

MEMORANDUM OF UNDERSTANDING ("MOU")  
Between  
CITY OF DES MOINES, WASHINGTON  
and  
PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS  
LOCAL UNION NO. 763  
(Representing the Public Works, Parks and Marina Employees)

January 1, 2017 through December 31, 2019

With Respect to Sick Leave Provisions of the  
Collective Bargaining Agreement

WHEREAS, this Memorandum of Understanding (MOU) sets forth an understanding by and between the CITY OF DES MOINES, WASHINGTON, hereinafter referred to as the Employer, and PUBLIC, PROFESSIONAL & OFFICE-CLERICAL EMPLOYEES AND DRIVERS LOCAL UNION NO. 763, affiliated with the International Brotherhood of Teamsters, hereinafter referred to as the Union;

WHEREAS, Initiative 1433, approved by Washington voters in November 2016, increases the minimum wage over several years and requires employers to provide paid sick leave to most employees beginning January 1, 2018;

WHEREAS, under the new law, all City employees must accrue paid sick leave at a minimum rate of one hour of paid sick leave for every forty hours worked; this includes part-time, extra-hire, temporary and seasonal workers;

WHEREAS, Teamster employees currently accrue more generous paid sick leave than what is provided under the new law;

WHEREAS, attendance driven compensation is no longer allowed if it dissuades employees from using paid sick leave they are entitled to under the law; and

WHEREAS, the parties have met and conferred in good faith and have agreed to bring the collective bargaining agreement into compliance with the new law.

NOW THEREFORE, the Employer and Union agree to revise Article 7 of the Collective Bargaining Agreement as follows:

**ARTICLE VII SICK LEAVE, SHARED LEAVE, LIGHT DUTY, AND BEREAVEMENT LEAVE**

7.1 **Sick Leave** - All full-time employees shall accrue sick leave benefits at the rate of eight (8) total hours for each calendar month of continuous employment. Such sick leave shall be separated into two separate accrual banks, "state sick leave" and "city sick leave." Employees shall accrue one-half of their monthly sick leave accrual at the end of the first pay period of the month and the second half at the end of the second pay period. Part-time employees shall accrue sick leave benefits on a pro rata basis according to hours worked.

- 7.1.1 All employees shall accrue one (1) hour of paid state sick leave for every forty (40) hours worked. Employees are not entitled to accrue state sick leave for hours paid while not working (such as vacation, paid holidays, or while using state sick leave). In addition, regular full-time employees shall accrue city sick leave, which when combined with their state sick leave will total eight (8) hours of sick leave per month (prorated for part-time employees).
- 7.1.2 State sick leave benefits accrue from the date of employment and employees are entitled to use their accrued state sick leave beginning on the ninetieth (90<sup>th</sup>) calendar day after the start of their employment. City sick leave benefits are earned from the date of employment, and may be utilized from date of employment. Employees do not earn sick leave benefits during a leave without pay. Employees do not earn city sick leave benefits, and may not use any earned but unused sick leave benefits during a suspension without pay. Employees continue to earn sick leave and vacation time while on paid sick leave.
- 7.1.3 City sick leave benefits not used during the calendar year in which they are earned may be carried over and used during succeeding calendar years. Such benefits may be carried over into successive calendar years so long as the employee remains employed by the City. Employees who transfer to another department retain any accumulated sick leave benefits after transfer to their new position.
- 7.1.3.1 Unused state sick leave balances in excess of forty (40) hours remaining at the end of the calendar year shall be credited to the employee's city sick leave balance the following year. State sick leave balances of forty (40) hours or less must carry over to the following calendar year.
- 7.1.4 Accrued state sick leave must be utilized first, followed by city sick leave once the employee's state sick leave is exhausted. Employees may use their accrued, unused sick leave hours to care for themselves or a family member (as defined below) for:
- a. Mental or physical illnesses, injuries, or health conditions;
  - b. The need for medical diagnosis, care, or treatment of mental or physical illnesses, injuries, or health conditions; or
  - c. The need for preventive medical care.
- 7.1.4.1 For the use of sick leave to care for an employee's family member, "family member" is defined as a child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling. "Child" is defined as a biological, adopted, or foster child, stepchild, or a child to whom the employee stands in loco parentis, is a legal guardian, or is a de facto parent, regardless of age or dependency status). "Parent" is defined as a biological, adoptive, de facto, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

Employees must use their available sick leave bank, and when and if the employee's sick leave is exhausted, compensatory time or accrued vacation leave may be used. It is mandatory for the employee to buy back their sick leave hours with the time loss payment so that the employee receives no more than 100% of their wages during a time loss event. In any event, the Employer shall pay only up to the maximum of the difference between the payment received under Worker's Compensation by such employee and the employee's regular straight-time rate of compensation that the employee would have received from the Employer if able to work. Such payment by the Employer shall be limited to the period of time that such employee has accumulated paid leave credits. The foregoing shall be accomplished by the employee depositing the time loss check from Worker's Compensation and "buying back" the sick leave with a personal check or money order payable to the City of Des Moines. Once the employee has bought back all available sick and vacation leave, the employee shall no longer accrue paid leave benefits and shall not be required to surrender the time loss payments from Worker's Compensation to the Employer.

- 7.1.7 Payment of sick leave benefits is conditioned upon the employee notifying the supervisor or Department Director, or designee, of the employee's absence(s) as outlined in Section 4.H Attendance and Tardiness/Absenteeism of the City's Personnel Manual. Failure to give the required notice may result in no payment of city sick leave benefits or other compensation for such absence(s).
- 7.1.7.1 Employees must provide reasonable notice of an absence from work for the use of sick leave to care for themselves or a family member, or because the employee's child's school or place of care is closed by order of a public official for any health-related reason, as follows.
- 7.1.7.2 If an employee's absence is foreseeable, the employee must provide notice to their supervisor or designee at least 10 days, or as early as practicable, before the first day sick leave is used. If possible, notification should include the expected duration of the absence.
- 7.1.7.3 If an employee's absence is unforeseeable, the employee must contact their supervisor or designee as soon as possible before the required start of their shift. If the absence continues beyond the first day, the employee shall notify the supervisor on a daily basis.
  - a. If circumstances allow, employees should provide notice as soon as the employee learns of the need for sick leave.
  - b. In the event it is not practicable to provide notice of an unforeseeable absence, a person on the employee's behalf may provide such notice.
  - c. If possible, this notification should include the expected duration of the absence.
- 7.1.7.8 For the use of domestic violence, sexual assault, or stalking, if the absence is foreseeable, an employee must give advance oral or written notice to their supervisor or designee as soon as possible. If an employee is unable to give advance notice because of an emergent or unforeseen circumstance related to the employee or family member being a victim of domestic violence, sexual assault, or stalking, the employee or their designee must give oral or written notice no later than the end of the first day that the employee takes such leave.

7.1.8 When an employee has used state sick leave for an authorized use for more than three (3) consecutive days, the employee must provide verification that establishes or confirms that the use of sick leave is for an authorized purpose. "Three (3) consecutive days" means an absence for a full work day or partial work day on each of three consecutive days during which the employee is required to work. For those employees with a regular work schedule, when the employee is "required to work" means the employee's regular schedule. However, an employee who is on a scheduled day off, such as a holiday or scheduled vacation day, cannot use sick leave because the employee is not required to work that day. Acceptable verification for absences exceeding three days are specified as follows.

7.1.8.1 For care of the employee or the employee's family member, acceptable verification may include:

- a. A written or oral statement from the employee indicating that the use of sick leave is necessary to care for the employee or their family member for an authorized purpose;
- b. A doctor's note or a signed statement by a health care provider indicating that the use of sick leave is for care of the employee or their family member for an authorized purpose; or
- c. Other documentation demonstrating that the employee's use of sick leave is for care of the employee or their family member for an authorized purpose.

7.1.8.2 Verification must be provided to the City within ten (10) calendar days of the first day an employee used sick leave to care for themselves or a family member.

- a. When an employee or the employee's family member has been a victim of domestic violence, sexual assault, or stalking, the employee's choice of documents listed in WAC 296-128-660 satisfies this verification requirement; such verification must be in a timely manner.
- b. In the event the employee's child's school or place of care is closed by order of a public official for any health-related reason, acceptable verification may include written notice of closure by order of the public official; such verification must be provided to the City within ten (10) calendar days of the first day the employee used sick leave for such purpose.

7.1.8.3 When an employee has used city sick leave, the employee may be required to provide certification of illness from a qualified health care provider whenever absent for two (2) or more days or has established a pattern which appears to indicate abuse and is requested by the employee's immediate supervisor or the Department Director, or designee. Examples of such an established pattern include when employee calls in sick on a day when a vacation request was denied, or absences or tardiness when particular job duties are performed, on a day before or after days off, holidays, scheduled vacation, or weekends. The employee shall be required to provide a written release to return to work from a qualified health care provider whenever requested by the employee's immediate supervisor or the Department Director, or designee. The City may require any employee returning after an absence to be examined by a second qualified health care provider of the City's choice.

- 7.1.9 Any employee found to have abused sick leave benefits or privileges by falsification or misrepresentation shall be subject to corrective action, including but not limited to repayment to the City of any amounts paid to such employee for such periods of absence, or discipline, up to and including discharge.
- 7.1.10 Employees with a sick leave balance of over one hundred and fifty (150) hours shall have one (1) hour of their monthly sick leave accrual of eight (8) hours cashed and deposited into the ICMA-RC 457 Plan. Employees whose balance is over two hundred and fifty (250) hours shall have two (2) hours of their monthly sick leave accrual of eight (8) hours cashed and deposited into the ICMA-RC 457 Plan.
- 7.1.10.1 Sick Leave Cash Out to HRA VEBA Upon Separation - Upon the separation from service of an employee in good standing with at least ten (10) years of service with the City of Des Moines in a position represented by the Union or upon the death of any employee regardless of years of service, the City will cash out 25% of the employee's sick leave balance or 200 hours, whichever is less. For employees with at least twenty (20) years of service, the City will cash out four hundred (400) hours or 50% of the employee's sick leave balance, whichever is less. As a tax savings to the employee, the City shall pay any sick leave cash out provided under this Section by contributing the entire cash-out value of all unused sick leave hours accrued and available to the employee's HRA VEBA account.
- 7.1.11 Employees who use all their accumulated sick leave and require more time off work due to illness or injury may submit a request to the City Manager for a leave of absence as specified by Section 7.1 of the City's Personnel Manual.
- 7.1.12 Employees may take sick leave for care of family including spousal equivalent under the Washington Family Care Act and the Family Medical Leave Act as currently enacted or as may be amended.

**ARTICLE VIII VACATION AND HOLIDAY**

8.2 Holidays - An employee is eligible for a paid holiday if he or she is on paid status during the work day before and after the holiday. Employees shall receive the following holidays off with eight (8) hours of compensation at their regular straight-time hourly rate of pay:

New Year's Day	January 1
Martin Luther King Jr.'s Birthday	3rd Monday in January
President's Day	3rd Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	1st Monday in September
Veteran's Day	November 11
Thanksgiving Day	4th Thursday in November
Day after Thanksgiving	Day after Thanksgiving
Christmas Day	December 25

Employees shall receive four (4) hours off at their regular straight-time hourly rate of pay the afternoon of Christmas Eve Day, December 24. In addition, employees shall receive twenty-four (24) floating holiday hours as scheduled by the employee and approved by the supervisor. Regular part-time employees shall receive the above paid holidays on a prorated basis.

- 8.2.1 The above holidays shall be observed on those dates set by State law. Any holiday falling on a Sunday shall be observed on the following Monday. Any holiday falling on a Saturday shall be observed on the preceding Friday.
- 8.2.2 If a holiday occurs while an employee is on vacation or sick leave, the holiday shall be utilized rather than charged against the employee's accrued vacation or sick leave.
- 8.2.3 Employees assigned to work Thanksgiving Day, Christmas Day, and Christmas Eve Day after 12:00 p.m. (noon) shall be paid two (2) times their regular rate of hourly pay for all hours actually worked on those days, in addition to their holiday pay. Employees assigned to work on any of the remaining holidays listed in Section 8.2 shall be paid one and one-half (1½) times their regular rate of hourly pay for all hours actually worked on these days, in addition to their holiday pay. For the purposes of this provision, holidays begin and end at midnight, except Christmas Eve Day, which begins at 12:00 p.m. (noon) and ends at midnight. Employees who are assigned to work on any holiday may choose to receive their eight (8) hours of holiday compensation on their next paycheck or, with their supervisor's approval, add eight (8) hours of time to their floating holiday balance. Provided, that employees who are assigned to work the afternoon of Christmas Eve (rather than receive 4 hours off with pay) shall receive their choice of 4 hours of holiday pay or 4 floating holiday hours. These hours must be used in the calendar year they are earned and may not be carried over into the next calendar year.
- 8.2.4 Employees on alternative work schedules must use vacation, compensatory-time or floating holiday hours to account for the difference between the 8-hour holiday and their longer regular shift, using two (2) hours if on a "4-10s" schedule, or one (1) hour if on a "9-80s" schedule. However, when such employees have actual hours worked on a holiday under Section 8.2.3 above, they shall not also use vacation, compensatory-time, or floating holiday hours to supplement the 8-hour holiday.
- 8.2.5 In the event the observation of a holiday falls on an employee's regular day off, the employee may receive their eight (8) hours of holiday compensation on their next paycheck or, with their supervisor's approval, schedule an alternate day off with eight (8) hours of pay.

8.2.6

Employees are eligible to use their floating holiday after six (6) months of employment. The department director may waive this six (6) month waiting period. The annual floating holiday does not carryover from one year to the next. It must be used in the calendar year earned or is forfeited. The floating holiday is not compensated in any form upon separation of employment. The City Manager shall have the discretion to designate a particular day during the year as the floating holiday for all eligible employees. The City Manager may take an advisory ballot of all the eligible employees to determine for that year whether the employees wish to leave the floating holiday to individual discretion or to consolidate the floating holiday for one particular citywide day off.

PUBLIC, PROFESSIONAL & OFFICE-  
CLERICAL EMPLOYEES AND DRIVERS  
LOCAL UNION NO. 763, affiliated with the  
International Brotherhood of Teamsters

CITY OF DES MOINES, WASHINGTON

By Scott A. Sullivan  
Scott A. Sullivan  
Secretary-Treasurer

By Michael F. Matthias  
Michael F. Matthias  
City Manager

Date 4-12-18

Date 4-27-18

[Signature]  
APPROVED AS TO FORM:  
Des Moines City Attorney