain such test results.

In the event an employee is so seriously injured that the employer cannot provide a sample of urine, breath or saliva at the time of the accident, the City may ask and require the employee to provide necessary authorization for the City of Trotwood to obtain hospital records or other documents that would indicate the presence of controlled substances or alcohol in the employee's system at the time of the accident.

#### Substance Abuse Evaluation, Return To Duty, and Follow-Up Testing.

Any employee who engages in prohibited conduct shall be provided with the names, addresses, and telephone numbers of qualified substance abuse professionals (SAPs). If the employee desires to become requalified, the employee must be evaluated by a SAP and submit to any treatment the SAP prescribes. Following evaluation and treatment, if any, in order to become requalified and return to work, the employee must submit to and successfully pass a return-to-duty drug and/or alcohol test. Passing the test requires a test result indicating an alcohol concentration of less than 0.02, and/or a verified negative result for controlled substances use. Such employee is also subject to follow-up testing. Follow-up testing is separate from and in addition to the City's reasonable suspicion, post-accident, return-to-duty, and random testing procedures. The schedule for follow-up testing shall be unannounced and in accordance with the instructions of the SAP. Follow-up testing may continue for a period of up to sixty (60) months following the employee's return to duty. Pursuant to a DOT requirement, no fewer than six (6) tests shall be performed in the first

twelve (12) months of follow-up testing. The costs of any SAP evaluation or prescribed treatment shall be borne by the employee. Also, the City cannot guarantee or promise a position to the employee if or when he/she regains qualified status.

Findings of Employee Alcohol and/or Drug Use and Disciplinary Consequences.

- (A) Employees who engage in prohibited conduct or otherwise violate any provision of this policy will be immediately removed from driving a commercial motor vehicle or performing any safety-sensitive function. Such employee will also be subject to disciplinary action, up to and including immediate termination, as determined by the City. The severity of the action chosen will depend on the facts and circumstances of each case. In every case where an immediate termination does not occur, the employee will receive a minimum thirty day unpaid suspension from work.
- (B) An employee may be found in violation of this policy on the basis of any available evidence including, but not limited to:
  - (1) Direct observation;
  - (2) A refusal or failure to comply with any requirement under this policy;
  - (3) Evidence obtained from a drug or alcohol-related conviction;
  - (4) A verified positive test result; or
  - (5) An employee's voluntary admission.
- (C) Any employee who has submitted to drug or alcohol testing in compliance with this policy is entitled to receive the results of such testing upon timely written request to the City's Drug Program Coordinator.
- (D) In the event that an employee's employment is not terminated on the first occasion in which the employee has a confirmed positive alcohol or drug test, in addition to a minimum thirty day unpaid suspension from work, the following action shall occur:
  - 1) The employee shall be given the names, addresses, and telephone numbers of qualified substance abuse professionals (SAPs). If the employee desires to be requalified, the employee must be evaluated by a SAP and submit to any treatment the SAP prescribes. Following evaluation and treatment, if any, in order to become requalified, the employee is required to successfully complete a return-to-duty drug and/or alcohol test. Such driver will also be subject to follow-up testing as described in this policy.
  - 2) The employee will be re-tested for alcohol and/or drug use upon completion of his/her evaluation by the SAP and prescribed treatment or the thirty day suspension, whichever is later. In addition the employee will be subject to follow-up tests as part of the employee's rehabilitation. These unannounced tests cannot be less frequent than six in the first twelve months. In no event will the employee be allowed to return to the workplace prior to being evaluated by a SAP and completing any prescribed treatment.



- 3) If the employee requests to have the secondary vial tested and the retest results prove to be negative, such employee's non-paid suspension shall be changed to a paid leave of absence.
  - 4) In the event that an employee's employment was not terminated in the first occasion of a confirmed positive alcohol or drug test, on any second occasion in which the employee has a confirmed positive alcohol or drug test, the employee will be discharged from his/her position with the City of Trotwood.
- (E) Any refusal to submit to an alcohol and/or drug test shall be deemed as having a confirmed positive test result as stipulated in paragraph (D) of this section. Refusal to submit to a test will be grounds for refusal to hire driver/applicants.
- (F) Attempts by an employee to alter, substitute, or falsify any specimen provided for drug or alcohol testing shall subject the employee to immediate termination.
- (G) Nothing herein is intended to limit the rights of employees under applicable collective bargaining agreements.

Disciplinary Action: Federal Drug-Free Workplace Act of 1988.

As required by the Federal Drug-Free Workplace Act of 1988, each employee in an agency receiving federal grant funds shall be required to notify his/her agency head or the agency head's designee, within five calendar days after he/she is convicted of a violation of any federal or state criminal drug statute, provided such conviction arose from an occurrence at the workplace or any location where the employee was working at the time of the incident which led to the conviction. Each agency shall be required to notify any federal agency with which it has a contract or grant, within ten calendar days after receiving notice from the employee, of the fact of such conviction. Any employee's failure to report such a conviction will subject such employee to disciplinary action, up to and including termination. An agency head or his/her designee may send the employee to the employee assistance program for referral and treatment, or may take appropriate personnel action against such an employee, up to and including termination. Whatever the case, such action shall be taken within thirty calendar days of the employer's notification of the employee's conviction.

Appeal of Drug Test Results.

- (A) Employees who have a confirmed positive drug test result may ask to have the secondary vial tested within seventy-two hours of receiving the initial test result. Such requests shall be in writing, signed, and dated, and shall be presented to the immediate supervisor of the employee. The supervisor will immediately (within 24 hours) forward such request to the Drug Program Coordinator. The laboratory performing such a retest shall be certified by the National Institute on Drug Abuse.
- (B) Any such retest shall be at the expense of the employee. In the event that the event retest results prove to be negative, the expense of the retesting will be borne by the City of Trotwood.

- (C) An employee request for a retest shall not delay the imposition of appropriate disciplinary action or referral to an alcohol and/or drug abuse rehabilitation program.

Drug-Free Workplace Training/Education.

- (A) The Drug Program Coordinator shall provide, or arrange to have provided, information and training programs concerning the impact of alcohol and other drug abuse on job performance, as well as information concerning the employee assistance program and any other resources available for employee assistance in dealing with a substance abuse problem.
- (B) All employees shall be furnished a copy of the City's substance abuse policy and testing procedures. The Drug Program Coordinator shall provide educational materials that explain the requirements of §382.601, consequences of violating the regulations, and the employer's policies and procedures with the respect to meeting these requirements.
- (C) All new employees shall be furnished a copy of such document and such procedures at the time of their orientation, but no later than thirty (30) calendar days from the first day of their employment.
- (D) The Drug Program Coordinator shall develop and implement, or arrange to have implemented, a training and education program for supervisors and managers to provide knowledge and skills essential for their recognizing and addressing alcohol and other drug abuse among employees and to facilitate their participation in the implementation and administration of drug and alcohol testing and other drug-free workplace programs within the agency in which they work. The City shall ensure that supervisors designated to determine whether or not reasonable suspicion exists to require a driver to undergo testing under §382.307, receive at least 60 minutes of training on recognizing alcohol misuse, and receive at least 60 minutes of training on recognizing controlled substance use. The training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.
- (E) Each office/department shall be required to document to the Drug Program Coordinator that it has distributed copies of the Substance Abuse Policy to all employees. All employees shall sign an acknowledgment that they have read and understand the policy and work rules pertaining to it. This acknowledgement shall be kept in the employees' file. Agencies shall review the policy annually with employees.

Confidentiality

To the extent required by law, the City of Trotwood will keep confidential, any and all drug and/or alcohol treatment records, medical records, positive test results, and information it provides its Medical Review Officer, unless a written release, signed by the employee, is on file with the Drug Program Coordinator. Such records and information shall be kept in secure files separate from personnel files. Ordinarily, such information will be disclosed within the City only on a need-to-know basis, and disclosed outside the City only where required by law or where a claim, charge, or lawsuit is filed against the City or its agent involving such information.