



**CITY OF KIRKLAND**  
**Human Resources Department**  
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## **MEMORANDUM**

**To:** Kurt Triplett, City Manager  
**From:** Anh Hoang, Human Resources Director  
**Date:** November 25, 2020  
**Subject:** **Labor Agreement AFSCME Local 1837 for 2021**

## **RECOMMENDATION**

By accepting this memo during approval of the consent calendar, the Council is approving the 2021 Collective Bargaining Agreement between the City of Kirkland and the Washington State Council of County and City Employees, American Federation of State, County and Municipal Employees (AFSCME), Local 1837. Given the uncertainty in 2020 and 2021 caused by the COVID pandemic, the City offered, and AFSCMW agreed, to execute a one-year agreement rather than the standard three-year contract. The COVID pandemic also highlighted the need to clarify language around flex time, compensatory time, standard work schedules and alternative work schedules.

## **BACKGROUND DISCUSSION**

AFSCME Local 1837 represents the largest number of employees at the City of Kirkland, representing 201 employees who fill 82 job classifications across nine of the City's eleven departments. Our AFSCME employees play an important role in nearly every aspect of the City's provision of services to the citizens and businesses of Kirkland. Their job responsibilities include, but are not limited to, engineering, building and construction inspection, planning, permitting, financial and policy analysis, parks, project and program coordination, accounting, financial analysis, administrative support, judicial support, and much more. Our AFSCME employees provide the backbone and the support for all of the City's non-public safety functions. Our AFSCME employees are well respected and their work is much appreciated.

The following are some highlights of this one-year agreement:

- Cost of Living Adjustment (COLA) of one percent (1%) effective January 1, 2021;
- Clarification of the definitions of the standard work schedule vs. alternative work schedules and flex time;
- Clarification of how compensatory time is accrued and used;
- Revision of the grievance article, which has long needed updating, to clearly define the grievance filing and processing procedure with clearly defined timelines, actions required of each party and consequences for default of established timelines;

Members of both Negotiation Teams warrant commendation for their considerate and collaboration spirit throughout this bargaining process. As a result, we are rewarded with a better work product in the contract language we bargained while at the same time, built trust and respect on both sides.

On November 18, 2020, the City was notified that the bargaining unit ratified the negotiated agreement with a 93% positive vote.

Staff is pleased to recommend to City Council the ratification and adoption of the attached labor agreement with the AFSCME, Local 1837.

*Attachment: 2021 Collective Bargaining Agreement between the City of Kirkland and AFSCME Local 1837*

# AGREEMENT

by and between

**The City of Kirkland, Washington**

and

**LOCAL #1837**  
Washington State Council  
of County and City Employees  
of the  
American Federation of State,  
County and Municipal Employees  
AFL-CIO

January 1, ~~2018-2021~~ through December 31, ~~2020~~2021

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## PREAMBLE

THIS AGREEMENT is made by and between the CITY OF KIRKLAND, WASHINGTON, (hereinafter referred to as the “Employer”), and Local 1837, Washington State Council of County and City Employees of the American Federation of State, County and Municipal Employees, AFL-CIO, (hereinafter referred to as the “Union”).

The purpose of the Employer and the Union in entering into this Agreement is to set forth their entire agreement with regard to wages, hours, and working conditions so as to promote uninterrupted public service, efficient operations, and harmonious relations, giving full recognition to the rights and responsibilities of the Employer and the Employees.

## ARTICLE 1 – DEFINITIONS

As used herein, the following terms shall be defined as follows:

1.1 Affected Employees: An Affected Employee would be the least senior employee(s) within an affected job classification which are subject to lay-off or reduction in force and have certain rights as a result

1.2 Affected Group: An Affected Group would be any job classification that is subject to a layoff.

1.3 Alternative Work Schedule: A work schedule that does not follow the standard business hours of Monday through Friday, 8:00 AM to 5:00 PM. Sample schedules may include, but are not limited to, 9/80s, 4/10s, and 4/9/4s.

1.34 Application of Seniority

How an employee’s years of continuous service are utilized to determine their respective rights in regard to postings, promotions, transfer, layoff, or recall.

1.45 Bargaining Unit (Union): shall be Local 1837 Washington State Council of County and City Employees of the American Federation of State, County and Municipal Employees, AFL-CIO.

1.56 Bargaining Unit Seniority: the total length of continuous calendar-based service with the bargaining unit and the Employer.

1.67 Bumping; The displacement of a less senior regular employee by another regular employee with more seniority as defined by this Article.

1.78 Competence: Ability to adequately perform will be defined as the immediate, clear and full performance on the job, with a minimal period of orientation and no material reduction in the efficiency of the operation or services, as determined by the Employer.

1.89 Competent: Competent shall mean having demonstrated skills and required experience to perform the job; and in case of disputes, the final decision shall be made by the Employer.

1.910 Comparable Employment: “Comparable employment,” “comparable position” or vacancy shall be defined to include a position which has the same salary pay range and, additionally, the educational and experience qualifications, FTE and work-week are substantially similar.

1.1011 Continuous Service: shall be uninterrupted calendar-based employment with the Employer subject to the following provisions: service is terminated by resignation, termination, retirement, layoff or failure to respond to two offers of recall to former or comparable employment or suspended during leaves without pay of thirty (30) continuous days or more.

1.1112 Department Seniority: Seniority for the purpose of intra-departmental promotion and transfer shall consist of continuous calendar-based service of the employee with the department.

1.1213 Employee: shall mean a person occupying a position and paid a salary or wage by the City of Kirkland who is a member of the bargaining unit (as defined in Article 2.1 hereof) covered by this Agreement. Employee shall not include any person retained by the Employer under a written personal services or consultant contract or agreement.

1.1314 Employer: shall mean the City of Kirkland.

1.1415 Employer Seniority: the total length of continuous calendar-based service with the Employer. Upon successful completion of the probationary period, the Employer seniority of the Regular employee shall be established as the initial date of hire including the service during the probationary period.

1.1516 Executive, Administrative, and Professional Employees: shall mean all employees as defined in WAC 296-128-500.

1.1617 Flex-time: ~~shall mean an authorized alternative work schedule. A temporary variation in the employee’s standard/alternative work schedule.~~

1.1718 Immediate Family: shall mean persons related by blood, marriage, domestic partner (as defined by Employer Policy), legal adoption or guardianship in the degree of relationship of spouse/partner, child, parent, grandparent, brother, sister, grandchild, and other persons with the approval of the City Manager or designee.

1.1819 Job classifications and salary steps: are listed and categorized in Appendix A of this Agreement.

1.1920 Job Classification Seniority: shall be defined as the total length of continuous service in a job classification within the Bargaining Unit.

1.2021 Layoff: –A layoff is identified as the anticipated and on-going or prolonged reduction in the number of full-time equivalent (FTE) positions or in the number of partial FTE’s covered by this agreement.

1.2122 Loudermill Rights: is the process of being informed in regards to disciplinary action. Loudermill Rights are the employees’ rights of due process and to not be deprived of the property rights of their positions without due process.



1.2223 Members of Employee's Household: shall mean persons who reside in the same home, who have reciprocal and natural or moral duties to and/or do provide support for one another. The term does not include persons sharing the same general house when the living style is primarily that of a dormitory or a commune.

1.2324 Oral Warning: shall be consistent with Article 7.6 addressing specific performance issues and what needs to be done to correct the performance issue.

1.2425 Overtime: shall mean all Employer-required work which has been performed in excess of forty hours per week.

1.2526 Promotion: shall be the appointment of an employee to a higher paid classification.

1.2627 Regular full-time Employee: means any salaried employee, hired for an indefinite period of time, who works forty or more hours per week on a fixed, regular schedule and is compensated and accrues benefits based on full-time employment.

1.2728 Regular part-time Employee: means any salaried employee, hired for an indefinite period of time, who works less than forty hours per week on a fixed regular schedule and is compensated and accrues benefits proportionate to the number of hours worked per pay period. For the purpose of Medical Benefits the pro-rated amount will be based upon the approved FTE as referenced in Article 5.2.2.

1.2829 Temporary Employee: shall mean an employee hired for a specific purpose or project and for a specific or definite period of time.

1.2930 Transfer: shall mean the reassignment of an employee to the same classification in a different Department with different duties and responsibilities, or to a different classification in any Department, provided such different classification is equal or lower in pay than the employee's previous classification. A transfer to a lower paid classification represents a voluntary non-disciplinary demotion.

1.3031 Vacation: shall mean a scheduled work day or accumulation of scheduled work days on which an employee may, by pre-arrangement, continue to receive the regular rate of compensation although he or she does not work.

1.3132 Weingarten Rights: are employees' rights to Union representation during an interview that the employee reasonably believes may lead to disciplinary action.

1.3233 Working Day: shall mean for the purpose of timelines associated with grievances, appeals and policy issues, an 8-hour working day, excluding holidays.

1.3334 Written Warning: shall describe both the problem and the needed correction in specific terms, and the potential consequences if it reoccurs. A Written Warning shall be part of the employee personnel file. Weingarten Rights must be upheld.

## **ARTICLE 2 – RECOGNITION**

### **2.1 RECOGNITION**

The Employer recognizes the Union as the exclusive collective bargaining representative for all regular employees of the City of Kirkland as noted in the classifications identified in Appendix A – Salary Schedules, excluding supervisory and confidential employees.

2.1.1 The Employer also recognizes the Union as the exclusive bargaining representative for all temporary employees, as defined in Article 5.2.3, working in those job classifications except interns and work study students. The Union agrees that representation of temporaries shall not include input into decisions regarding the tenure of temporary employees. With respect to new job classifications, see Article 2.2.

2.1.2 The Employer also recognizes the Union as the exclusive bargaining representative for those Seasonal or On-Call employees working in represented job classifications, who attain benefits eligibility, consistent with Articles 5.2.4 and 5.2.5.

2.1.3 Both the Employer and the Union recognize the benefit of utilizing volunteers from the local community. Volunteers shall be limited to performing tasks enumerated in mutually agreed to job descriptions which shall include work that is supportive of work performed by regular bargaining unit employees.

### **2.2 NEW CLASSIFICATIONS**

When new regular or temporary positions are created within the departments represented or the classifications listed in Article 9.1, the Union will be notified of the pending action ten (10) working days prior to the date that the position is first posted or advertised.

When existing classifications are substantially modified within the departments represented or the classifications listed in Article 9.1, the Union will be notified of the pending action within ten (10) working days of the date that the position is first posted / advertised or the proposed effective date of the action that would change the status of the classification.

It is mutually agreed that it is the intent of the parties to meet, upon request by either party, in order to include or exclude new or modified positions in the bargaining unit consistent with the duties, responsibilities, and organizational level of the classification.

The parties agree that new classification(s) designated and approved by the Employer to be within the non-represented pay plans shall be excluded from the bargaining unit, absent a request to meet within thirty (30) calendar days. Existing bargaining unit classifications shall remain within the bargaining unit absent a mutual agreement by the parties or a decision by the Public Employment Relations Commission (PERC).

If either party disagrees with the pay plan designation for a new or reclassified position, the parties recognize the determination of whether the position is included within the bargaining unit may be reviewed by PERC upon petition by either party or jointly. Should PERC determine the classification to be included in the bargaining unit, the position shall be placed within the Union salary schedule at the appropriate rate of pay and at a step arrived at either by mutual agreement / negotiation or PERC ruling.

### **ARTICLE 3 – UNION SECURITY**

#### **3.1 DUES DEDUCTION**

Upon written authorization from an employee who chooses to join the Union, the Employer shall deduct once each month from the wages of that employee all Union dues and fees uniformly levied. The dues shall be provided to the Union within thirty (30) days of the deduction request. Rights of non-association and dues deductions shall be administered consistent with applicable state and federal law.

The Employer shall honor the terms and conditions of each employee’s authorization for deduction of Union membership dues and fees. The Employer will continue to deduct and remit dues and fees to the Union until such time as the Union notifies the Employer that the dues authorization has been properly terminated in compliance with the deduction authorization executed by the employee. If the employee is not willing to halt deductions through the Union, and provides the Employer with written notice requesting termination of the deductions, the Employer will provide the Union with a copy of the request and will honor the employee’s request in a manner consistent with the employee’s deduction authorization and membership agreement with the Union, if allowed by law.

If any employee does not have a check coming to him or her, or the check is not large enough to satisfy the deduction, no deduction shall be made from that employee for that month. The Union agrees to refund to the Employer any amounts paid to it in error upon presentation of proper evidence.

The Union shall indemnify, defend, and hold the Employer harmless against any claims made and against any suit instituted against the Employer on account of compliance with this article and any and all issues related to the deduction of dues or fees for the Union.

The Union accepts its responsibility to fairly represent all employees in the bargaining unit regardless of membership status.

#### **3.2 BARGAINING UNIT ROSTER**

The Employer shall provide the Union with a roster of employees covered by this Agreement on a bi-annual basis or as needed pursuant to Article 8. The roster shall include name, address, salary, classification, department, hire date and termination date.

The Union agrees to supply Human Resources with current lists of officers and stewards. The Employer will recognize the officers and stewards as soon as the list is received, in writing, by Human Resources.

**3.3 NONDISCRIMINATION – UNION ACTIVITY**

Neither party shall discriminate against any employee because of membership in or non-membership in or activity on behalf of the Union. No employee shall be discharged or discriminated against for upholding Union principles, fulfilling duties as an officer in the Union or serving on a Union committee.

**ARTICLE 4 – UNION / EMPLOYER RELATIONS**

**4.1 UNION ACCESS**

The Union’s authorized staff representatives shall have access to the Employer’s premises where employees covered by this Agreement are working for the purpose of investigating grievances and contract compliance, after notifying the Employer. Access for other purposes shall not be unreasonably denied by the Employer. Such visits shall not interfere with or disturb employees in the performance of their work during working hours.

**4.2 FACILITY USE**

The conduct of Union business on Employer time and premises shall be subject to the limitations set forth in this Article and with the understanding that no Union member or officer shall use Employer’s equipment in the conduct of Union business.

The Union shall be permitted to use designated premises of the Employer for Union meetings, with or without Union staff present, provided it is not disruptive to operations and space is available. Use of Employer’s premises for meetings shall be limited to the hours of 5pm to 8am and 12pm to 1pm, unless otherwise approved by the Employer.

**4.3 STEWARDS**

The Union shall provide the Human Resources Department with a current list of all stewards and officers. With notice to the Employer, stewards and/or the officers shall be allowed reasonable time during working hours to investigate and process grievances, as defined in Article 4.8, 4.9 and ~~19.4~~19.3. Employees shall attend Union meetings on their own time.

The Employer recognizes that the Union is entitled to at least one steward in each department in which bargaining unit members are employed.

**4.4 ORIENTATION**

The Employer will provide advance notification to the Union Department Representative and Local Union President (or designee) of all new hires by means of an electronic new hire offer letter, courtesy copy. A Union official and the newly hired employee shall, at no loss of pay, be granted up to thirty minutes to provide each new employee a basic overview of the employee’s rights and responsibilities regarding Union membership, dues authorizations, and Union insurance.

**4.5 BULLETIN BOARDS**

The Employer will provide a bulletin board for Union use. No materials shall be posted except notices of meetings and elections, results of elections, changes in Union by-laws, notices of employee social occasions, similar Union notices, letters, and memoranda. All material shall be signed by an officer of the Union. Union will limit the posting of any material on the Employers' premises to its bulletin board.

#### **4.6 CONTRACT DISTRIBUTION**

The Union will provide access to a copy of this Agreement to each new and current employee in the unit.

#### **4.7 NEGOTIATIONS RELEASE TIME**

The Employer will make a good faith effort to assist in providing release time for Union negotiating team members participating in contract negotiations if negotiations take place on work time, provided that coverage can be arranged.

#### **4.8 GRIEVANCE RELEASE TIME**

Prior to any proposed investigation of a grievance, stewards or officers provide notice to their and the grievant's supervisor, which will be granted unless the steward, officer or the grievant is working on something that requires immediate attention. If permission cannot be immediately granted, the Employer will arrange to allow investigation of the grievance at the earliest possible time. When it is necessary for stewards or officers to conduct Union business authorized by this Agreement in an area or on a shift other than their own, they shall notify the supervisor of that area or shift of their presence and of the nature of their business. No compensation shall be provided by the Employer for such steward activities outside the employee's work shift, without express pre-authorization by the steward's Department Director or Human Resources.

#### **4.9 UNION BUSINESS**

Compensable Union business shall be defined as meeting with an authorized Employer representative who schedules a meeting during normal business hours when it is necessary for a duly authorized officer of the Union (who is also a member of the bargaining unit) to attend for the purpose of resolving a grievance filed by a member of the bargaining unit, or other issues that require the presence of a Union official. When reasonably possible, the Union representative will notify their Supervisor or designee when they are requested to attend a Union meeting during regular business hours. Consistent with Articles 4.3, 4.8 and ~~19.4~~19.3, stewards and/or the officers shall be afforded reasonable time for the investigation of grievance and compliance issues dealing with this Agreement. Other Union business will not be conducted on Employer time.

Any concerns by the Employer which indicate that a Union officer or steward is spending an unreasonable amount of time performing Union duties shall be referred to Human Resources for discussion and resolution with the Staff Representative of the Union or their designee.

The Union and the Employer have the right to communicate on matters of concern using e-mail, written correspondence, and telephonic communications. The Parties agree to ensure that all stakeholders are notified and copied appropriately. The parties agree to respond to written and e-mail correspondence within 10 working days and telephonic messages as soon as reasonably possible.

## **ARTICLE 5 – EMPLOYMENT**

### **5.1 PROBATIONARY PERIODS**

Probation - A new employee shall work under the terms of this Agreement, but shall be subject to the normal six (6) month probation period, during which time the employee may be discharged without recourse from the employee or the Union.

The Employer may extend the six month probationary period for new employees up to an additional six months. The Employer shall provide a written notice to the Union no less than fourteen (14) calendar days prior to the probationary period's expiration of his or her intent to extend a probationary period. The Union may request reconsideration of the decision within fourteen (14) calendar days of the date of the notice. The employee will remain on probation until such time as a resolution has been determined.

When temporary employees are hired into a regular position, the duration of the probationary period completed during the temporary assignment will be applied to the probationary period of the regular position utilizing the following criteria:

- There is no change in Classification when moving from the temporary to the regular position.
- There is no change in Department when moving from the temporary to the regular position.
- There is no change in Supervisor when moving from the temporary to the regular position.
- The employee has demonstrated full performance of the job during the temporary assignment.
- The employee has not had performance issues during the temporary assignment.

The Union will be notified if a probationary period is extended or restarted at the time of hire into the regular position.

Trial Service Period - Employees who are transferred or promoted to another position and/or classification in the bargaining unit shall serve a trial service period for six (6) months of work, consistent with Article 7.3.

### **5.2 TYPES OF EMPLOYMENT**

#### 5.2.1 Regular Full-Time Employees:

A regular full-time employee is scheduled to work forty (40) hours per week in a regularly budgeted, on-going position. Regular full-time employees are eligible to receive the standard benefit package.

#### 5.2.2 Regular Part-Time Employees:

A regular part-time employee typically is scheduled to work a minimum of twenty (20) hours per week but no more than forty (40) hours per week in a regularly budgeted, on-going position. Regular part-time employees are eligible to receive the standard benefit package, prorated to match the FTE percentage and adjusted by actual hours worked for vacation accruals, sick leave, and holiday pay. For medical and dental premiums the monthly premium will be prorated by their FTE plus an additional 10% of their FTE. For

example a .8 FTE's benefits premiums will be prorated by .88%. Vision benefits will be paid at 100%.

#### 5.2.3 Temporary Employees:

A temporary employee is hired for a specific assignment that has a duration of employment and schedule that is anticipated to work one thousand and forty (1,040) hours or more in a twelve (12) month period.

A temporary employee is eligible for the standard benefits package and will be applied based on the definitions in Articles 5.2.1 and 5.2.2 based on their anticipated work schedule.

If a regular employee accepts an assignment of a temporary position, that employee will be eligible for return rights to their former position upon completion of the specific assignment or term of the temporary employment or upon twenty (20) calendar days' notice from the Employer or 30 calendar days' notice from the employee, whichever is earlier. The regular employee shall continue to earn seniority as to their former position during the period of the temporary position assignment. Any new-hire employee who is hired to fill the vacancy, which was created by the regular employee accepting a temporary position, will also be hired as a temporary employee and that employee will cease to have employment rights upon the return of the regular employee to the former position.

Union membership will be required per Article 3 for represented classifications, per the terms of the Agreement. Regular employees moving to a temporary position, as above, will become or remain Union members, per the Agreement representing the temporary position.

After a temporary position is filled longer than three (3) years, the Employer will provide notice and meet and discuss the status of the position with the Union, upon request. If or when the position is fully funded, a temporary employee may apply for that position. The Union may, however, request discussion of the status or term of a temporary position at any point during the temporary position.

Employees in temporary positions serve an anticipated but not guaranteed term. While a term of employment is anticipated, the assignment / project may be terminated at any time for any reason, with or without notice.

#### 5.2.4 Seasonal Employees:

A seasonal employee works for a specific amount of time and is not anticipated to work more than six (6) months. A seasonal employee is not eligible to receive the benefits package.

#### 5.2.5 On-Call / Extra Help Employees (Variable Hour Employees):

A variable hour employee works in a limited, but on-going capacity. They do not have a specific end date. Their schedule may consist of an intermittent or varying schedule per week on an as needed basis, and are anticipated to work fewer than one thousand and forty (1,040) hours within a twelve (12) month period. They are not eligible for the benefits package.

If the one thousand and forty (1,040) hour limitation is met or exceeded in any one (1) type of employment within a twelve (12) month period, the employee will become eligible for the standard benefits package, consistent with current personnel rules. Benefits shall be prorated to match the FTE percentage, as determined by service to that point and applied based on Article 5.2.2 above. Union membership will then be required per Article 3 for represented classifications, per the terms of the Agreement.

### 5.3 Contractors

The Employer will make good faith efforts to limit bargaining unit work to employees covered by this Agreement. "Contractors" who are not employees of the Employer will be permitted to do bargaining unit work where both the need is occasional and temporary and when there are not regular staff either qualified or available to do such work.

### 5.4 Students / Interns

Student and Internship programs may be created by the employer provided such does not take work away from budgeted classifications represented by the Union, the Union is provided notice and, upon request by the Union, the Employer meets with the Union to discuss the impacts and benefits of the program.

## ARTICLE 6 – HOURS OF WORK AND OVERTIME

### 6.1 WORKDAY / WORKWEEK

A regular full-time workweek shall consist of forty (40) hours of time actually worked or compensated within a seven (7) day period (typically Sunday 12:00 ~~a.m.~~ AM through Saturday 11:59 ~~p.m.~~ PM). Changes in work schedule, which may include changes in the schedule or total hours, shall be consistent with Article 6.2.

#### 6.2.1. Standard Work Schedule

The ~~normal-standard~~ work schedule for full-time employees shall be Monday ~~through~~ Friday, 8:00~~am~~ AM to 5:00~~pm~~ PM.

#### 6.2.2. Alternative Work Schedule

An alternative work schedule is a work schedule that does not follow the standard business hours of Monday through Friday, 8:00 AM to 5:00 PM. Examples include, but are not limited to, 9/80s, 4/10s, 4/9/4s, etc.

#### 6.2.3. Change of Work Schedule

The employer may change an employee's ~~the~~ work schedule at any time. If the Employer makes a non-emergency change ~~in-to~~ the employee's work schedule, the employee shall be given at least ten (10) working days' notice prior to the new schedule going into effect, unless such notice period is waived by mutual agreement of the Employee and Employer.

6.2.1. If the Employer makes a change in a non-exempt employee's ~~normal~~standard/alternative work schedule with less than 48 hours' notice, the employee shall be paid a ten percent (10%) premium based on the employee's regular straight time hourly rate of pay for the remainder of work week hours the employee is assigned to work outside his or her regular schedule.



#### **6.2.4. Flex Time**

~~Flex time is a temporary variation in the employee's normal-standard/alternative work schedule. Flex time allows the Employee and Employer to adjust the employee's hours of work for a single work day or work week when such is pre-approved in writing by —Employees may work flex time with written approval of the employee's direct supervisor. Department Director. Flex time may be requested by the employee, regardless of full-time equivalency (FTE) status, or by the supervisor, and must be mutually agreed upon in writing by the parties prior to the flex time being worked. Flex time, by nature and design, is not intended to add cost for the City. Approved flex time shall constitute an employee's normal work schedule and must represent forty (40) hours per work week for full-time employees and such schedule and shall comply with the Fair Labor Standards Act (FLSA) and the Washington State Minimum Wage Act WAC 296.128-500.~~

#### **6.3 REST / MEAL BREAKS**

All employees shall receive a fifteen (15) minute break for each four (4) hours worked, in addition to their lunch break. Lunch break shall be on the employees' own time. Employees working three or more hours longer than a normal work day schedule shall be allowed at least one (1) thirty (30) minute unpaid meal period prior to or during the additional work period. Where the nature of the work allows employees to take intermittent rest periods equivalent to fifteen (15) minutes for each four (4) hours worked, scheduled rest breaks are not required. Missed rest breaks are not compensable as overtime. Breaks may not be collected or not taken in order to shorten the work day or work week.

Employees who because of the nature of their work or by specific direction of their supervisor are required to eat their lunch at their work station shall be provided a paid meal period. Employees whose meal period is normally unpaid may be paid overtime (per Article 6.4) for the time worked or have the day or workweek adjusted.

#### **6.4 OVERTIME**

##### **Overtime Eligible**

Employees listed in the salary schedule as "overtime eligible" are entitled to overtime compensation. Overtime shall be compensated at one and one half (1 ½) times the employee's normal hourly rate of pay or time off at that rate for all time worked over forty (40) hours per week. Overtime shall be paid in fifteen (15) minute increments. Employees subject to emergency callback and not in a standby mode shall have holiday hours included in the calculation of hours worked for the purpose of calculating overtime.

6.4.1 For purposes of computing overtime, all contractual holidays, comp time, sick leave and vacation time shall be considered as time worked.

6.4.2 While overtime is not paid for working over a regular scheduled shift, unless such results in over forty (40) hours compensated for the workweek, either the employee or the Employer may propose an "adjusted work-week" (i.e. flexing hours within that same work week). The adjusted work week must also be approved in advance by the employee's immediate supervisor and should be established at the time of authorizing the hours worked over a regular shift. The adjusted work week must be by mutual agreement.

6.4.3 Non-pyramiding - Premium or overtime pay shall not be duplicated or pyramided. Except in emergent / emergency situations, all overtime must be approved in advance by the employee's immediate supervisor.

#### Overtime Exempt

Employees listed in Appendix A as "overtime exempt" are considered to be executive, administrative, or professional employees and are not entitled to overtime compensation. These employees are responsible for scheduling and performing their duties consistent with their job requirements and the needs of their department. In so doing, these employees occasionally may be required to work extra time beyond their normal work schedule and will be allowed to take discretionary time off with pay, provided that it does not interfere with the functions of their department. Greater variation in work schedules may be necessary for some employees depending on their job requirements. It is not required that extra time worked and discretionary time off be balanced hour for hour. The payment of the basic salary and benefits is not affected by extra time worked or discretionary time away from the job.

When scheduling use of discretionary time, employees will consult with their immediate supervisor prior to taking the time.

#### 6.5 COMPENSATORY TIME

Overtime hours must be pre-approved by the Employer prior to it being worked by the employee. Generally, overtime shall be paid rather than compensatory time accrued/granted. Overtime shall be compensated at the rate of one and one-half (1½) times the employee's regular rate of pay. In lieu of overtime compensation, the Employee may request to accrue compensatory time at the rate of one and one-half (1 ½) for overtime hours worked, subject to the approval of their supervisor. Compensatory time shall be awarded by mutual agreement between the employee and the supervisor at the time of authorizing the overtime. The Employee cannot be required to accept compensatory time accrual in lieu of overtime payment.

An Employee's request for use of compensatory time shall be granted provided that prior approval is given by the Employer and provided that the leave requested does not prevent a department or division thereof from providing efficient public service. An Employee shall have the option of using compensatory time or vacation leave for approved paid time off.

Compensatory time, accrued in lieu of cash compensation for overtime hours worked, shall be paid out on an annual basis, on the first pay day following November 1<sup>st</sup>, for all hours earned through October 31<sup>st</sup>, provided however, with written notice submitted to the payroll preparer prior to October 31<sup>st</sup>, the employee may elect to carry over up to forty (40) hours of compensatory time into the next cycle year.

Compensation shall not be paid (or compensatory time taken) more than once for the same hours under any provision of this Article or Agreement. Premium or overtime pay shall not be duplicated or pyramided unless required by the Fair Labor Standards Act, in which case premium or overtime pay shall be based on the employee's regular rate of pay.

### ARTICLE 7 – EMPLOYMENT PRACTICES

### **7.1 NONDISCRIMINATION**

The Employer and Union shall ensure that all terms and conditions of employment included in this Agreement shall be administered in accordance with Federal or State law governing employment discrimination. Administration and application that is not in contravention of Federal or State law shall not be construed to be discrimination under this Article.

The Union and the Employer agree to provide equal opportunity as to the provisions of this Agreement to all their members and employees. Neither the Employer nor the Union shall discriminate against any person on the basis of such person's race, sex, marital status, color, creed or religion, national origin, age, veteran status, sexual orientation or the presence of any sensory, mental or physical disability, unless based upon a bona fide occupational qualification.

Wherever words denoting a specific gender are used in this Agreement, they are intended and shall be construed so as to apply equally to either gender.

### **7.2 JOB POSTING**

When a job opening or vacancy in the bargaining unit occurs, notice of such position shall be posted by the Human Resources department for a period of no less than five (5) working days before the position is filled. Job openings shall always be posted internally ("internal posting") and may also be posted externally. Except as limited by Article 7.3, the Employer may consider applicants from within the Employer or may advertise and solicit applicants simultaneously from outside the City. The posting shall indicate the salary range for the position, the required or preferred minimum qualifications and/or experience, the department to whom the position will report and the application process. Union positions will be identified as such.

### **7.3 PROMOTIONS**

When a new position is created or a vacancy occurs, the Employer shall select the most qualified candidate to fill the position. The Union recognizes the Employer's obligation to comply with State and Federal statutes regarding Affirmative Action. At the discretion of the Employer, outside recruitment and selection may take place. It shall be the goal of the Employer to promote insofar as possible from the ranks of the employees. When an employee applies and is not selected for a vacancy, he/she will receive notification.

Promotions to a higher job classification shall be according to ability and seniority; ability determined to be equal, seniority shall prevail. There shall be a six (6) month trial service period, or less at the Employer's option, for such promotions, in order for the employees to acquire skills and demonstrate their qualifications, during which time the employee shall be compensated at the higher rate of pay. At any time during the trial service period the Employer may assign the promoted employee back to their previous position to help with workload or training.

During the trial service period, an employee promoted to a regular position may return to the former position by their choice. The employee may also be returned to their former position upon an evaluation of unsatisfactory performance by the employer during the six (6) months trial service period. Upon returning to the former position, the employee shall retain their seniority and be placed in the salary schedule and step in which they would have been had they not been promoted. The employee may voluntarily waive their return rights in writing, with a copy to the Union, at any point after the promotion has occurred.

Employees who are transferred or promoted to another position and/or classification in the bargaining unit shall serve a trial service period for six (6) months of work. The employer shall not be required to hold the positions open from which the employees were transferred or promoted. If the position is eliminated or filled, the trial service period and any associated return rights will end. If the previous position is filled, the right to assign the promoted employee back to the previous position to assist with workload or training shall continue. During the trial service period, the employees may be reassigned to their previous positions and/or classifications at the sole discretion of the Employer. However, the discharge or discipline (as defined in Article 7.6) of a transferred or promoted employee shall be subject to the grievance procedure.

#### **7.4 PERSONNEL FILE / POLICIES**

Unless otherwise provided by the terms of this Agreement, the City of Kirkland Administrative and Personnel Policies shall apply to members of this bargaining unit. Employees shall also refer to Employer policies to resolve matters not covered by this Agreement or for clarification of matters covered by this Agreement. However, where there is a conflict between Employer policies and any provisions of this Agreement, the provision(s) of this Agreement shall govern.

Employees shall have access to their personnel file with reasonable frequency. Upon request to the Human Resources department, access shall be provided within a maximum of four (4) working days. Conditions of hiring, termination, change in status, shift, evaluations, commendations and disciplinary actions shall be in writing with a copy to the Employee prior to placement in their personnel file. The Employer's failure to abide by this section pertaining to personnel file access shall not affect the Employer's ability to proceed with the merits of discipline or discharge but may be a separate Union grievable matter and any grievance time-lines will be correspondingly extended.

Employees shall have the right to provide a written response to any written evaluations or disciplinary actions to be included in the personnel file. Upon approval of the Human Resources Department, employees may add additional documents to their personnel file including, but not limited to, certifications, degrees, and commendations.

#### **7.5 EVALUATIONS**

The purpose of an evaluation is to help an employee be successful in performance and to understand the standards and goals of their position and their department. The evaluation will assess and focus on the employee's accomplishment of their job functions and the goals and standards of the position. Where the employee does not meet the above, a plan for correction, training or support should be developed with the employee.

Evaluation may occur in two forms:

7.5.1 All regular employees should be formally evaluated in writing by their immediate supervisor and/or department head or designee during the probationary or trial service period and at least annually (at date of hire or a common date) thereafter.

7.5.2 Additionally, evaluation of job performance may occur at any time and on an ongoing basis. Evaluation may occur in various ways and may include coaching, counseling or written assessment.

The evaluation process shall also include a review of the current job description.

Evaluation shall not, by itself, constitute disciplinary action – disciplinary action must be specifically identified as such, in writing, consistent with Article 7.6.

Employees will be given a copy of the evaluation. Employees will be required to sign the evaluation, acknowledging its receipt. Evaluations are not grievable, however, employees may elect to provide a written response to the evaluation, which will be retained with the evaluation in the employee's personnel file.

#### **7.6 DISCIPLINE / CORRECTIVE ACTION**

The Employer agrees to act in good faith in the discipline, dismissal or demotion of any regular employee and any such discipline, dismissal or demotion shall be made only for just cause.

No employee shall be discharged except for just cause. The parties recognize that just cause requires progressive discipline. Progressive discipline may include:

- oral warnings, which will be documented;
- written warnings – which may also include work performance improvement or corrective action plans for poor work performance or misconduct;
- suspension without pay;
- demotion; or
- discharge.

The intent of progressive discipline is to assist the employee with performance improvement or to correct misconduct. Progressive discipline shall not apply where the offense requires more serious discipline in the first instance. Both the sequencing and the steps of progressive discipline are determined on a case-by-case basis, given the nature of the problem.

All disciplinary actions shall be clearly identified as such in writing. The employee will be requested to sign the disciplinary action. The employee's signature thereon shall not be construed as admission of guilt or concurrence with the discipline, but rather shall be requested as an indication that they have seen and comprehend the gravity of the disciplinary action. Employees shall have the right to review and comment on disciplinary actions in their personnel file.

A copy of all disciplinary notices shall be provided to the employee before such material is placed in their personnel file. Employees disciplined or discharged shall be entitled to utilize the grievance procedure. If, as a result of the grievance procedure utilization, just cause is not shown, personnel records shall be cleared of reference to the incident, which gave rise to the grievance.

The Employer will notify the Union in writing within three (3) working days after any notice of discharge. The failure to provide such notice shall not affect such discharge but will extend the period within which the affected employee may file a grievance.

The Employer recognizes the right of an employee who reasonably believes that an investigatory interview with a supervisor may result in discipline to request the presence of a Union representative at such an interview. Upon request, they shall be afforded a Union representative. The Employer will delay the interview for a reasonable period of time in order to allow a Union

representative an opportunity to attend. If a Union representative is not available or delay is not reasonable, the employee may request the presence of a bargaining unit witness. (Weingarten rights)

Employees shall also have a right to a notice and a determination meeting prior to any disciplinary action (except oral warning). The Employer must provide a notice and statement in writing to the employee identifying the performance violations or misconduct alleged, a finding of fact and the reasons for the proposed action. The employee shall be given an opportunity to respond to the charges in a meeting with the Employer, and shall have the right to Union representation during that meeting, upon request. (Loudermill rights)

The Employer shall endeavor to correct employee errors or misjudgments in private, with appropriate Union representation if requested by the employee.

Discipline shall be subject to the grievance procedure in this Agreement as to whether or not such action as to any post-probationary employee was for just cause. Just cause shall be established if the following has been shown by the Employer:

- 7.6.1 That the Employer did forewarn employee of possible consequences of conduct;
- 7.6.2 That the Employer policy, rule, or order involved reasonably related to the orderly, efficient, or safe operation of the Employer;
- 7.6.3 That before administering discipline, the Employer did make an effort to discover whether employee did, in fact, violate or disobey an Employer policy or rule;
- 7.6.4 That the Employer conducted its investigation objectively;
- 7.6.5 That, in the investigation, the Employer did obtain evidence or proof that the employee violated such Employer policy or rule;
- 7.6.6 That the Employer applied its rules, orders, and penalties without discrimination under the circumstances; and
- 7.6.7 That the degree of discipline was reasonably related to the seriousness of the offense and/or the employee's record.

## 7.7 OUTSIDE EMPLOYMENT

Employees shall be permitted to maintain other employment to the extent that it does not impair the employee's ability to perform his or her normal work duties and/or responsibilities with the City of Kirkland, nor create a conflict of interest as defined by the Employer's Personnel policies.

### **ARTICLE 8 – SENIORITY- (Section 8.1-8.4)-LAYOFF (Section 8.5-8.15)**

### **8.1 ESTABLISHMENT OF SENIORITY**

Seniority shall be established upon appointment to a regular full-time or part-time, budgeted position within the bargaining unit. No seniority shall be established while an employee is employed in a Temporary, Seasonal or On-Call position. Time in service in a Temporary or benefitted Seasonal / On-Call position shall count for leave accrual or step movement purposes only. A Temporary employee or a Regular employee in a Temporary position who is hired without a break in service directly into a Regular position in the same classification shall be credited for classification seniority from the date of hire into that classification.

Including vacation and sick leave however, seniority shall not be accrued while on a leave of absence without pay in excess of thirty (30) continuous calendar days. The appointment date shall be adjusted for leaves of absence without pay except when such leaves are the result of federal or state legally protected leaves.

### **8.2 APPLICATION OF SENIORITY**

In the event of transfer, layoff, postings/promotions, bumping or recall, bargaining unit seniority shall be the determining factor where employees are equally qualified to do the job. Seniority shall be applied in the following manner:

#### **8.2.1 Postings / promotions/ transfer**

In regard to job postings, promotion, and transfer, “qualifications” and/or “ability” will be the primary consideration, with seniority determinative where employees are equally qualified, consistent with Article 7. Qualifications will include the minimum qualifications of education, training and experience as set forth in the job description, as well as the job performance, ability, employment record and contribution to the needs of the department.

#### **8.2.2 Bumping**

As to bumping, the employee’s “competence” and the ability, as defined in Article 1.7, to adequately perform the unique functions of the job assignment will be the primary consideration, applied in accordance with bargaining unit seniority.

#### **8.2.3 Recall**

Seniority shall be determinative in the identification of which employee is to be recalled when there are more than one who is qualified and/or have previously performed a position. In the event that an employee is being recalled to a new position, the employee’s qualification and the ability to adequately perform the unique functions of the job assignment will be the primary consideration, applied in accordance with bargaining unit seniority, consistent with Article 8.2.2.

### **8.3 LOSS OF SENIORITY**

An employee will lose seniority rights by and/or upon:

8.3.1 Resignation.

8.3.2 Discharge.

8.3.3 Retirement.

8.3.4 Layoff / Recall list of more than fourteen (14) consecutive months.

8.3.5 Failure to respond to two offers of recall to former or comparable employment.

Employees who are re-employed following the loss of their seniority, shall be deemed a newly-hired employee for all purposes under this Agreement, except as provided in the following: if an employee is laid off or resigns in good standing after working at least twelve (12) consecutive months, and is thereafter re-employed within twelve (12) months (or fourteen (14) months in the event of recall), the employee will, upon successful completion of the probationary period, regain the seniority that they had as of the effective date that the employee resigned.

#### **8.4 SENIORITY LIST**

The Employer shall update the seniority list and provide it to the Union annually or upon request, consistent with Article 3.3. If a layoff is announced, a current ranked seniority list including job classifications, names, job locations, and FTE or hours per week shall be provided to the Union and posted in the affected department.

#### **8.5 LAYOFFS**

A layoff is identified as the anticipated and on-going or prolonged reduction in the number of full-time equivalent (FTE) positions or in the number of partial FTEs covered by this Agreement. A reduction in force in classification may occur for reasons of lack of funds, lack of work, efficiency or reorganization. Reductions in force are identified by classification within the affected department.

For purposes of this Article, layoff is further identified as any reduction in hours which results in a regular position being less than their budgeted FTE.

#### **8.6 AFFECTED GROUP**

The following procedure shall apply to any layoff:

##### **8.6.1 Affected employees**

The Employer shall first determine by job classification the number of employees or FTEs to be affected by the layoff. The employee(s) holding such FTEs, which are subject to layoff, shall be the "affected employee(s)."

The least senior employee within the affected job classification shall be selected for layoff, consistent with Article 1.20. The exception would be only when the Employer determines that the position requires unique qualifications and abilities necessary to perform the specialized and required functions of that position, which would then become an overriding factor.

#### **8.7 NOTICE**

The Union shall be provided written notice of all proposed layoffs and of positions to which laid off employees may be eligible to bump and a current seniority list.

Employees affected /being laid off shall be given written notice of such layoff thirty (30) calendar days prior to the layoff if possible. In no event shall written notice of layoff be less than ten (10) working days. If the employer does not provide ten (10) working days written notice, the employer shall compensate the employee at his or her normal rate of pay for the time between the last day of



work and ten (10) working days from the date the employee receives the notice of layoff, in addition to any other compensation due the employee.

The employee shall inform the Employer within five (5) working days of the receipt of the notice of layoff of their intention to exercise bumping rights. When all bumping rights have been acted upon, or when someone has chosen not to act on their bumping right, the employee least senior or the employee choosing not to bump shall be the person laid off. Only one thirty (30) day notice of layoff is required, irrespective of the number of bumps.

An employee desiring to exercise bumping rights must do so by delivering written notice to the Employer within five (5) working days of receipt of notice of layoff. The written notice must state the proposed position to be bumped and contain a statement of the employee's qualifications for that position. Within five (5) working days of receipt of the employee's notice to exercise the bumping rights, the Employer shall communicate the decision to the employee as to whether the employee meets the qualifications for the position the employee has chosen to bump.

#### 8.7.1 Volunteers

Simultaneous with implementing the provisions of the layoff procedure, the Employer may first seek, by a five (5) working day posting process, volunteers for layoff or voluntary resignation from among those employees who work within the same job classification as the affected employees. If there are more volunteers than affected employees, volunteers will be chosen by bargaining unit seniority. Employees who volunteer for layoff may opt for recall rights as described in this Article at the time of layoff.

If there are no or insufficient volunteers within the affected job classification, the remaining affected employees who have received notice must choose promptly (within five (5) full working days of receipt of the Notice) among the layoff options set forth in Article 8.10.

#### 8.7.2 Probationary Employees

If the number of volunteers is not sufficient to meet the announced number of necessary layoffs, and if the affected employee is an initial probationary employee, then that employee shall be laid off and are ineligible to select among layoff options.

### 8.8 Meeting with Union

After receiving notice and upon the Union's request, the Employer and the Union shall meet promptly during the first two (2) weeks of the notice period identified in Article 8.6 to discuss/negotiate the reasons and the time-lines for the layoff and to review any suggestions concerning possible alternatives to layoff. Union concerns shall be considered by the Employer prior to implementation of any reduction in hours.

### 8.9 Order of Layoff

The least senior employee (by classification seniority) within the affected job classification and affected department shall be selected for layoff. No regular employee shall be laid off while another employee in the same classification within the department is employed on a probationary, extra help or temporary basis, unless specialized skills are required to fill the position that are not possessed by the regular staff member. This provision shall apply only to the classification where the initial layoff occurs and not to the classification into which laid off employees have bumped. In the event of two employees having the same classification seniority, bargaining unit seniority shall be

determinative. In the event of two employees having the same bargaining unit seniority, Employer seniority shall be determinative.

### **8.10 Layoff Options**

Affected employees who have completed their probationary period shall have the following options:

#### **8.10.1 Assume a Vacant Position**

On a bargaining unit seniority basis, to assume a vacant position in the same department and bargaining unit, for which they are qualified. On a bargaining unit seniority basis, the employee shall also be considered for available job openings within the Employer for which the employee is qualified.

When a regular full-time or part-time employee is being laid off the Employer may offer a temporary position if one is available and the employee has the ability to perform the work. Laid off employees who accept these assignments will be provided the benefits and provisions of the temporary assignment. Employee(s) accepting these assignments will be subject to recall.

#### **8.10.2 Bump**

Laid off employees, including bumped employees, shall be allowed to bump less senior employees (by bargaining unit seniority) within their department in lower classifications or in classifications which the employees previously held and are still competent to perform the work of the classification. The employee may bump to other departments only within their current classification or if they previously held the position and are still competent to perform the duties.

Part-time regular employees shall have the option of remaining in the reduced position (if above the 20 hour threshold) or bumping to a lower classification, if competent.

An employee who has bumped shall move to the highest step of the new range that does not exceed their current salary.

If there is no employee in the next lower classification who is less senior than the person scheduled for layoff, that person may look progressively to the next lower classification for such bumping rights.

The employee who is bumped by the affected employee shall have the same rights under this Article.

#### **8.10.3 Recall**

If the affected employee elects not to take a vacant position, elects not to bump or cannot immediately and adequately perform the functions of the job assignment in assuming a vacant or bumped position, then that employee will be placed on the recall list and will be eligible for recall under Article 8.12.

### **8.11 REDUCTION HOURS/FTE**

An employee subject to an involuntary reduction in their FTE may elect to accept the reduction, may bump and/or may elect to be placed on recall in accordance with Article 8.10 and 8.12. If the reduction results in hours less than their budgeted FTE, it will be considered a layoff and the employee shall have the right to bump or recall list.

#### **8.12 RECALL**

An employee who has been laid off shall be entitled to recall rights for a period of fourteen (14) months from the effective date of their layoff. If a vacancy occurs in the employee(s) classification, employee(s) on the recall list shall be notified of such vacancies at the employee's address on file with the Human Resource Department. The vacancy will be filled, in accordance with classification seniority, among current employees and those on the recall list. If employees on the recall list elect not to accept two (2) offers to return to work in the former or a comparable position or fail to respond within seven (7) consecutive days of the offer of recall, they shall be considered to have terminated or abandoned their right to re-employment and relinquished all recall rights. If employees on the recall list elect not to accept an offer of a non-comparable position, they may retain their recall rights for the balance of their recall period.

As long as any employee remains on the recall list the Employer shall not newly employ by hiring persons into the affected bargaining unit classification(s), within their department, until all qualified employees holding recall rights to that affected classification have been offered recall.

In other represented departments, as long as any employee remains on the recall list the Employer shall first post internally a vacancy of the affected employee's same classification to assure that the affected employee, together with other current employees are given opportunity for consideration for the vacancy. The employer then reserves the right to post externally if, at the sole discretion of the employer, a current employee does not best fit the needs of the vacancy.

It shall be the responsibility of the affected employee to provide the Employer with their current mailing address and telephone number.

A copy of the recall list shall be provided to the Union, upon request.

A person on the recall list who is re-employed in a regular position with the Employer shall serve a probationary period of three (3) months. The probationary period may be extended up to an additional three (3) months if the Employer states reasons in writing to the employee at the end of the first three (3) months. An employee who does not successfully complete the probationary period shall return to the recall list and shall remain on the recall list for the portion of their fourteen (14) months remaining at the time of re-hire.

There shall be no probationary requirement for persons returning to their former position if the initial probationary period has been completed.

Employees shall not lose seniority as a result of layoff for a period of up to fourteen (14) months, per Article 8.3; provided, however, that no benefits shall be accrued during the period of layoff.

Nothing contained in this layoff section shall be construed to require the Employer to modify its position and classification structure in order to accommodate bumping or other re-employment rights.

Salary placement rules shall apply to recall to regular positions and to employees who have bumped. Employees bumping to another position shall retain their old anniversary date for purposes of step increases. Persons recalled to the same salary range shall be placed in their former step and time in step. The salary for non-regular positions not represented by the bargaining unit shall be determined by the Employer.

**8.13 VACANT POSITIONS**

Positions will be filled in accordance with Article 8.2 and other sections of this Article.

Within the bargaining unit and the department, affected employees and employees on the recall list shall be given first opportunity for vacant bargaining unit positions for which they are qualified prior to outside hiring by the Employer, consistent with Article 8.10.1. Within other departments affected employees will be given consideration for vacant positions for which they are qualified.

If the affected employee elects not to take a vacant position, elects not to bump or cannot immediately and adequately perform the functions of the job assignment in assuming a vacant or bumped position, then that employee will be placed on the recall list and will be eligible for recall under Article 8.12.

**8.14 VACATION & LEAVE CASH OUTS / PAY**

Any regular employee who is laid off or terminated shall be cashed out for any unused vacation benefits or comp time with their final paycheck, to the extent of established maximums (per other Articles of this Agreement).

Sick leave balances at the date of layoff shall be restored upon recall with the Employer if the person is recalled into a regular position from the recall list. No sick leave shall accrue during the period of layoff. If a person on the recall list is employed in a temporary position employment, the person may accrue sick leave at the same rate that would apply if it were a regular position. Only sick leave accrued during temporary employment may be used during temporary employment. Sick leave accrued during temporary employment may be added to any existing sick leave balance if the person is hired into a regular position from the recall list.

**8.15 UNEMPLOYMENT CLAIMS**

If laid off employees apply for unemployment compensation benefits, the Employer will not contest the claim and will confirm that the employee was laid off.

**ARTICLE 9 – WAGES**

**9.1 WAGE SCHEDULE**

The ~~monthly~~ salaries for employees and classifications covered by this Agreement are located in Appendix A. ~~The parties recognize that the information used to compile the data for the salary survey needs to be reviewed and updated due to a number of circumstances. Some of these elements include increased population of Kirkland, changes in job descriptions due to layoffs and the re-distribution of work, and the re-use of aged information. The parties agree that before conducting a new salary survey these items, or other related issues, will be discussed and reviewed~~

~~for possible changes and updates. This provision creates no commitment by either party to act on any survey results.~~

Should it become necessary to establish a new job classification within the bargaining unit during the life of this Agreement, the Employer may designate a job classification title and salary for the classification. The salary for any new classification within the bargaining unit shall be subject to negotiations, consistent with Article 2.2.

#### 9.1.1 Wage Adjustments

~~9.1.1.a Effective January 1, 2018<sup>2021</sup>, the monthly rates of pay for all bargaining unit positions shall be increased by three percent (3%) through December 31, 2018<sup>one hundred percent (100%) of the Consumer Price Index, All Items, for Urban Wage Earners and Clerical Workers (CPI-W), June 2019 to June 2020, for Seattle-Tacoma-Bellevue, which is one percent (1.0%).</sup>~~

~~9.1.1.b Effective January 1, 2019, the monthly rates of pay shall be increased by three percent (3%) through December 31, 2019.~~

~~9.1.1.c Effective January 1, 2020, the monthly rates of pay shall be increased by two percent (2%) through December 31, 2020.~~

For all retroactive amounts, the Employer shall, within thirty (30) days of signature of this Agreement, make all appropriate salary adjustments for the next regular pay period.

#### 9.2 HIRE-IN RATES

New regular employees shall normally be placed at Step A of the appropriate salary range or placed consistent with current personnel rules.

### ARTICLE 10 – OTHER COMPENSATION

#### 10.1 STANDBY PAY

Employees assigned to emergency standby duty during their time off shall be paid 15 percent of their regular straight-time hourly rate for each hour of standby. Employees assigned to standby on paid holidays specified in Article 11 shall be paid 25 percent of their regular straight-time hourly rate for each hour of standby.

Employees not on standby shall receive a minimum of two (2) hours of pay when called back to work by the employee's supervisor to handle a matter that requires immediate attention. Employees on standby shall also receive a minimum of two (2) hours of pay when required to physically return to the worksite to handle a matter that requires immediate attention. Employees on standby that are required to provide telephonic or computer remote services shall receive the greater of a minimum of one (1) hour of pay or the time actually worked. Other hours actually worked during the standby period are tracked in 15 minute increments. Employees will not receive the minimum of one (1) hour of pay for time worked that is considered de minimus (less than 7.5 minutes).

**10.2 CALL-BACK PAY**

All employees will respond to emergency call-outs unless extenuating circumstances such as illness or other incapacitation prevent the employee from responding.

Full-time employees who are called back to work after leaving the job site shall receive a minimum of two (2) hours pay at the overtime rate. When an employee is called out between shifts, the time worked between shifts shall be paid at the rate of one and one-half (1½) times the regular rate. After working the call out shift, the employee may have the option of working the next regularly scheduled shift, provided the supervisor and the employee feel the employee can carry out the duties of the position safely. When the employee does continue working, the time worked on the next regularly scheduled shift shall be compensated at the normal straight time rate.

During periods of emergency, changes of shift can be made with eight (8) hours' notice, provided the employee has eight (8) hours off between the two (2) shifts.

This provision shall apply to employees who are required to attend Employer scheduled meetings on their regularly scheduled day(s) off.

Part time employees who are called back to work after leaving the job site shall receive a minimum of two (2) hours' pay at the appropriate rate of pay.

**10.3 WORK IN A HIGHER CLASSIFICATION**

Employees assigned by their Department Director or the City Manager to assume the full range of responsibilities of a higher level position in a temporary capacity for at least 10 continuous working days shall receive Temporary Assignment Pay commencing from the first such day worked. Pay shall be at the "A" step of the higher pay range, or at the lowest step which gives the employee a 5 percent pay increase, whichever is greater.

Out of Class Pay shall be awarded due to a position vacancy created by separation from Employer employment, extended illness, injury, or maternity leave of the incumbent. Management retains the right to determine whether or not to fill vacant positions with temporary appointments.

**10.4 MILEAGE REIMBURSEMENT**

All bargaining unit employees who are required to use their own vehicles for Employer business shall be reimbursed at the mileage rate set by the current policy for all miles driven on such business.

**10.5 FOOTWEAR ALLOWANCE**

The Employer shall distribute to each benefitted employee who is exposed to the hazards set forth in WAC 296-800-16060 a footwear allowance, for ANSI approved work footwear. The footwear allowance shall be in amount of two hundred dollars (\$200.00) distributed on first payday of September each year the employee is eligible:

Footwear Allowance Eligibility Schedule:

Level One: Encounters foot hazards as defined by the WAC at least 3x per month (minimum of 36 times per year) = eligible for footwear allowance every year

Level Two: Encounters foot hazards as defined by the WAC at least 2x per month (minimum 24 times per year) = eligible for footwear allowance every two years

Level Three: Encounters foot hazards as defined by the WAC occasionally (minimum of/or less than 23 times per year) = eligible for footwear allowance every three years

An eligible employee may choose to waive their footwear allowance. If an employee waives their footwear allowance they will not be considered for another allowance until their next eligibility period. If an employee who waived their allowance would like to receive a footwear allowance in between eligibility periods they must submit a request to the Safety and Risk Analyst. Once they use their allowance the eligibility period for the next footwear allowance is set forth from that date.

New employees will be required to wear footwear but will not receive footwear allowance until they have completed their probation period. Once their probationary period is complete they will be added to the eligibility list per the eligibility schedule to receive a footwear allowance the following September.

Employee uniforms purchased through an advance or reimbursement that can be worn as street clothing shall be taxable income to the employee in accordance with the Internal Revenue Service rules.

**10.6 LONGEVITY**

All employees who have completed nine (9) continuous years of service to the Employer will receive a flat rate per month and will not be affected by the COLA.

For the term of this Agreement:

- \$ 70.00 total per month at the start of the 10<sup>th</sup> year of service
- \$120.00 total per month at the start of the 15<sup>th</sup> year of service
- \$170.00 total per month at the start of the 20<sup>th</sup> year of service

**ARTICLE 11 - HOLIDAYS**

**11.1 HOLIDAYS**

Benefitted full-time employees shall be granted the following holidays and such other days as the City Council may fix without a reduction in pay:

Holiday	Observed
New Year's Day	January 1st
Martin Luther King, Jr. Birthday	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4th
Labor Day	1st Monday in September
Veteran's Day	November 11th
Thanksgiving Day	4th Thursday in November

The Day after Thanksgiving Day	Friday following the 4 <sup>th</sup> Thursday in November
½ Day Christmas Eve	Last regular work day before Christmas Day
Christmas Day	December 25th
½ Day New Year's Eve	Last regular work day before New Year's Day
Floating Holiday	Employee's Choice
Community Service Day	Employee's Choice

11.1.1 In selecting the Floating Holiday, the employee's choice will be granted, provided that prior approval is given by the immediate supervisor or Department Director, and provided that the particular day off selected by the employee does not prevent a department or division thereof from providing efficient public service. The Floating Holiday must be taken during the calendar year or entitlement to the day will be forfeited.

11.1.2 An employee must be employed in a regular or temporary position for six (6) consecutive months in order to be eligible for his or her floating holiday.

11.1.3 Utilization of the Community Service Day shall be for purposes of participation and volunteering for legitimate non-profit organizations, community service organizations or public agencies. Authorization and scheduling shall be in accordance with the same procedures as a Floating Holiday.

**11.2 RELIGIOUS HOLIDAYS**

Employees may also take other religious holidays off with their supervisor's approval, with or without pay, through utilization of vacation or comp time or by making alternative work schedule arrangements. Such requests shall not be unreasonably denied.

**11.3 HOLIDAY OBSERVANCE**

Any regular holiday which falls on a Saturday shall be observed on the preceding Friday and any regular holiday which falls on a Sunday shall be observed on the following Monday.

For those employees on a 4/10 work schedule or other alternate schedule, when one of the listed holidays falls on one of the employee's regularly scheduled days off, the holiday shall be observed on a day mutually agreeable to the employee and the Employer within the same workweek.

The holidays listed above represent specific events as indicated. Should the dates for any such holiday be changed by the Legislature or the Governor or the State of Washington, said holiday shall be observed on the date established by the change and not the date set forth above.

**11.4 HOLIDAY ON DAY OFF**

Benefitted employees shall receive eight (8) hours' holiday benefit pay and time-off for each holiday listed in Article 11.1 – Holidays, pro-rated to their FTE.

**11.5 HOLIDAY COMPENSATION**



Benefitted employees shall be paid no more than eight (8) hours of holiday benefit pay for that day regardless of their work individual schedule.

Should any work be performed by an employee on a holiday at the approval and/or direction of their supervisor they shall be paid for time worked and overtime may result if, consistent with Article 6.4, it results in over forty (40) hours worked for the workweek. No employee shall be called on a holiday for less than four (4) hours, except those personnel serving Standby Duty.

**ARTICLE 12 – VACATION**

**12.1 VACATION ACCRUAL**

Full-time employees shall accrue vacation leave at the rate of one twelfth of annual vacation per month of service, based on the first pay period beginning the following schedule:

<u>Years of Employment</u>	<u>Annual Vacation</u>
1 <sup>st</sup> - 4 <sup>th</sup> years	104 hours
5 <sup>th</sup> -7 <sup>th</sup> years	128 hours
8 <sup>th</sup> -10 <sup>th</sup> years	136 hours
11 <sup>th</sup> -13 <sup>th</sup> years	144 hours
14 <sup>th</sup> - 16 <sup>th</sup> years	160 hours
17 <sup>th</sup> - 19 <sup>th</sup> years	176 hours
20 <sup>th</sup> - 24 <sup>th</sup> years	192 hours
25 <sup>th</sup> year and thereafter	200 hours

Accrual of vacation shall commence on the first pay period after hire date unless the hire date is on the first working day of the month; then accrual begins on that date of hire. Vacation leave shall not accrue during any leave without pay.

Vacation leave shall not be accumulated in excess of two hundred eighty (280) hours within a calendar year without the express prior written authorization of the City Manager or his or her designee. No more than two hundred and forty (240) hours may be carried over from one calendar year to the next, except as provided in Article 12.1.1.

12.1.1 Requests to the City Manager or designee for exceptions shall be for a specific number of hours to be used for a specific purpose and to be taken by a specific date. Generally, the basis for requesting an exception would be that the employee requested to utilize the leave and their service and work requirements precluded the Employer from granting the leave at that time. Accrued unused vacation leave shall not, under any circumstance, exceed three hundred twenty (320) hours.

12.1.2 Any vacation leave accrued in excess of the above referenced maximums shall be forfeited and shall not form the basis of any severance pay or additional compensation. Upon termination of employment, no payment for vacation accumulation shall exceed two hundred forty (240) hours.

Earned vacation leave may be taken at any time during a period of illness after expiration of sick leave. Taking leave without pay in any month shall result in pro-ration of vacation accruals for that month, calculated upon actual hours worked as a percentage of the total hours of the pay period.

#### **12.2 VACATION SCHEDULING**

Upon completion of six (6) months' continuous service in a regular position, as defined in Article 1.11, an employee shall be eligible for paid vacation. An employee's request for vacation leave will be granted, provided that prior approval is given by the employer and provided that leave requested does not prevent a department or division thereof, from providing efficient public service.

Employees shall have the option of using compensatory time or vacation leave for approved paid time off.

#### **12.3 VACATION PAY**

Vacation pay shall be the amount that the employee would have earned if the employee had worked their regular position during the vacation period.

If an authorized holiday occurs within an employee's vacation period, that day will be paid as a holiday and not deducted from the employee's vacation accruals. Employees cannot receive vacation, sick leave or holiday pay simultaneously for the same days.

#### **12.4 VACATION UPON TERMINATION**

Upon separation from employment, employees who have six (6) or more consecutive months of employment shall receive pay in lieu of unused earned vacation leave, except as established in Article 8.5 of this Agreement. In no case shall an employee receive pay in lieu of unused vacation leave prior to separation from Employer employment, unless approved by City Manager or his or her designee.

Employees shall provide at least ten (10) working days written notice of their effective resignation date. The time limit of the resignation may be waived at the discretion of the Director. Pay in lieu of unused vacation shall be forfeited if ten (10) working days written notice is not provided or waived.

### **ARTICLE 13 - SICK LEAVE**

#### **13.1 SICK LEAVE ACCRUAL**

Full-time employees' sick leave with pay shall accrue at the rate of eight (8) hours of leave for each full calendar month of the employee's service. Accrual of sick leave shall commence on the first pay period after hire date unless the hire date is on the first working day of the month; then accrual begins on that date of hire. Any such leave accrued in any one year shall be accumulative for succeeding years to a maximum of nine hundred sixty (960) working hours.

Unused sick leave may be accumulated from year to year to a maximum of nine hundred and sixty (960) hours, but may not be taken or used for any reason other than those specified in Article 13.2.1 of this Agreement. The Employer shall not compensate any employee upon termination or

at any other time for unused accrued sick leave by payment of money or compensating time off, except as provided in this section.

Taking leave without pay in any pay period shall result in pro-ration of sick leave accruals for that pay period, calculated upon actual hours worked as a percentage of the total hours of the pay period.

### **13.2 SICK LEAVE USAGE**

Employees are expected to be on the job unless excused by Supervisor or Department Director because of illness. The Employer may make periodic reviews of individual attendance records. Excessive absenteeism or use of sick leave for purposes other than those provided for in this Agreement may result in disciplinary action or termination of the employee.

Sick leave shall be available to benefitted employees after they have worked for a minimum of thirty (30) consecutive calendar days after their most recent date of hire.

13.2.1 Sick leave shall be granted for the following reasons: Personal illness or physical incapacity which renders the employee unable to perform the duties of his or her position, care for or serious illness of immediate family, medical or dental appointments or as otherwise required by law or this agreement.

13.2.2 Employees who appear to be using excessive amount of sick leave may be required to submit a statement from a professional health care provider certifying the illness. A statement from the health care provider may also be required for certifying the date on which the employee is able to return to work and his or her ability to perform the required duties.

13.2.3 Use of accrued sick leave is contingent upon the employee or someone on his or her behalf notifying his or her immediate supervisor of the reason for absence prior to or within one hour of the regular start time each day. In cases of hospitalization or extended illness, daily notice is not required, provided that the employee's supervisor is kept informed of the expected duration of absence and the date of return. For scheduled medical appointments or when sick leave use can be anticipated, the employee will give advance notice of not less than one week to his or her immediate supervisor, unless there are extenuating circumstances.

### **13.3 SHARED LEAVE**

The Employer may permit an employee to receive donation of vacation or comp time consistent with the then current Shared Leave policy.

### **13.4 COORDINATION - WORKER'S COMPENSATION**

In the event an employee shall be entitled to benefits or payments under any program of disability insurance furnished by the Employer, Worker's Compensation Act or similar legislation by the State of Washington or other governmental unit, the Employer shall pay to the employee only the difference between the benefits and payments received under such insurance or act by such employee and the regular rate of compensation that he/she would have received from the Employer if able to work. In such event, the number of hours deducted from the employee's total accrued sick leave shall be the hourly equivalent of the Employer's payment. The foregoing payment or

contribution by the employer shall be limited to the period of time that such employee has accumulated sick leave credits as herein above specified.

### **13.5 FAMILY MEMBER**

Sick leave may be utilized as referenced above in this Article for immediate family requiring the employee's attendance.

## **ARTICLE 14 – LEAVES OF ABSENCE**

### **14.1 IN GENERAL**

Leaves of absence requests shall not be unreasonably denied. All leaves are to be requested in writing as far in advance as possible.

As appropriate for the type of leave requested, paid leave accruals will be utilized prior to unpaid leave, unless otherwise provided for in this Agreement.

Leave does not accrue nor may it be used until the first day of the following pay period in which it is earned (no "negative" leave use during the period in which it is earned).

### **14.2 JURY DUTY / COURT**

An employee, who is required to serve on a jury or as a result of official Employer duties is required to appear before a court, legislative committee or quasi-judicial body as a witness in response to a subpoena or other directive, shall be allowed authorized leave with pay less any amount received for such duty.

### **14.3 MILITARY LEAVE**

All regular employees shall be allowed military leave as required by RCW 38.40.060 and as interpreted by the Court. This provides for twenty-one (21) working days of military leave per year (October 1 through September 30).

### **14.4 BEREAVEMENT**

Upon notification, a Department Director will grant an employee bereavement leave with pay in the event of death in the immediate family of the employee. The maximum number of working days leave shall be five (5) per year. This leave is not cumulative from year to year.

### **14.5 MAINTENANCE OF SENIORITY**

The Employer shall adjust the employee's anniversary date to reflect any period of leave without pay in excess of thirty (30) continuous calendar days. Seniority shall continue to accrue and the employee's anniversary date shall not be adjusted for periods of legally protected leave, such as FMLA or military leave.

### **14.6 LEAVE WITHOUT PAY**

As appropriate for the type of leave requested, paid leave accruals will be utilized prior to unpaid leave.

If authorized by the Employer or for periods required by law, regular employees may take up to six (6) months leave without pay. Leaves of thirty (30) calendar days or less can be authorized by the

Department Director. Leaves in excess of thirty (30) calendar days require authorization by the City Manager or designee. Such leaves shall not constitute a break in service but no benefits shall accrue during the leave. Upon expiration of the leave, the employee shall be reinstated in the position held at the time the leave was granted and shall resume accrual of benefits at the same rate at which he/she accrued them prior to the leave.

#### **14.7 FAMILY LEAVE – FMLA**

Under the terms of the Family and Medical Leave Act of 1993 (FMLA) and the state law, upon the completion of one (1) year of employment, any employee who has worked at least 1250 hours during the prior twelve (12) months shall be entitled to up to twelve (12) weeks of leave per rolling year for the birth, adoption or placement of a foster child; to care for a spouse or immediate family member with a serious health condition; or when the employee is unable to work due to a serious health condition. For purposes of this Article, the definition of “immediate family” will be found in Article 1.

The Employer shall maintain the employee’s health benefits during this leave. If the employee fails to return from leave for any reason other than the medical condition initially qualifying for the FMLA absence, the Employer may recover from the employee the insurance premiums paid during any period of unpaid leave.

If a leave qualifies under both federal and state law, the leave shall run concurrently. Ordinarily, the employee must provide thirty (30) days written advance notice to the Employer when the leave is foreseeable. The employee should report qualifying events as soon as known and practicable.

The combination of FMLA and other types of leave(s) is not precluded and, in fact, leave utilizations are to be concurrent, with the intent that appropriate paid accruals are to be utilized first, consistent with other Articles of this Agreement. The Employee may elect to retain up to forty (40) hours of sick leave and up to forty (40) hours of vacation (prorated by their FTE) for use upon return to work, consistent with the process identified in the personnel policy. Upon the employee’s election, any accrued comp time may be utilized prior to any period of unpaid leave.

The Employer will grant leave consistent with state and federal law. Family leave shall be consistent with the FMLA and the adopted conditions and provisions of the state and federal law and are not intended to expand upon the rights thus set forth.

#### **14.8 MATERNITY LEAVE**

Consistent with WAC 162-30-020, the Employer will grant a leave of absence for a period of temporary disability because of pregnancy or childbirth. This may be in addition to the leave entitlements of FMLA.

This leave provides female employees with the right to a leave of absence equivalent to the disability phase of pregnancy and childbirth. There is no eligibility requirement, however the Employer has no obligation to pay for health insurance benefits while on this leave (unless utilized concurrent with FMLA).

Leave for temporary disability due to pregnancy or childbirth will be medically verifiable. There is no limit to the length of the disability phase, except for the right for medical verification and the right of second opinion at the employer’s expense. At the end of the disability leave, the employee

is entitled to return to the same job or a similar job of at least the same pay as provided by law. Employees must use their accrued vacation and sick leave, if any, during the leave period and, at their election, any accrued comp time, consistent with the retention provision as provided in Article 14.7. Once this paid leave is exhausted, the employee's leave may be switched over to unpaid leave.

#### **14.9 INCLEMENT WEATHER**

Employee rights and responsibilities during severe weather and emergency or disaster conditions are covered by the current Inclement Weather Policy of the Employer. The goal shall be to continue to provide essential Employer services, consistent with public and employee safety and emergency operations priorities.

### **ARTICLE 15 – HEALTH & WELFARE**

#### **15.1 MAINTENANCE OF BENEFITS**

Medical and Dental Insurance - The Employer will offer a self-insured High Deductible Health Plan (HDHP) administered by First Choice (or its equivalent). The Employer will also offer a fully-insured HMO option through Kaiser Permanente (or its equivalent). During the duration of this agreement the Employer shall make every effort to maintain substantially equivalent benefits at a reasonable cost. The Employer recognizes its responsibility to bargain with the union the impact of those decisions.

The Union shall take part in and have at least one appointed representative on the Whole Health Committee. The purpose of the Committee is to monitor and evaluate the benefits costs and the plan designs. The Benefit Committee representative shall have no authority to negotiate on behalf of the Union any changes to be scheduled or content of benefit plans, any such changes shall be governed in accordance with Article 15.1 of this Agreement.

Participation in benefits shall be consistent with Article 5.2 of this Agreement and the trusts and Plans described below.

#### **15.2 HEALTH AND LIFE INSURANCE**

Medical Insurance - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage for each employee of the bargaining unit.

Changes in insurance carrier shall be subject to Article 15.1.

Dental and Vision - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee coverage and one hundred percent (100%) of the premium necessary for the purchase of dependent coverage.

Life Insurance - the Employer shall pay each month one hundred percent (100%) of the premium necessary for the purchase of employee term life insurance coverage that has a policy value of two

(2) times the annual base rate of pay of the employee, up to a guaranteed issue amount of \$250,000. The employee is responsible for any taxes associated with this benefit.

15.2.1 Part-time regular employees shall receive medical, dental and vision benefits, in accordance with Article 5.2.2.

15.2.2 The employee shall pay, by way of payroll deduction, any and all premiums above the maximum paid by the Employer.

15.2.3 If an employee is on leave without pay in excess of eight (8) hours in a calendar month, the health insurance benefits for the employee and his or her dependents shall be pro-rated.

15.2.4 An employee that elects to waive their medical coverage with the City will receive \$100/month that will be added to their paycheck in accordance with Article 5.2.2. An employee is eligible for the waiver if and only if their spouse/domestic partner is not an employee of the City, and they have provided the City with proof of other coverage. Part-time employees who waive coverage will receive a pro-rated amount according to their FTE amount.

### **15.3 FLEXIBLE SPENDING ACCOUNT - FSA**

The Employer participates in a special program under the provisions of IRS Section 125. Employees may voluntarily elect to participate in the reimbursement program to pay medical or dependent care expenses with pre-tax dollars. The Employer makes no contribution, makes no assurance of ongoing participation and assumes no liability for claims or benefits. The City and the Union agree to reevaluate this benefit pending Cadillac Tax liability in the future.

### **15.4 RETIREMENT**

Pensions for employees and contributions to pension funds will be governed by the Washington State statutes in relation thereto in existence during the contract period.

### **15.5 HEALTH REIMBURSEMENT ACCOUNT – HRA (VEBA)**

The Employer will make contributions to a HRA (VEBA) in the amount of \$1200/year for employee only coverage or \$2400/year for family coverage if the employee enrolls in the City of Kirkland HDHP. If the Employee is enrolled in either First Choice or Kaiser Permanente and satisfies the Wellness incentive criteria, as described in Appendix B, the Employer will contribute up to an additional \$600/year into the HRA (VEBA). Contributions to the HRA (VEBA) will be made by the Employer and are subject to the rules and limitations contained within the Internal Revenue Code.

15.5.1 Part-time employees shall receive the full HRA (VEBA) contribution, however premiums for the medical, dental, and vision benefits will be prorated according to Article 5.2.2.

15.5.2 If an employee's hours drop below 20 hours per week or 80 hours per month, the employee will be subject to the underwriting rules of the medical, dental, vision and other

plans. In such cases the employee will be removed from the active plan and provided COBRA coverage.

#### **15.6 EMPLOYEE HEALTH CENTER**

The Employer will contract with a vendor selected by the Employer to open and operate an Employee Health Center. The Health Center will be open to employees, their spouses/domestic partners and children over two years of age who are covered under the Employer's First Choice HDHP or Kaiser Permanente Plan. Services provided at the Health Center, per the contract with the vendor, will be at no cost to the employee. The Employer has full discretion to negotiate with the vendor on services provided, hours of operation, staffing, covered participants, covered prescriptions, location, and all other stipulations in the contract with the vendor. The Employer reserves the right to terminate the contract with the vendor and discontinue offering this benefit to employees and their dependents at any time. If, during the term of the Agreement such termination should take place, either party may re-open the Agreement for bargaining.

#### **15.7 PROFESSIONAL HEALTH SERVICES**

The Employer will contract with a vendor of their choosing to provide Professional Health Services. The Professional Health Services vendor will be open to Employees, their spouses/domestic partners and children who are covered under the Employer's First Choice HDHP. Services provided by Professional Health Services, per the contract with the vendor, will be at no cost to the employee. The Employer has full discretion to negotiate with the vendor on services provided and all other stipulations in the contract with the vendor. The Employer reserves the right to terminate the contract with the vendor and discontinue offering this benefit to Employees and their dependents at any time.

### **ARTICLE 16 - TRAINING**

#### **16.1 TRAINING**

Approval for attendance at training, the hours intended to be compensated and the reimbursement for travel and expenses shall be established by the supervisor prior to the training, consistent with the current policy.

#### **16.2 TRAINING REIMBURSEMENT**

Compensation associated with training or representation of the Employer on official business shall be consistent with the current policy and the Fair Labor Standards Act (FLSA) and WAC 296-128-500.

### **ARTICLE 17 – LABOR / MANAGEMENT COMMITTEES**

#### **17.1 PURPOSE OF COMMITTEE**

The Employer and the Union agree that a need exists for closer cooperation between labor and management, and that from time to time suggestions and issues of a general nature affecting the Union and the Employer need consideration.

The Labor / Management Committee shall have no collective bargaining authority and understandings reached by the parties will be supported by the parties, but shall not alter or modify any provisions of the collective bargaining agreement.



Upon request by either party, the parties have agreed to participate in quarterly labor-management meetings to discuss matters of mutual concern. It is expected that, unless otherwise agreed, such meetings will occur during normal business hours. Not less than one (1) week before a meeting is scheduled, each party will advise the other of matters which the party wishes to discuss. Unless otherwise agreed, the agenda will be limited to such matters.

The above provision does not preclude and in fact encourages the parties to also meet informally and expeditiously on an as needed basis on matters of mutual concern.

Policy Work Groups - The Union will be given an opportunity to designate participants to Policy Work Groups related to employment policies. Policy Work Groups will be chaired by Human Resources. Policy Work Group participants will not negotiate on behalf of the Union regarding employment policies that would impact wages, hours and working conditions.

#### **17.2 COMPOSITION OF COMMITTEE**

The Labor Management Committee meetings will include a minimum of three (3) representatives of the employer and a minimum of three (3) representatives appointed by Local #1837, unless otherwise mutually agreed upon. Said committee shall attempt to meet for the purpose of discussing and facilitating the resolution of issues which may arise between the parties other than those for which another procedure is provided by law or other provisions of this Agreement.

#### **17.3 COMPENSATION**

All meeting time spent by members of the joint Labor-Management Committee will be considered time worked if during duty hours and will be paid at the appropriate regular rate of pay.

### **ARTICLE 18 – HEALTH & SAFETY**

#### **18.1 SAFE WORKPLACE**

The Employer is responsible for maintaining a safe and healthful workplace. The Employer shall comply with all federal, state, and local laws applicable to the safety and health of its employees.

Employees shall not be required to perform work if they have a reasonable basis for believing the assignment would constitute a danger to their health and safety. The employee shall immediately contact a supervisor who shall make a determination with regard to safety. Upon the supervisor's review and liability, the employee will perform the work but may refer the matter to the safety committee or risk management.

All on-the-job injuries, no matter how slight, must be reported. Employees must immediately notify their supervisor if they are unable to work because of a work-related injury or illness.

#### **18.2 HEALTH & SAFETY PLAN**

The Employer shall develop and follow written policies and procedures to deal with on-the-job safety and shall conduct an ongoing site specific safety and security plans in conformance with state and federal laws.

#### **18.3 DRUG FREE WORKPLACE**

The Drug Free Workplace Act of 1988 for federal contractors and grant recipients requires that employers will provide a drug free workplace. This policy strictly prohibits the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the workplace.

Fitness For Duty – If a supervisor or manager reasonably suspects, through observation, that an employee may be under any influence of, or impaired by, a substance, the employee shall be removed from duty immediately and undergo substance testing for the suspected substance. Except in emergency situations, the supervisor or manager shall consult with another supervisor, manager or representative of Human Resources to ensure that adequate grounds for reasonable suspicion exist. The consulted supervisor, manager or representative of Human Resources shall also personally observe the employee before the employee is required to test for the presence of that substance. At this time the employee will also be notified of his or her Weingarten rights.

Employees removed from duty under such circumstances who test positive shall be required to meet with the Employer’s Substance Abuse Professional (SAP) and shall only be allowed to return to work, if at all, in accordance with the return to work provisions of the Employer’s substance abuse policy.

#### **18.4 WORK PLACE VIOLENCE**

The Employer is committed to employee health and safety. Workplace violence, including threats of violence by or against a City employee, will not be tolerated and should be immediately reported whether or not physical injury occurs.

### **ARTICLE 19 - GRIEVANCE PROCEDURE**

#### **19.1 GRIEVANCE DEFINED**

A “Grievance” means a claim or dispute ~~by an employee~~ with respect to the interpretation or application of the provisions of this Agreement. ~~All grievance time frames shall be held in abeyance when the parties have mutually agreed. Mediation may be considered at any step in the grievance procedure.~~

#### **19.2 CONFLICT RESOLUTION**

~~The parties agree to resolve issues at the lowest level possible. To that end, employees are encouraged to discuss any questions or concerns they may have with their supervisors. Supervisors are encouraged to communicate with and resolve concerns from employees. If these matters cannot be informally resolved between employees and their supervisors, they can be grieved in accordance with this article.~~

#### **19.3 GRIEVANCE PROCEDURE**

~~A. Compensation for attendance at grievance meetings is addressed in Article 4 of this Agreement. However, the Employer shall not be obligated to provide coverage immediately if the use of overtime is the only means of providing that coverage.~~

B. It is the responsibility of the employee and Union to ensure the grievance is advanced according to the time frames prescribed within this article. If a grievance is not presented by the employee and Union within the time limits set forth below, it shall be considered waived. If the grievance has been filed, it shall be deemed withdrawn if the Union does not advance it to the next step within the prescribed period of time. If the employer fails to respond within the specified time frames, the grievance shall be moved to the next step with written confirmation from the Union within ten (10) business days of the expired time frame.

C. All grievance time frames defined below may be held in abeyance or be extended per the parties' mutual written agreement.

D. Mediation may be considered at any step in the grievance procedure (refer to Section 19.4).

E. In the event of a grievance, the following procedure shall be used:

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**Step 1 / Department Director** – An employee and the Union representative representing the employee must present a grievance in writing within fifteen (15) business ten (10) working days of its alleged occurrence or when the employee/union knows of or should have known of the occurrence to the employee's Department Director, or designee, for which the infraction applies, with a copy to Human Resources. The written grievance must state the issue(s)/event(s) being grieved, a chronological listing of the pertinent events that took place, the section(s) of this Agreement allegedly violated, facts giving rise to the grievance and the remedy sought, and must be signed by the employee and Union representative (Staff Representative, Union officer or shop steward).

Within five (5) business days of the Director's, or designee's, receipt of the Step 1 grievance, the City and Union will schedule a grievance meeting at a mutually agreed upon date, time and location, which may include a virtual or telephonic meeting. At the grievance meeting, both the grievant and Union representative(s) and the management representative(s) will present the grievance orally and in writing, discuss the issue(s) germane to the grievance and attempt to resolve the grievance.

Within fifteen (15) business days of the grievance meeting, the The Department Director, or designee, shall respond in writing to the grievance, within ten (10) working days after it is presented to him or her. The grievance must be signed by the employee and must state the issue, the section of this Agreement violated, facts giving rise to the grievance and the remedy sought.

If a grievance is not presented within the time limits set forth above, it shall be considered waived.

**Step 2 / City Manager** - If the employee is not satisfied with the solution of the Department Director, or designee, the grievance may be forwarded by the Union to the City Manager, or designee, within ten (10) business days of the Union's receipt of the Step 1 response, with a copy to Human Resources. The grievance must be, in writing and include, together with all pertinent information and materials from Step 1 and any additional information pertinent to this matter for consideration by the may be presented to the City

~~Manager, or designee, by the employee and the Union representing the employee within five (5) working days after receiving the Department Director's response.~~

~~Within five (5) business days of the City Manager's, or designee's, receipt of the Step 2 grievance, the City and Union will schedule a grievance meeting at a mutually agreed upon date, time and location, which may include a virtual or telephonic meeting. At the grievance meeting, both the grievant and Union representative(s) and the management representative(s) will present the grievance orally and in writing, discuss the issue(s) germane to the grievance and attempt to resolve the grievance.~~

~~The City Manager, or designee, shall consult with the Union to try to resolve the grievance and shall respond in writing within twenty (20) business days after it the grievance is presented to him or her at the grievance meeting.~~

~~Fact Finding – If requested by either party during step 1 or step 2, the Human Resources Director or designee shall schedule a fact-finding meeting with the parties to the grievance in order to clarify, between the parties, facts related to the grievance. Fact finding shall be completed within twenty (20) working days of the request. The respondent time period shall begin upon conclusion of fact finding. If grievance proceeds to the next step, the “finding of fact report” shall be forwarded to the City Manager or designee.~~

~~**Step 3 / Arbitration** – If the grievance is not satisfactorily resolved by the City Manager, or designee, and the Union, either the Human Resources Director or and the Union Staff Representative will meet for purposes of resolution of the grievance or to acknowledge that mutually agreeable resolution is not possible. If so, within ten (10) working days following the response and acknowledgement, may refer the grievance may be referred to arbitration by providing written notice to the other party within ten (10) business days following the Step 2 written grievance response. an arbitrator. Employee grievancees must first have approval by the Union officers prior to being referred to an arbiter.~~

~~Within ten (10) business days of a party's receipt of written notice of arbitration from the other party, one or both parties shall request that the Public Employment Relations Commission (PERC) or the Federal Mediation and Conciliation Service (FMCS) provide a list of seven (7) arbitrators from which the parties may select one (1).~~

~~Within five (5) business days of the receipt of the list of potential arbitrators, the City and Union will schedule a meeting to select an arbitrator using the following process:~~

- ~~• The parties shall attempt to mutually select one (1) of the arbitrators on the provided list.~~
- ~~• If the parties cannot mutually agree on an arbitrator from the list of seven (7) arbitrators, the representatives of the Employer and the Union shall alternately eliminate the name of one (1) person from the list until only one (1) name remains. The person whose name is not eliminated shall be the arbitrator.~~

~~Within fifteen (15) business days of selecting an arbitrator, the City, the Union and the arbitrator will schedule a grievance arbitration hearing between the Arbitrator, City and~~

Union for a mutually agreed upon date, time and location, which may include a virtual or telephonic hearing.

**Step 4 / Arbitration**—If agreement cannot be reached as to the arbiter, the parties shall jointly request the Public Employment Relations Commission to provide a panel of seven arbitrators from which the parties may select one. The representatives of the Employer and the Union shall alternately eliminate the name of one person from the list until only one name remains. ~~The person whose name is not eliminated shall be the arbiter.~~ It shall be the function of the ~~arbiter~~ arbitrator to hold a hearing at which the parties may submit their cases concerning the grievance. The ~~arbiter~~ arbitrator shall render ~~his or her~~ the decision based on the alleged violation of the provision(s) of this Agreement within thirty (30) business days after such hearing. The decision shall be final and binding upon both parties to the agreements, provided the decision does not involve action by either party which is beyond its jurisdiction. ~~The expenses of the arbiter shall be shared equally by the Employer and the Union. Each party shall be responsible for compensating its own witnesses and representatives, not to include witnesses that are members of the bargaining unit.~~ The arbitrator shall consider and decide upon only the specific issue(s) submitted in writing by the Employer and the Union, and shall have no authority to make a decision on any other issue not so submitted.

The expenses of the arbitration, to include the arbitrator's fees and expenses, room rental and cost of the court reporter shall be shared equally by the Employer and the Union. Each party shall bear the cost of the preparation and presentation of its own case and for compensating its own witnesses and representatives, except bargaining unit employees who are required to testify shall be compensated at their regular rate (neither at the overtime nor premium rate) of pay if the time spent testifying falls within the employees' regularly scheduled work shifts. Employees will not be paid for time spent outside of their normal work shift.

When agreed upon by both parties, outside consultant services shall not be utilized during arbitration meetings.

#### 19.4 MEDIATION

At any step in the grievance procedure, the parties may mutually agree to refer the matter to a mediator by providing written notice to one another, at which point the timelines for the grievance process shall be held in abeyance.

The City and the Union will request a mediator(s) from PERC and/or FMCS. Upon designation of the mediator, the parties will make every attempt to schedule a date for mediation within fifteen (15) business days.

- A. Proceedings before the Mediator shall be confidential and informal in nature. No transcript or other official record of the mediation conference shall be made.
- B. The Mediator shall attempt to ensure that all necessary facts and considerations are revealed. The Mediator shall have the authority to meet jointly and/or separately with the parties and gather such evidence as deemed necessary.

C. The Mediator shall not have the authority to compel resolution of the grievance. If the Mediator is successful in obtaining a settlement between the parties, said settlement shall be put in writing. Said settlement shall not constitute a precedent unless both parties so agree.

D. If mediation fails to settle the grievance, the Mediator may not serve as an arbitrator in the same matter, nor appear as a witness for either party. Nothing said or done in mediation may be referred to or introduced into evidence at any subsequent arbitration hearing.

Either party has the right to withdraw from the mediation process by providing written notice to the other party. If such written notice is provided, the timeline for the grievance process shall resume.

### **19.35 UNION/EMPLOYER GRIEVANCE**

Either the Union or the Employer may initiate a grievance at Step 2 if the grievance is submitted in writing within ten (10) business days from the date the Employer ~~employees~~ became aware or reasonably should have known ~~that the grievance existed of the alleged occurrence~~. The Employer may not grieve the acts of individual employees, but rather, only orchestrated acts or actions of authorized representatives believed to be in conflict with this Agreement. The remaining grievance provisions of Step 1 (content of grievance and timelines) and Step 2 (response) as outlined above shall apply, with the exception of the roles being reversed where the Employer would present the grievance and the Union would provide the written response. An Employer grievance will not be subject to Arbitration and may only go to mediation upon mutual agreement.

### **19.6 UNION CLASS ACTION GRIEVANCE**

The Union Staff Representative may initiate a grievance at Step 1 anytime that it involves a group of employees from the same department. The Union Staff Representative must present a grievance in writing within fifteen (15) business days of its occurrence or when the employees/union knows of or should have known of the occurrence to the employees' Department Director, or designee, with a copy to Human Resources. The remaining provisions in Step 1 as outlined above shall apply as does the remaining grievance procedure.

The Union Staff Representative may initiate a grievance at Step 2 anytime that it involves a group of employees from different departments. The Union Staff Representative must present a grievance in writing within fifteen (15) business days of its occurrence or when the employees/union knows of or should have known of the occurrence to the City Manager, or designee, with a copy to Human Resources. The written grievance must state the issue(s)/event(s) being grieved, a chronological listing of the pertinent events that took place, the section(s) of this Agreement allegedly violated, facts giving rise to the grievance and the remedy sought, and must be signed by the Union representative (Staff Representative, or Union officer). The remaining provisions in Step 2 as outlined above shall apply as does the remaining grievance procedure.

Such grievances may be referred to mediation services by mutual agreement prior to Arbitration.

### **19.4—SCHEDULE OF MEETINGS**

Upon request, and without unnecessary delay, a steward's immediate supervisor or designee shall allow the steward during normal work hours without loss of pay, reasonable time to:

~~19.4.1 Investigate any grievance or dispute so that same can be properly presented in accordance with the grievance procedure.~~

~~19.4.2 Attend meetings with the Director or other Employer representatives when such meetings are necessary to adjust grievances or disputes. Meetings with designated personnel will be by appointment and held without delay when possible.~~

~~19.4.3 Confer with a staff representative of the Union and/or employees on Employer premises, at such time and places as may be authorized by the Director or designee in advance of the intended meetings.~~

~~For the purposes of this Article and Article 4.3, obtaining coverage to insure minimum staffing levels shall not be considered an unnecessary delay. The Employer shall not be obligated to provide coverage immediately if the use of overtime is the only means of providing that coverage.~~

## **ARTICLE 20 - NO STRIKE / NO LOCKOUT**

### **20.1 NO STRIKE / NO LOCKOUT**

The Union agrees that there shall be no strikes, slow-downs, or stoppage of work, or any interference with the efficient operation of the department. Any such action shall be subject to disciplinary action, including termination and replacement of the involved employees. The Employer shall not lockout any employee during the life of this Agreement.

## **ARTICLE 21 – MANAGEMENT RIGHTS AND RESPONSIBILITIES**

### **21.1 MANAGEMENT RIGHTS AND RESPONSIBILITIES**

The Union recognizes the prerogative of the Employer to operate and manage its affairs in all respects in accordance with its responsibilities, and the powers and authority which the Employer possesses.

The Employer has the authority to adopt rules for the operation of the department and conduct of its employees, provided such rules are not in conflict with the provisions of this Agreement, or with applicable law. The Union shall be given an appropriate amount of time to review and request bargaining, as they determine needed, on proposed rules and policies, which are mandatory subjects of bargaining.

The Employer has the right to schedule overtime work as required in a manner most advantageous to the Employer and consistent with the requirement of municipal employment and the public interest.

The Employer has the right to assign work and determine the duties of employees; to schedule hours of work, to determine the number of personnel to be assigned at any time, to determine new work methods, to contract out bargaining unit work, for goods and services (provided that the Employer agrees to meet and confer with the Union regarding the impact of the decision), to perform all other functions not expressly limited by this Agreement.

Incidental duties connected with responsibilities enumerated in the job descriptions are not always specifically described. Nevertheless, it is intended that all such duties shall be performed by the employee.

The Employer reserves the right to discipline or discharge in good faith for cause.

The Employer reserves the right to lay-off or reduce normal work hours on a temporary or permanent basis for lack of work, funds, or other legitimate reasons including the occurrence of conditions beyond the control of the Employer or where such continuation of work is determined by the Employer to be wasteful and unproductive.

## **ARTICLE 22 – GENERAL PROVISIONS**

### **22.1 SAVINGS CLAUSE**

If any provision of this Agreement shall be held invalid by operation of law or any tribunal of competent jurisdiction, or if compliance or enforcement of any provision shall be restrained by such tribunal pending final determination as to its validity, the remainder of this Agreement shall not be held invalid and shall remain in full force and effect. Upon the request of one party to the other, the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement of such invalid provision.

Any and all prior agreements, practices, policies, rules, and regulations regarding terms and conditions of employment to the extent inconsistent with the provisions of this Agreement are hereby superseded.

## **ARTICLE 23 – ENTIRE AGREEMENT**

### **23.1 DURATION CLAUSE**

The Agreement shall become effective on January 1, ~~2018~~2021, and remain in full force and effect through December 31, ~~2020~~2021.

Upon mutual written agreement of the parties, the provisions of this Agreement may be modified from time to time by written supplemental agreement. In the event either party wishes to pursue such modification, that party shall give notice of the offer to negotiate a modification. The other party is free to accept or reject the offer to negotiate a modification at its discretion no later than five (5) working days after receipt of the offer, which time period may be extended upon mutual written agreement of the parties. If the parties are agreeable to negotiations, they will meet within ten (10) working days to discuss ground rules, time frames and interests. Negotiations shall be concluded within the time frame agreed upon by both parties unless extended by mutual agreement. Otherwise, the proposed modification shall be deemed rejected.

If either party wishes to amend or extend the Agreement upon its expiration, notice of such intent must be given no earlier than one hundred and twenty (120) calendar days and no later than sixty (60) calendar days prior to the expiration of the Agreement. The Employer will maintain the status quo with respect to the matters covered by this Agreement during negotiations for a new agreement, following the procedures and time-lines of RCW 41.56.



**23.2 ENTIRE AGREEMENT**

The agreement expressed herein in writing constitutes the entire agreement between the parties, and there shall be no amendments except in writing and with agreement of both parties.

**SIGNATURES**

CITY OF KIRKLAND

WASHINGTON STATE COUNCIL OF COUNTY  
AND CITY EMPLOYEES, COUNCIL 2, OF THE  
AMERICAN FEDERATION OF STATE, COUNTY,  
AND MUNICIPAL EMPLOYEES, AFL-CIO

By: \_\_\_\_\_  
Kurt Triplett, City Manager

By: \_\_\_\_\_  
Bill Keenan, Council 2

As Negotiated:

By: \_\_\_\_\_ By: \_\_\_\_\_  
Anh Hoang, Human Resources Director Samantha Condon, Local #1837 President

Approved as to Form:

By: \_\_\_\_\_ By: \_\_\_\_\_  
~~William Evans, Assistant~~ Kevin Raymond, City Attorney ~~Sudie Elkayssi, President,~~  
~~Local # 1837~~