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COLLECTIVE BARGAINING AGREEMENT

BETWEEN

THE CITY OF CLEVELAND

AND

**CITY, COUNTY AND WASTE PAPER DRIVERS
UNION, LOCAL NO. 244
SEASONAL EMPLOYEES**

**Affiliated with the International
BROTHERHOOD OF TEAMSTERS**

EFFECTIVE APRIL 1, 2011 THROUGH MARCH 31, 2013

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ARTICLE I
INTRODUCTION

Section 1. Entire Agreement.

This contract sets forth a complete agreement between the City of Cleveland (hereinafter referred to as the “City”) and City, County and Waste Paper Drivers Union, Local 244 affiliated with the International Brotherhood of Teamsters (hereinafter referred to as the “Union”) which represents employees as specified herein. Specifically, the agreement addresses all matters pertaining to wages, hours, or terms and other conditions of employment mutually expressed between the parties.

Section 2. Pronouns/Plurals.

The male pronoun or adjective where used herein refers to the female also unless **otherwise** indicated. The term “employee” or “employees” where used herein refers to all employees in the bargaining unit. The purpose of this Contract is to provide a fair and reasonable method of enabling employees covered by this Contract to participate, through Union representation, in the establishment of the terms and conditions of their employment, and to establish a peaceful procedure for the resolution of contract differences between the parties. This contract shall comply with the Laws of the United States, the State of Ohio, and the City of Cleveland and all applicable governmental administrative rules and regulations which have the effect of law.

ARTICLE II
RECOGNITION

Section 1. Scope of Bargaining Unit.

The Union is recognized as the sole and exclusive representative for all seasonal employees in the following job classifications who have successfully completed their initial probationary period for the purpose of establishing rates of pay, wages, hours, and other

conditions of employment, but excluding all supervisors (as defined in Chapter 4117 Ohio Revised Code) and security employees.

Section 2. Inclusions.

The Union's exclusive bargaining unit includes the following job classifications and the City will not recognize any other union as the representative for any employees within such classifications:

- Concrete Mixer Driver
- Tanker Truck Driver
- Truck Driver (all classifications)
- Tow Truck Operator
- Tractor Driver
- Street Equipment Maintenance Specialist
- Street Equipment Maintenance Leadman (working)
- Street Carry All Driver
- Waste Collection Driver
- Ground Maintenance Driver I
- Ground Maintenance Driver II
- Snow Removal Vehicle Operator

Section 3. Exclusions.

The following positions and employees holding positions in these areas are specifically excluded from any bargaining unit:

- (A) Mayor's Office
- (B) Department of Personnel
- (C) Civil Service Commission
- (D) Law Department
- (E) Budget and Management Office
- (F) Persons functioning as secretaries to Commissioners and Directors
- (G) Professional Employees
- (H) Confidential Employees
- (I) Classifications which formulate policy

- (J) Responsibly directs the implementation of management policy.

ARTICLE III

MANAGEMENT RIGHTS

Section 1. Listing of Rights.

Except as specifically limited herein, all rights are reserved to and remain vested in the City, including, but not limited to the sole right to:

- A. Determine matters of inherent managerial policy which include, but are not limited to, areas of discretion of policy such as the functions and programs of the City, standard of services, its overall budget, utilization of technology and organizational structure. Moreover, the City shall have the right to privatize or subcontract services in accordance with the procedures and standards specified in Section 3 of this Article;
- B. Direct, supervise and evaluate or hire employees, and to determine when and under what circumstances a vacancy exists;
- C. Maintain and improve the efficiency and effectiveness of City operations and to require employees to use or refrain from using specified uniforms or other tools of duty;
- D. Determine the overall methods, process, means, or personnel by which City operations are to be conducted. Moreover, the City shall have the right to establish specialized pick-up routes (e.g., for recycling, etc.) with two-man crews, special route territories, and special work hours, subject to prior negotiations with Laborers' Local 1099 and Teamsters Local 244;
- E. Suspend, discipline, demote, or discharge for just cause, or lay off, transfer, assign, schedule, promote or retain employees;
- F. Determine the adequacy of the work force;
- G. Determine the overall mission of the City;
- H. Manage the work force; and
- I. Take actions to carry out the mission of the public employer as a governmental unit.

Section 2. Non-Negotiation.

Notwithstanding Section 4117.08 of the Ohio Revised Code, the City is not required to bargain on any subjects — including, but not limited to, those enumerated above — reserved to and retained by the City under this Article. Therefore, the Union agrees that during the life of this Agreement, the City shall have no obligation to bargain collectively with respect to the exercise of any rights reserved to and retained by it pursuant to either Section 4117.08(C) of the Revised Code or pursuant to this Agreement.

Section 3. Subcontracting/Privatization.

The City shall have the right to privatize or subcontract services. For subcontracting which would result directly in the layoff of employees, the City's right to subcontract or privatize services shall be based upon the following procedures and standards:

- A. The City shall have the right to institute competitive initiatives or subcontract services, where the City's primary objective is to achieve financial economy, improved operating efficiency, and/or better quality of service. Sixty-five (65) days prior to initiation of any bid procedure, the City shall meet and confer with the Union on no less than a weekly basis to determine if there are methods of improving operating efficiency and reducing the cost of providing City service. Prior to the meetings, the City shall provide the Union with information sufficient to allow the meetings to proceed in a productive fashion, including the cost of the work being performed and the problems with efficiency or productivity which the City would like to address.
- B. At the conclusion of the meetings, the City and the Union shall calculate the cost and evaluate the methods of providing services. Upon review by the City, if the alternative yields financial savings, improved operating efficiency, and/or a better quality of service genuinely equivalent to or greater than those the City can achieve through subcontracting, the City shall accept the Union's alternative instead of utilizing an outside bidder/vendor; although, to insure meaningful substantive evaluation, the City will be permitted to prepare bid documents during the initial sixty-five (65) day meeting period set forth above and to utilize the bid procedure immediately upon completing the sixty-five (65) day meeting period.
- C. If the City informs the Union that the alternative does not sufficiently meet the City's objective as stated in paragraph 1 above, then the City and the Union will continue to work cooperatively for not less than twenty (20) days after the conclusion of the bidding process (which ends on the day the City shares the

lowest bid for and initiative with the Union, after which the City may exercise its contractual rights to implement the proposed initiative.

- D. Should the City decide to implement a competitive initiative, the City will make a good faith effort to assign displaced employees to vacant positions for which they are qualified or can be trained to become qualified within a reasonable period of time.
- E. The City and the Union agree that if there is a disagreement regarding the above, including over the true value of the Union's competitive alternative (financial savings, improved efficiency, quality of service), the Union will have the right to submit the issue of whether or not the Union's alternative "genuinely" meets or exceeds the City's objective to final and binding arbitration by requesting arbitration with the American Arbitration Association within fourteen (14) days of the expiration of the 65-day meet and confer period.

ARTICLE IV

UNION RIGHTS

The rights of the Union are specifically listed in this Contract.

Section 1. Representation.

An employee has the right, upon his request, to the presence and advice of a Union Steward or Officer at any disciplinary hearing.

Section 2. Review Records.

An employee shall, upon request, be permitted to review all his/her personnel records files, except reference letters, in the presence of appropriate supervision and he/she may initial and date the contents found therein. Only copies of letters of discipline, evaluations and commendations shall be made available to the employee at the time of issuance. However, any materials in the employee's personnel record which have not been seen or signed by him/her or which are more than two (2) years old at the time discipline is being considered shall not be used against him/her. The signing of any materials to be placed in an employee's personnel record does not indicate agreement by the employee as to the contents of the material but does acknowledge he/she has seen it.

Section 3. Crossing Picket Line.

It shall not be a violation of this Contract and it shall not be a cause for discharge or disciplinary action if any employee refuses to enter upon any property involved in a primary labor dispute, refuses to go through or work behind any lawful primary picket line, or refuses to do work normally done by primary striking members of another union, except that the City shall not be required to pay the wages of any such employees. Provided, that in no case shall any employee refuse to work, regardless of the existence of a lawful primary labor dispute, if, in the City's judgment, such refusal would be detrimental to the public health or safety unless the City cannot reasonably provide for the personal safety of the employees.

ARTICLE V

NO STRIKE - NO LOCKOUT

Section 1. No Strike.

The Union shall not, directly or indirectly, call, sanction, encourage, finance, and/or assist in any way; nor shall any employee instigate or participate, directly or indirectly, in any strike. For purposes of this section, "strike" means concerted action in failing to report to duty; willful absence from one's position; stoppage of work; slowdown or abstinence in whole or in part from the full, faithful, and proper performance of the duties of employment for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and conditions of employment for the duration of this Contract or any extension thereof.

Section 2. Discipline for Violations.

The City reserves the right to discipline for any illegal strike action or violation of this provision. Violations of this paragraph may constitute an Unfair Labor Practice as determined and remediable by the State Employment Relations Board. In the event an Unfair Labor Practice

is determined by SERB, the City will not subsequently impose discipline except as recommended by SERB.

Section 3. No Lock-Out.

The City shall not lock out any employees for the duration of this Contract.

ARTICLE VI

NON-DISCRIMINATION

The City and the Union hereby state their commitments, legal and moral, not to discriminate in any manner relating to employment or representation on the basis of race, color, creed, national origin, sex, disability, Union Activity, or age.

ARTICLE VII

UNION SECURITY AND CHECK-OFF

Section 1. Union Membership.

All employees in the bargaining unit covered by this Contract who are members of the Union on the date the Contract is signed and all other employees in such bargaining unit who become members of the Union at any time in the future shall, for the term of this Contract, continue to be members of the Union, and the City will not honor dues deduction (check off) revocations from any such employees except as provided herein.

Section 2. Dues Deductions.

The City will deduct regular initiation fees and monthly dues from the pay of employees in the bargaining unit covered by this Contract upon receipt from the Union of individual written authorization cards voluntarily executed by an employee for that purpose and bearing his signature. Provided that --

- A. An employee shall have the right to revoke such authorization by giving written notice to the City and the Union within the last thirty (30) days of this Contract,

and the authorization card shall state clearly on its face the right of an employee to revoke during this time period; and shall be placed under fair share fee.

- B. The City's obligation to make deductions shall terminate automatically upon timely receipt of revocation of authorization or upon termination of employment or transfer to a job classification outside the bargaining unit.

Section 3. Fair Share Fees.

The following provisions shall become effective upon ratification provided that the Union provides documentation and substantiation that at least 85% of the eligible employees in the Bargaining Unit as defined in Article II of this Contract are dues-paying members of the Union.

- A. All non-probationary employees covered by this Contract who are members of the union shall be required to pay dues. Employees are not required to join the union as a condition of employment, however, non-probationary employees, after ratification, shall, during the term of this Contract, be subject to pay a service fee in an amount not to exceed the Union dues, for the purpose of administering the provisions of this Contract. The City will provide the Union with monthly payroll records of members in the bargaining unit. Further, any employee who becomes a fair share payer and/or a dues-paying member but does not tender same will be subject to retroactive collection of such fair share fees or dues.
- B. It shall be the responsibility of the Union to establish the amount of such a service fee, and to notify all affected employees of the established service fee. The Union shall notify the City of the amount of said service fee and shall provide the City with at least thirty (30) days' advance notice of any change in the service fee amount. The City shall deduct this amount from the pay of said employee(s) and

remit it to the Union. The Union shall indemnify and save the City harmless from any and all legal actions brought by an employee against the Union, the City, or the Union and the City jointly as the result of the enforcement or required compliance with this provision.

- C. Any employee hired prior to April 1, 1984, who has not joined the Union by March 31, 1984, shall not be subject to this provision and shall not be required to pay a service fee.
- D. Deductions under Article VII shall be made during the second pay period of each month, but if an employee's pay for that period is insufficient to cover the Union dues, the City will make a deduction from the pay earned during the next pay period.
- E. All deductions under Article VII, accompanied by an alphabetical by department list of all employees from whom deductions have been made, shall be transmitted to the Union no later than the fifteenth (15th) day following the end of the pay period in which the deduction is made, and upon receipt, the Union shall assume full responsibility for the disposition of all funds deducted.
- F. Where an individual in a classification not in the bargaining unit is temporarily assigned to a position within the bargaining unit, the Union shall be entitled to assess a pro-rata service fee upon such temporarily assigned employee based upon the amount of time the employee is in the bargaining unit position. The service fee shall be a fraction of the monthly union fees with the days the employee is temporarily assigned on the numerator and the number of days in the affected month as the denominator.

ARTICLE VIII

UNION REPRESENTATION

Section 1. Selecting Stewards.

The City recognizes the right of the Union to select Stewards to represent the employees, upon request, on grievances concerning the interpretation or application of this Contract.

Section 2. Responsibilities of Stewards.

Stewards shall process grievances with proper regard for the City's operational needs and work requirements, and shall cooperate in good faith with the City in keeping to a minimum the time lost from work due to grievance handling. If an Steward fails or refuses to comply with this requirement, the City retains the right to impose disciplinary action, if proven.

Section 3. Identifying Stewards.

The Union shall furnish the City with a written list of Stewards, indicating the Department and shift to which each is assigned, and, further, shall promptly notify the City in writing of any changes herein.

Section 4. Access to Bulletin Board.

The City shall provide the Union with a bulletin board at mutually selected locations. Provided that --

- A. No notice or other writing may contain anything political or critical of the City or any City official or any other institution or any employee or other person.
- B. All notices or other materials posted on the bulletin board must be signed by the President of the Union or an official representative of the Union.
- C. Upon request from the appropriate Commissioner or his designee, the Union will immediately remove any notice or other writing that the City believe violates this

provision, but the Union shall have the right to grieve such action through the Grievance Procedure.

ARTICLE IX

UNION VISITATION

The non-employee representative of the Union shall be admitted to the City's facilities and sites during working hours upon reasonable advance notice to the appropriate Appointing Authority or his office. Such visitations shall be for the purpose of ascertaining whether or not this Contract is being observed by the parties, to participate in the adjustment of grievances, or to attend other meetings as provided herein. At no time shall such visitation rights interfere with the work requirements of any employee or disrupt operations in any way, unless expressly permitted by the City.

ARTICLE X

PROBATIONARY PERIOD

New employees shall be on probation for a period of six (6) months. Said period may be extended an additional thirty (30) calendar days, on the mutual written agreement of the parties.

ARTICLE XI

SENIORITY

Section 1. Job Classification Seniority.

Job classification seniority shall be defined as an employee's length of service while holding the same classification regardless of whether his Civil Service status is that of a Temporary Appointment or Legal. The employee shall receive credit for all time spent on the City's payroll in that classification. Job classification seniority would be used to determine lateral transfer, shift and work week bids.

Section 2. City Employment Seniority.

City employment seniority shall be defined as an employee's continuous length of service, effective from his date of hire, in accordance with Civil Service Rules. City employment seniority would be applied for the purpose of accruing such benefits as: vacation, longevity, and accrued sick leave.

Section 3. Seniority Tie-Breaker.

Seniority for employees hired on the same day shall start with the highest number for the last four digits of the person's social security number in odd numbered years. In even numbered year, the lowest numbers shall be first.

Section 4. Termination of Seniority.

City employment seniority shall be terminated when an employee:

- A. resigns;
- B. is discharged for just cause;
- C. is laid off for more than twenty-four (24) consecutive months;
- D. is absent without leave for fourteen (14) consecutive working days; or
- E. fails to report for work within ten (10) consecutive working days from the date on which the City sends the employee notice by certified mail that he has been recalled from layoff.

When permitted by law, City employment seniority shall be suspended for unpaid non-FMLA leaves of absence in excess of sixty (60) calendar days.

Section 5. Employee Contact Information.

Employees are obligated to keep the City apprised of their current address and current telephone number. The City will provide the Union, upon request, with a list of all employees in the bargaining unit listing name, job classification, date of hire, and date of classification.

ARTICLE XII

LAYOFFS AND RECALLS

Section 1. Layoff Procedures.

A. Order of Layoff.

Whenever it is necessary to reduce the working force of the City, either for lack of work or lack of funds, seasonal employees shall be laid off based upon seniority within the affected classification within their division.

B. Notice of Layoff.

Seasonal employees shall be given a minimum of ten (10) calendar days' advance written notice of layoff indicating the circumstances which make the layoff necessary. Exceptions to the above will be provided for by mutual consent between the City and the Union.

C. Reassignment to Avoid Layoff.

Before any bargaining unit employee is given notice of layoff under the above paragraphs, the City and the Union will meet immediately for the purpose of attempting to find an available job within the City, within the bargaining unit, which the affected employee is qualified to perform, and if any such job is available, the employee will be given the option of accepting it rather than being laid off. The Union shall receive a copy of all such layoff notices.

Section 2. Recall Procedures.

Employees shall be recalled in the reverse order of layoff in accordance with the rules and regulations of Civil Service. An employee on layoff will be given ten (10) working days' notice of recall from the date on which the City sends the recall notice to the employee by certified mail to his last known address (as shown on the City's records). A laid-off employee

will be recalled to his legal position with full rights in the event that this position becomes available within two (2) years after his layoff date. However, an employee who is recalled to the same classification, but who refuses the job, shall be removed from the layoff list and shall forfeit all seniority rights, including recall rights.

ARTICLE XIII

ASSIGNMENT OF WORK - TEMPORARY TRANSFER

All employees shall be required to perform any and all temporarily assigned duties, regardless of their usual or customary duties or job assignment.

Section 1. Duration and Reasons.

A temporary transfer shall not exceed thirty (30) working days — (1) to fill a vacancy caused by an employee being on sick or other approved leave of absence, (2) to provide vacation relief scheduling, (3) to fill an opening temporarily pending permanent filling of such opening, or (4) to meet an emergency situation.

Section 2. Compensation.

When an employee is temporarily transferred to another job classification, he shall receive his regular rate. However, if the rate of pay for such other classification is higher than his regular rate, he shall receive an adjustment in pay within his own classification commensurate with the work he is doing in the other classification.

Section 3. Notice.

An employee shall be given a written notice of said transfer if the work assignment exceeds eight (8) hours.

Section 4. Posting Requirement.

If the assignment exceeds thirty (30) days, said opening shall be posted and filled.

Section 5. Reassignment Upon Loss of CDL.

- A. Whenever an employee loses his/her commercial driver's license he/she shall, if qualified, be placed in another position in the bargaining unit that does not require operation of equipment if available, and shall be paid at the rate of the position. If more than one qualified position is available, the highest paying position shall be assigned to the driver.
- B. If a valid State of Ohio commercial driver's license is a requirement for the position and there is a reassignment to alternative duties that do not require a commercial driver's license, that non-driving position shall not exceed ninety (90) calendar days. Failure to comply with this requirement could result in employee being discharged.

ARTICLE XIV

JOB EVALUATION AND CLASSIFICATION

Section 1. Non-Grievability.

Job evaluation, job descriptions, and/or job classifications shall not be subject to the provisions of the Grievance Procedure. Provided, however, that the City recognizes the right of a regular full-time employee to appeal any disciplinary action based upon failure to meet the required standard of job performance through the Grievance Procedure.

Section 2. Notice of Classification Name Change.

In the event the name of a classification in the bargaining unit is changed and the work duties remain substantially unchanged, the City will promptly notify the Union of said change.

Section 3. New Classification Procedures.

A. Notice.

In the event a new classification is established by the City which is related to an existing classification in the bargaining unit, the City will promptly notify the Union prior to placing the classification into effect.

B. Meeting Requirement.

The parties agree to meet within seven (7) days of the notice to mutually agree upon whether the new classification is to be included in the bargaining unit.

C. Grievances.

If the parties are unable to agree, the Union may file a grievance at Step 4 of the Grievance Procedure, provided that if more than one Union is claiming the classification, the arbitration hearing shall include, as parties, all such Unions wishing to represent such classification; and provided further, that if there is a state or local law which governs such representation matters, that law and procedure shall control.

Section 4. Training.

The parties agree to continue discussions after ratification of this Agreement through a Labor Management Committee (LMC) on training for all bargaining unit employees.

ARTICLE XV

OVERTIME

Section 1. Assignment Procedures.

A. Necessity.

The City shall be the sole judge of the necessity for overtime.

B. Voluntary Overtime.

Normal overtime shall be voluntary and an employee shall have the right to refuse an overtime assignment.

C. Mandatory Overtime.

The need for overtime created as a result of an emergency situation is considered mandatory. An emergency can be declared by the Division, the Department, or the City. For purposes of this provision, an emergency is defined as an impairment to City services or operations which cannot be delayed until the beginning of the next regular work day. If an adequate number of the employees have not volunteered to work in an emergency situation, the City shall require those employees with the lowest seniority to fill the number of vacancies to accomplish the said tasks.

D. Priority of Assignment Requests.

The City must ask bargaining unit members first when an overtime situation presents itself for work within one of their classifications. When this procedure has been exhausted, assuming it is of a non-emergency nature, the City may ask other employees to perform the required assignments. A steward shall be present, on a rotation basis, when three (3) or more members are working in an overtime situation. In the event of holdover or contiguous overtime, if a crew's unit leader or supervisor determines that the Local 244 bargaining unit employee is needed to complete a job, that bargaining unit member assigned to the crew or assignment shall have first option of working the required overtime hours. If the Local 244 bargaining unit member individually decides to forego that specific overtime opportunity, the City will then have the right to use a non-bargaining unit employee, who is a member of the crew present at the work site and who

is qualified to perform the work required, to work the overtime hours necessary to finish the requisite work.

E. Overtime Rotation.

1. The City shall rotate overtime opportunities among qualified full-time employees who normally perform the work that is being assigned for overtime. The City agrees to maintain overtime rosters on a quarterly basis which shall be made available to the employees and steward upon request. Said rosters shall include a list of overtime hours worked, refused, negative contact, and total hours of overtime offered.
2. An employee who is offered and does not accept an overtime assignment shall be credited on the roster with the amount of overtime offered. Overtime shall be offered on the basis of overtime hours accrued for that calendar year, starting on January 1.
3. Where the situation arises where two or more members have accrued the same amount of overtime hours in the classification, seniority shall be the deciding factor, starting with the most senior employee in the classification and then proceeding down the list.
4. Employees entering a Division at any time during a calendar year shall be credited with the highest amount of overtime of any employee in the division.
5. When the City is unable to contact an employee due to the employee's failure to respond to an attempted communication, the employee shall be credited on the roster with the amount of overtime is offered. Upon

request of the Union, the city shall provide documentation of efforts to contact the employee.

6. Where the City has advance knowledge of its need for overtime, it will notify employees prior to the end of the shift of the need to work overtime.
7. Employees interested in working overtime must notify management of their willingness for overtime on a semi-annual basis. Repeated refusals or non-response to requests for overtime assignments shall result in discipline and/or removal from the overtime list.

Section 2. Determining Schedules and Shifts.

The City shall retain the sole and exclusive right to determine weekly and daily work schedules and the number of shifts required.

Section 3. Weekly Overtime Compensation.

All employees in the job classifications covered by this Contract shall receive time and one-half (1-1/2) their regular rate of pay for all hours worked in excess of forty (40) in one (1) work week.

Section 4. Daily Overtime Compensation.

All employees in the job classifications covered by this Contract shall receive time and one-half (1-1/2) their regular rate of pay for all hours worked in excess of eight (8) in one (1) day.

Section 5. Working Holiday Pay.

All employees in the job classifications covered by this Contract shall receive time and one-half (1-1/2) their regular rate of pay for all hours worked on holidays.

Section 6. "Hours Worked" Defined.

Paid holiday hours shall be counted as hours worked for the purpose of computing overtime unless Holiday hours are not part of the employee's regular work week.

Section 7. No Pyramiding.

There shall be no pyramiding of overtime or other premium pay compensation, and overtime pay shall be computed on whatever overtime hours are the greater for the week, either on a daily or a weekly basis, but not on both.

Section 8. Show-Up Time.

The City and the Union agree to an allowance of two (2) hours of show-up time when called in on an emergency basis. Any employees reporting after this two (2) hour period will be denied work.

Section 9. Cleaning Sweeper During Freezing Weather.

When the temperature falls below 32°F (not windchill) employees operating Sweepers will be permitted to clean the Sweeper at an inside garage where inside facilities are available for that purpose. This privilege may not be exercised if it results in the payment of overtime.

ARTICLE XVI

PAY ADJUSTMENTS FOR NEW EQUIPMENT

Section 1. Meeting Requirement.

Any new equipment purchased within the past twelve (12) months before the execution of this agreement and until the expiration of this agreement that does not have an established wage rate, the City and the Union shall mutually agree to meet for the sole purpose of establishing a new adjustment of pay for all new equipment. Both parties shall mutually agree on a date and time of the meeting.

Section 2. Meeting Participants.

The City, the Business Representative(s), and the Steward from the affected division shall participate in the above described meeting.

Section 3. Meeting Pay.

Employee representatives scheduled to attend the above described meeting during this working (hours) shall do so without the loss of applicable rate of pay.

ARTICLE XVII

BREAKS

Section 1. Lunch Breaks.

All employees who work a regular workday shall be allowed not less than thirty (30) uninterrupted minutes for a scheduled lunch period, except for other mutually agreed upon schedules with the Union.

Section 2. Rest Breaks.

There shall be two (2) fifteen (15) minute rest periods on each shift of the workday. The rest periods, to the extent practicable, will be scheduled during the middle two (2) hours of each half shift but they may not be scheduled immediately before or after the meal period or at the start or the end of the shift.

ARTICLE XVIII

CALL-IN PAY

Section 1. Minimum Pay.

When an employee is called in to work at a time when he is not regularly scheduled to report for work, he/she shall receive a minimum of four (4) hours of pay at his applicable rate of pay.

Section 2. "On Call" Responses.

Whenever, at management's discretion, an employee is required to be "on-call" to report to work during non-scheduled hours according to a rotation as determined by the City, any employee who fails to promptly (within twenty (20) minutes) respond to an "on call" request to report may be subject to appropriate discipline.

ARTICLE XIX

SHIFT SCHEDULING

Section 1. Shift Premium.

- A. Shift premium for employees on the second, third and rotating shifts will be thirty-five cents (\$.35).
- B. For those bargaining unit employees on the normal eight (8) hour day, five (5) day per week work week, shifts are defined as follows:
 - 1st Shift: An employee for whom the majority of his normal hours of work fall after 7:30 a.m. and before 3:00 p.m.
 - 2nd Shift: An employee for whom the majority of his normal hours of work fall after 3:00 p.m. and before 12:30 a.m. receives a shift premium of thirty-five cents (\$.35) per hour.
 - 3rd Shift: An employee for whom the majority of his normal hours of work fall between 12:30 a.m. and 7:30 a.m. receives shift premium of thirty-five cents (\$.35) per hour.

Section 2. Shift Adjustment.

If an employee has been receiving a shift adjustment (applicable only when celebrating a holiday), he shall continue to receive this adjustment.

ARTICLE XX

HOLIDAYS

Section 1. Paid Holidays.

Employees shall be entitled to nine (9) paid holidays as follows:

New Year's Day
Dr. Martin Luther King Day
President's Day
Memorial Day
Independence Day

Good Friday
Labor Day
Thanksgiving Day
Christmas Day

Section 2. Entitlement to Holiday Pay.

To be entitled to Holiday pay, an employee must work the entire last regular work day before the holiday and the entire first regular work day after the holiday or be on vacation or personal days approved in advance of his last regular work day before and the first regular work day after the Holiday. An employee may receive holiday pay when using sick leave with management approval and appropriate medical documentation.

Section 3. Weekend Holidays.

If any of the above holidays fall on a Sunday, the following Monday shall be observed as the holiday. If any of the above holidays fall on a Saturday, the preceding Friday shall be observed as the holiday for those employees who do not benefit from such holidays because Saturday is not a regular working day.

ARTICLE XXI

LEAVES OF ABSENCE

Section 1. Injury Pay Policy.

The parties agree that the City has established an Injury Pay policy and procedure. The policy will be available to the Union or to bargaining unit employees upon request.

Section 2. Family and Medical Leave Act

As appropriate, the City will designate an employee's use of paid and unpaid time as Family Medical Leave consistent with the Family Medical Leave Act and sick leave and leave of absence policies.

Section 3. Military Leave

A. Restoration After Extended Leave.

An employee shall be granted an extended leave of absence without pay for military duty in accordance with state and federal law and, after discharge, shall be restored to employment with the City upon request, in accordance with state and federal law.

B. Military Physical.

Employees who are drafted or who enlist in the United States Armed Forces shall be granted a one (1) day leave of absence with pay for the purpose of taking a military physical. Upon return from military leave, an employee will be reinstated at the current applicable rate of his job classification in accordance with law and the provisions as set forth herein.

C. Temporary Active Duty.

A non-probationary employee of the City who is temporarily called to active duty (e.g., summer training), shall be granted a leave of absence for the duration of such active duty and shall be paid the difference between his/her regular pay and his/her service pay, upon the City's receipt of a service pay voucher, for a period not to exceed thirty-one (31) days in any calendar year and, further, shall accumulate vacation and sick leave with pay credit during the period of such leave.

D. Extended Military Leave Pay.

Any non-probationary employee who is entitled to the leave as defined above and who is called to military duty for a period in excess of thirty-one (31) days in any one calendar year, for each calendar year in which military duty is performed because of an Executive Order issued by the President of the United States or an Act of Congress is

entitled, during the period designated in the Order or Act, to a leave of absence and to be paid, during each month of that period, the lesser of the following:

- (1) The difference between his/her gross monthly wage or salary as an employee and the sum of his/her gross military pay and allowances received that month; or
- (2) Five hundred dollars.

The employee shall not receive payments under this paragraph if the sum of his/her gross military pay and allowances received in a month exceeds his/her gross monthly wage or salary as an employee or if the permanent public employee is receiving his/her pay as described above.

E. Retirement/Longevity Credit.

Employees on military leave who thereafter return to employment with the City shall receive retirement and longevity credit for all time spent in active military service.

ARTICLE XXII

PAY DAY

Section 1. Pay Schedule.

Employees will be paid every other week (bi-weekly) on a day scheduled by the City. It shall be the responsibility of the appropriate Supervisor and/or Timekeeper to notify employees of their regular scheduled pay day.

Section 2. Pay Methods.

At their option, employees may be paid either by hand delivery (being issued the pay check at the work site) during their work shift, by direct mail, or direct deposit or payroll debit card.

Section 3. Delivery of Paychecks.

Employees who receive a paycheck by hand delivery, who are not scheduled to work on the date of the issuance of the paycheck will make arrangements through the Supervisor and/or Timekeeper to properly receive their paycheck.

Section 4. Cashing Paychecks.

City time is not to be used for cashing paychecks.

Section 5. Paycheck Errors.

The City will process any significant pay check error within six (6) working days, if possible.

ARTICLE XXIII

PARKING TICKETS AND MOVING VIOLATIONS

Employees who fail to pay moving violation fines and/or parking tickets/fines received on City vehicles after the ratification of this collective bargaining agreement will authorize the City to deduct the amount of the fines from their pay once the administrative process, if applicable, has been exhausted.

ARTICLE XXIV

DISCIPLINE

Section 1. Discipline Policy.

The parties agree that the City has a Disciplinary policy allowing it to discharge employees for serious misconduct included, but not limited to: (a) Theft of City property; (b) Conviction of an offense involving the sale of drugs; and (c) For employees regularly scheduled to drive a City vehicle, two (2) DUI convictions within a two-year period.

Section 2. Pre-Discipline Conference.

Whenever the City determines that an employee may be subject to discipline, a pre-disciplinary conference will be scheduled to afford the employee an opportunity to offer an explanation of the alleged conduct, inclusive of oral and/or written testimony. The City shall notify the affected employee and his/her Union representative of the day and time of the conference and the incident for which discipline is being considered. The employee's Union representative shall be present at the pre-disciplinary conference unless otherwise agreed between the City and said employee and his representative. Any such agreement shall be reduced to writing, signed by both parties and submitted to the City for the record. An employee may also elect, in writing, to waive the opportunity for a pre-disciplinary conference.

Section 3. Notice of Accident Review.

At least five (5) working days prior to meetings of the Accident Review Committee, the City shall provide the Union with the names of any bargaining unit members whose accidents are being reviewed at that meeting and copies of any reports or statements regarding the accident.

Section 4. Discipline Deadline.

An employee who is disciplined must be disciplined within five (5) working days of the event(s) upon which the discipline is based, or within a reasonable time from the date the City had knowledge of said event(s).

Section 5. Right to Union Representative.

In the case of suspension or discharge, the employee shall be advised of his/her right to have his/her Union representative present and, upon request, will be permitted to discuss his/her suspension or discharge with the Union representative in an area made available by the City before he/she is required to leave the premises. If a Steward is being disciplined, he/she has the right to be represented by a Union Officer.

Section 6. Discipline Documentation.

Both the employee and the Union President shall be given a copy of any warning, reprimand or other disciplinary action entered on the employee's personnel records within five (5) working days of the action taken. Any employee who has been disciplined by suspension or discharge will be given a written statement describing in detail the reason(s) for which he has been suspended or discharged. In the case of suspension, the employee will be advised of the duration of the suspension.

Section 7. Suspensions.

Any suspension shall be for a specific number of consecutive days on which the employee would regularly be scheduled to work. Holidays occurring during a period of suspension shall be counted as work days for the purpose of the suspension only.

Section 8. Reporting DUI/Drug Convictions.

All employees are obligated to report convictions for DUI or drug related offenses, and failure to report may result in immediate discharge.

Section 9. Staleness of Prior Discipline.

The City shall not consider, as a basis of progressive discipline, any reprimand, suspension, or other disciplinary action which occurred more than two (2) years previous.

ARTICLE XXV

GRIEVANCE PROCEDURE

Section 1. Purpose.

It is mutually agreed that the prompt adjustment of grievances is desirable in the interest of sound relations between the employees and the City. The prompt and fair disposition of grievances involves important and equal obligations and responsibilities, both joint and independent, on the part of the representatives of each party to protect and preserve the

Grievance Procedure as an orderly means of resolving grievances. It is the intent of the City and the Union to share information pertaining to grievances at all steps of the Grievance Procedure.

Section 2. "Grievance" Defined.

A grievance is defined as a dispute or difference between the City and employee(s) or the City and the Union concerning the interpretation and/or application of and/or compliance with any provision(s) of this Contract, including any and all disciplinary actions. A Group Grievance is a grievance filed by a group of employees relating to a single common issue or event covered by this Contract. A Policy Grievance is a grievance filed by the Union relating to a single common issue or event covered by this Contract.

Section 3. Contents of Grievance.

The grievance form shall set forth the complete details of the grievance, i.e., the facts upon which it is based, the paragraph(s) allegedly being violated, the approximate time of occurrence and the relief or remedy requested. It is understood that a written grievance may be amended by the Union at any time during the Grievance Procedure. However, all amendments must be presented prior to the start of the Step Three (3) meeting at which the amended grievance is to be heard, except in the case of grievances which begin at Step 3, in which case all amendments must be presented not later than thirty (30) calendar days prior to arbitration.

Section 4. Expedited Discharge/Wage Rates Grievances.

It is important that the employee's grievance(s) regarding unjust or discriminatory discharges, or wage rates/Step placement be handled promptly. Therefore, all such grievances shall be reviewed through the Grievance Procedure beginning at Step Three (3) within ten (10) working days as in Step One (1).

Section 5. Grievance Steps.

Step 1: When a grievance arises, the following procedure shall be followed: An employee who believes he has a grievance has a right to notify his Union representative of the situation and to discuss the alleged violation. This discussion shall take place with regard for the City's operational needs, but as soon as is reasonably possible. The grievance shall be reduced to writing and presented to the Commissioner or Appointing Authority or his designee within ten (10) working days of the event(s) giving rise to said grievance. The Commissioner or Appointing Authority or his designee shall meet with the Steward and Union Officer within five (5) working days from the date of receipt of the grievance in an effort to resolve the grievance. Within ten (10) working days after this meeting, the Commissioner or Appointing Authority or his designee shall give a written answer to the Steward and Union Officer. Each grievance shall be answered separately. The answer shall set forth in detail the settlement reached between the parties and shall include the grievance number, grievant's name, and the date of the grievance hearing. Agreement on this settlement shall be noted by both parties, in writing, on the grievance answer. In the event the grievance is not resolved, the answer shall set forth in detail the reason or reasons for the denial of the grievance.

Step 2: If the grievance is not satisfactorily settled at Step One (1), it shall be presented in writing to the employee's Director or his designee within ten (10) working days of the receipt of the Step One (1) answer. Within five (5) working days thereafter, the Director or his designee shall meet with the Local Union Officer. Within ten (10) working days after the Step Two (2) meeting, the

Director or his designee shall give a written answer, as defined in Step One (1), to the Local Union Officer.

Step 3: If the grievance is not satisfactorily settled at Step Two (2), it shall be presented in writing to the City's Labor Relations Representative, with a copy to the affected Director or his designee, within ten (10) working days after receipt of the Step Two (2) answer. The City's Labor Relations Representative and the Union's Representative will mutually agree on a date for a meeting for the purpose of considering grievances. A complete agenda for all grievances appealed in writing to Step Three (3) will be provided by the Union prior to each meeting. Within thirty (30) calendar days of the Step Three (3) meeting, the City's Labor Relations Representative shall give a written answer, as defined in Step One (1), to the Union's Representative.

Step 4: If the grievance is not satisfactorily settled at Step Three (3), the Union may, within thirty (30) calendar days in the case of grievances appealing an employee discharge, and within thirty (30) working days in the case of all other grievances, submit the matter to final and binding arbitration. The Union shall notify the City of its intent to arbitrate the grievance. Within ten (10) calendar days thereafter, the parties shall meet and attempt to mutually agree upon an arbitrator. If no agreement can be reached, the Union shall within ten (10) calendar days after the meeting, notify the Federal Mediation and Conciliation Service (FMCS) and the City at the same time of its intent to arbitrate the grievance. The fees and expenses of the arbitrator shall be borne equally by the City and the Union. Furthermore, the aggrieved employee, his Union representative, and any necessary witness(es) shall not lose any regular straight-

time pay for time off the job while attending an arbitration proceeding. The Union will provide the City with twenty-four (24) hours' advance notice of employees required to testify.

Section 6. Expedited Arbitration for Discharges/Suspensions.

The parties may, by mutual agreement, choose to have a grievance involving suspension or discharge arbitrated on an expedited basis. The expedited arbitration will be conducted pursuant to the rules of the American Arbitration Association, and the fees and expenses of such proceeding including those of the Arbitrator, shall be borne equally by the City and the Union.

Section 7. Authority of Arbitrator.

In the event a grievance goes to arbitration, the arbitrator shall have jurisdiction only over disputes arising out of grievances as the interpretation and/or application and/or compliance with the provisions of this Contract, including all disciplinary actions. In reaching his decision, the arbitrator shall have no authority: (1) to add or to subtract from or modify in any way of the provisions of this Contract; (2) to pass upon issues governed by law; or (3) to make an award in conflict with law. The arbitrator shall issue a decision within thirty (30) calendar days after submission of the case to him.

Section 8. Determination of Arbitrability.

In instances where the city objected to arbitration and the Union chose to proceed, the first (1st) question to be placed before the arbitrator will be that of arbitrability. If the arbitrator determines that the grievance is within the purview of arbitrability, the grievance will be heard on its merits before the same arbitrator.

Section 9. Final and Binding Effect of Arbitrations/Settlements.

All decisions of arbitrators and all pre-arbitration grievance settlements reached by the Union and the City shall be final, conclusive and binding upon the City, the Union and the

employees. Provided, that a grievance may be withdrawn by the Union at any time during the Grievance Procedure and the withdrawal of any grievance shall not be prejudicial to the positions taken by the parties as they relate to that or any other grievance.

Section 10. Timeliness.

For purpose of this section, timeliness is counted as working days from the date of the incident or the date expressed on the face of either the answer or the appeal notice, as applicable. Extensions of time limits shall be by mutual agreement and must be verified in writing and signed by both parties. The date of occurrence of the event causing time to run is not counted in the time limit. If the last date of a period is not a regular business day, the time period runs through the end of the next regular scheduled business day.

ARTICLE XXVI

WAGES

Section 1. Base Wage Increases

- A. Effective April 1, 2012, there shall be a three percent (3%) wage increase in which shall be added to all rates of classifications.

The above increases shall be applied to the employees' current wage rates.

Seasonal employees are not eligible to receive the wages set forth in the schedules covering regular full time employees. Base rates shall be as follows:

Effective April 1, 2011:	\$16.44
Effective April 1, 2012:	\$16.93

Wage increases shall be effective: (a) During the pay period in which April 1st falls if April 1st falls in the first week of a pay period; or (b) During the pay period following the pay period in which April 1st falls if April 1st falls in the second week of a pay period.

To receive any retroactive wage payments from any negotiated wage increases, employees must have the following employment status on the City's payroll on the date that the Union ratifies a collective bargaining agreement with any negotiated retroactive wage increase: "Active," or "Authorized Paid Leave of Absence." An employee with an employment status of either "Retired" or "Terminated" on the date the Union ratifies the collective bargaining agreement is not entitled to retroactive wage payments from any negotiated wage increases. An employee with an employee status of "Unpaid Leave," "Suspended" or "Layoff" is entitled to any retroactive wage payments and negotiated wage increases upon return to "Active" employee status, except that employees on approved, paid or unpaid leave permitted by federal or state law are eligible for retroactive wage payments and negotiated wage increases.

Section 2. Plus Adjustments

- | | | |
|----|------------------|-----------------------------------|
| a. | Flusher | \$0.35 per hour |
| b. | Tandem | \$0.75 per hour |
| c. | Sweeper | \$1.00 per hour |
| d. | Tractor | \$0.75 per hour |
| e. | VacAll | \$1.00 per hour to pick up leaves |
| f. | Winter incentive | \$0.40 per hour |

No other plus adjustments shall be provided.

All plus adjustments shall be effective upon ratification.

Section 3. Plus Adjustment Committee.

Within thirty (30) days after ratification of this Agreement, the parties shall establish a joint committee, consisting of an equal number of representatives for each party not to exceed four (4) per party, to analyze and calculate appropriate methods for replacing the current system of plus adjustment compensation by increasing the base hourly wage rates of affected employees.

Such methods of replacement must be constructed to provide, to the extent reasonably practicable, that the overall compensation of employees, based upon a two (2) calendar year period immediately preceding implementation of such replacement, shall not be reduced or increased. The joint committee shall meet once per month, or more or less frequently as mutually agreed, to conduct its activities. The joint committee shall issue a report of its findings and recommendations no later than the start of negotiations for a new agreement. The parties are not bound to accept the recommendations of the joint committee, but are free to adopt these recommendations, either jointly or as a proposal for a new agreement.

ARTICLE XXVII

TERM OF AGREEMENT

Section 1. Complete Agreement/Waiver of Negotiations.

This Agreement represents a complete and final understanding on all bargainable subjects between the City and the Union. The City and the Union acknowledge that they have had every opportunity to submit proposals and bargain over all negotiable subjects and, therefore, the Union hereby expressly waives any right to bargain over all subjects (including management rights) covered by this Agreement during its term.

Section 2. Effective/Expiration Dates.

This Agreement will not be implemented until after the results of the representation election between Teamsters Local 244 and the Municipal Construction Equipment Operators' Labor Counsel, SERB Case No. 08-REP-04-0063 have been certified by the State Employment Relations Board and the Union is the prevailing party. Upon satisfaction of the foregoing conditions, this Agreement shall be effective as of April 1, 2011, and shall remain in full force and effect through March 31, 2013. This Agreement (including any and all exhibits, riders and attached letters) supersedes all prior agreements (including any and all exhibits, riders and

attached letters) and also supersedes all past practices. In addition, this Agreement supersedes state law on all subjects and matters covered by this Agreement to the extent permitted by Chapter 4117 Ohio Revised Code.

ARTICLE XXVIII

CONFORMITY TO LAW

Section 1. Subject to Law.

This Contract shall be subject to and subordinated to any present and future Federal, State and Local laws along with any applicable Rules and Regulations, and the invalidity of any provisions of this Contract, by reason of any such existing or future law or rule or regulation, shall not effect the validity of the surviving portions.

Section 2. Severability.

If the enactment of legislation, or a determination by a court of final and competent jurisdiction renders any portion of this Contract invalid or unenforceable, such legislation or decision shall not effect the validity of the surviving portions of this Contract, which shall remain in full force and effect as if such invalid portion thereof had not been included herein.

ARTICLE XXVIX

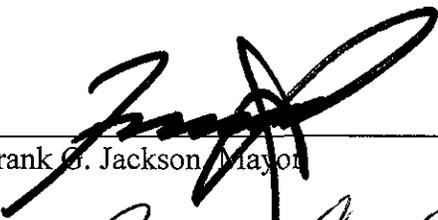
VOLUNTARY DISPUTE SETTLEMENT PROCEDURE

The parties agree that upon expiration of this Agreement the dispute resolution procedure found in Ohio Revised Code §4117.14 shall apply.

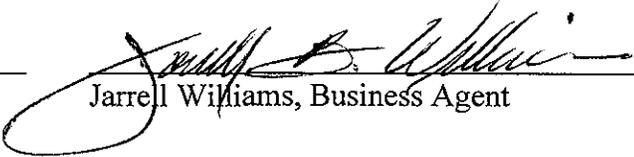
IN WITNESS THEREOF, the parties have caused this Agreement to be executed by the duly authorized representatives this ____ day of _____, 2012.

CITY OF CLEVELAND

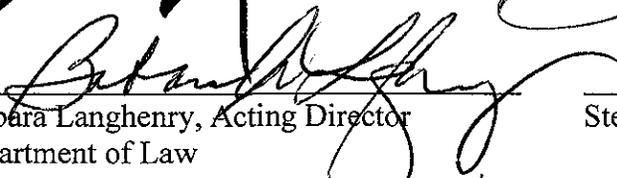
CITY, COUNTY AND WASTE PAPER DRIVERS UNION, LOCAL NO. 244



Frank G. Jackson, Mayor

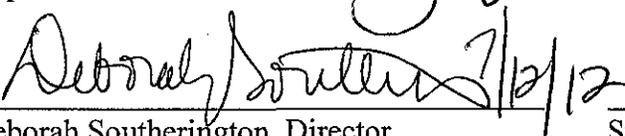


Jarrell Williams, Business Agent



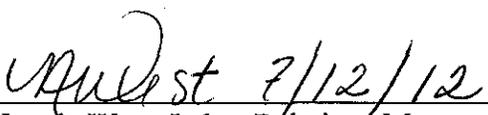
Barbara Langhenry, Acting Director
Department of Law

Steward



Deborah Southerington, Director
Department of Human Resources

Steward

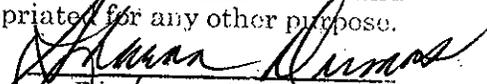


Nycole West, Labor Relations Manager
Department of Human Resources

Steward

The sum of \$0.00

_____ Dollars
required for this Contract was on
8/27/12, and is at this
date in the City Treasury or in process
of collection, to the credit of
01001-01001000 Fund and
not appropriated for any other purpose.



Herman Rimm
Director of Finance



Commissioner of Accounts
Entered by Johnnie Thomas
Appropriation Clerk

ADDENDUM

DRUG/ALCOHOL TESTING

All employees who are required to be randomly tested under law (e.g. Department of Transportation regulations regarding employees required to have a Commercial Driver's License who drive vehicles in excess of 26,000 pounds), and all employees in Safety Sensitive Positions shall be subject to random drug/alcohol testing. Additionally, an employee involved in any accident resulting in personal injury or one thousand dollars (\$1000.00) or more of property damage shall submit to post-accident drug/alcohol testing. Such testing shall be conducted in accordance with the DOT procedures. Further, when there is a reasonable suspicion to believe that an individual employee is using illegal drugs or alcohol at work or is under the influence of drugs or alcohol at work, such employee will be directed to report to a City-designated physician or medical clinic, on City time and at City expense, for a fitness-for-duty examination. Random examinations, reasonable suspicion examinations, and post-accident examinations are conducted for the purpose of determining the presence of illegal drugs or alcohol in the employee tested. An employee who is directed to submit to such examinations shall report to a City-designated physician or medical clinic, on City time and at City expense. The City's Manager of Labor Relations, or his designee, shall approve all drug/alcohol testing. This testing will include possible urine, blood, or breathalyzer exams as determined by the appropriate medical personnel. An employee who refuses to submit to drug/alcohol testing under the provisions herein shall immediately be charged with insubordination and will be subject to discharge. An employee who fails a drug or alcohol test for the second time during his/her employment with the City shall be discharged by the City.

An employee may be referred to fitness-for-duty screening if at least one (1) supervisor has a reasonable suspicion that the employee is then under the influence of alcohol or a controlled chemical substance. The circumstances supporting an allegation warranting reasonable suspicion testing shall be reduced to writing, signed by the supervisor, and copies provided to the employee and Union prior to testing. The demand for a urine, blood or breath specimen should be based only upon specific/objective facts and reasonable inferences drawn from those facts in light of experience that the employee is then under the influence of drugs or alcohol. In addition, employees may be referred for mandatory urine, blood, or breath, for drug and/or alcohol screening under the following circumstances:

- (a) A disciplinary probation for employees who have violated the City's drug and alcohol rules; or
- (b) For employees returning from leaves of absence if they have given management a reason to suspect possible illegal drugs and/or alcohol abuse. Possible reasons to suspect substance abuse include, but are not limited to, a history of excessive absenteeism not related to a specific illness, documented evidence of deteriorating job performance or of aberrant behavior in the six months immediately preceding the leave of absence or documented involvement with drugs off the job.

An employee shall be entitled to have a Union representative present before testing is administered unless a Union representative is unavailable when the test is to be conducted and any further delay will potentially compromise the validity of the test results.

As concerns urine samples for drug testing, employees to be tested will undergo an initial screening (EMIT) test. For any positive results, a confirmatory test employing the gas chromatography/mass spectrometry (GC/MS) test will be used. The City will ensure that there is a continuous chain of custody of any sample taken from an employee. Specimen collection will occur in a medical setting. The testing procedures should not demean, embarrass or cause physical discomfort to employees. Altering or switching a specimen sample for a drug/alcohol test, or otherwise refusing to follow the established testing procedure and/or guidelines, shall be grounds for immediate suspension pending discharge.

The results of any drug or alcohol screening test will be kept strictly confidential. An employee who tests positive for drugs and/or alcohol will have the opportunity to review the test results and, if desired, a reasonable opportunity to rebut the results. Copies of test results shall be given to the City and to the individual tested. Where urine, blood or other samples have been taken, the two samples will be preserved for a reasonable period of time and tested employees will have the opportunity to take one of these samples to a reputable physician or laboratory of their choosing for retesting.

Employees who may be drug or alcohol dependent are encouraged to voluntarily seek professional assistance through a reputable treatment program. The City's EAP program can provide counseling and referral. All records of an employee seeking medical rehabilitation for a drug or alcohol problem, either through EAP or otherwise, will be kept strictly confidential. Voluntary assistance should be sought before dependence affects job performance so as to endanger fellow employees, the public or otherwise adversely impact on the employee's ability to perform his or her job duties.

Participating in the EAP program does not supplant the normal discipline and grievance procedure. An employee subjected to disciplinary charges which include substance abuse on the job will be given access to the drug or alcohol screening results, the ability to privately test the blood, urine or other samples at an independent lab and the opportunity to rebut any allegation of chemical abuse. Any charging letter issued to an employee which includes allegations of substance abuse on the job shall list the basis upon which it was determined that there was reasonable cause to believe the employee was using drugs or was under the influence of drugs or alcohol.

Any employee found to have positive screens for drugs or alcohol must be given medical clearance by a qualified physician acceptable to the City before returning to work. Such employees may also be subject to additional random testing for a period of up to two years.

An employee shall be deemed to have failed an alcohol test if:

- (1) The person has a concentration of four-hundredths of one percent or more by weight of alcohol in his blood;
- (2) The person has a concentration of four-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his breath;

- (3) The person has a concentration of 5.7-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his urine.

The City is not responsible for any legal obligations and costs for claims based on the Union's duty of fair representation.

The Union shall be indemnified and held harmless by the City for any violation of an employee's constitutional, common law, or statutory rights.