

**AGREEMENT BY AND BETWEEN**

**THE CITY OF BELLINGHAM**

**AND**

**BELLINGHAM FIREFIGHTERS, LOCAL NO. 106S**

**FOR 2014-2017**

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**AGREEMENT BY AND BETWEEN**

**CITY OF BELLINGHAM**

**And**

**BELLINGHAM FIREFIGHTERS, LOCAL NO. 106S**

**FOR 2014-2017**

**ARTICLE 1 - AGREEMENT**

This Agreement is between the **CITY OF BELLINGHAM** (hereinafter referred to as the "City") and the **STAFF OFFICERS UNIT OF THE INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, LOCAL NO. 106S** (hereinafter referred to as the "Union"), which is a separate and distinct unit from the unit of Local #106 that represents non-supervisory Fire Department personnel.

**ARTICLE 2 - PURPOSE**

The purpose of this agreement is to set forth the entire agreement between the parties governing wages, hours and working conditions, which has been reached as a result of collective bargaining and shall be in effect for the period stated herein.

**ARTICLE 3 - RECOGNITION AND BARGAINING UNIT**

The City hereby recognizes the Union as the exclusive bargaining representative for all uniformed firefighter positions above the rank of Fire Captain and not represented by Local 106. The Fire Chief, Assistant Fire Chiefs and all other employees of the Fire Department are specifically excluded from the provisions of this agreement.

New uniformed classifications which are added to this unit shall be covered by the terms of the agreement except that the parties shall meet to establish the salary for said classifications.

The City acknowledges the distinctness of work performed by the bargaining unit. The Union acknowledges the department practice of filling operations positions with qualified members of either bargaining unit when an overtime situation would otherwise exist. Bargaining unit members shall have the right of first refusal when assignment is made to fill in for an absence.

**ARTICLE 4 - UNION MEMBERSHIP**

All bargaining unit employees may, at their discretion, apply for membership in the Union.

In accordance with RCW 41.56.110, on written authorization of any employee within the bargaining unit, the City agrees to deduct from the pay of such employees the monthly amount of dues as certified by the secretary of the Union and shall transmit the same to the treasurer of the Union. The Union agrees to defend, indemnify and hold the City harmless against any and all claims, suits, orders, and

judgments brought and issued against the City as a result of any action taken or not taken by the City in regards to Union dues and/or fees, other than claims brought by the union to enforce the Article.

## **ARTICLE 5 - CITY POLICIES**

The Employer and the Union require clarity about which City rules and policies, in addition to the Bellingham Fire Department policies and this Agreement, apply to bargaining unit members. If the City proposes a universal City policy (applicable to all City employees including firefighter and paramedics covered by this Agreement), the Employer shall provide the Union draft language prior to finalization. The Employer shall provide a reasonable notice period (not less than 30 days) and opportunity to discuss permissive subjects or to bargain mandatory subjects. This provision does not include policies or procedures that would not ordinarily be discussed with the Union. If the Union does not request discussions or bargaining, the Employer shall apply the adopted City policy to bargaining unit members, unless there are provisions in the Agreement that supersede or contradict such policy. The Union relinquishes no rights to bargain on terms or conditions of employment by this provision, and the Employer waives no management rights.

## **ARTICLE 6 - DISCRIMINATION**

The City agrees not to discriminate against any employee for exercising his legal rights to organize and bargain collectively under the Public Employees' Collective Bargaining Act (RCW Chapter 41.56). The City and the Union agree that there shall be no discrimination against any employee because of membership or non-membership in the Union, or on account of race, color, religion, sex, national origin, age, sexual orientation or disability, provided the same do not interfere with bona fide occupational qualifications.

## **ARTICLE 7 - CLOTHING POLICIES**

The Fire Department shall provide all uniforms, coveralls and firefighting clothes as designated by the Chief of the Fire Department. The Fire Department shall make all necessary basic uniform replacements as the need arises, provided the replacement is not due to repeated negligence, abuse or carelessness in which case the employee may be asked to incur the cost of replacement. Employees required to wear safety boots by the City will be paid a \$120 allowance by February 15 of each year. The City shall make the determination of acceptable shoe standard, after considering the recommendations of the safety committee.

## **ARTICLE 8 - HEALTH, DENTAL, PRESCRIPTION DRUG, VISION & LIFE INSURANCE**

### ***8.1 Medical, Dental, Prescription Drug, Vision***

The medical and prescription drug benefits for all members of the bargaining unit and their dependents shall be the same benefits as set forth in this article of the Agreement between the City and Bellingham Firefighters Local No. 106 for the duration of this agreement. This includes the medical premium sharing agreement and schedule and the option provided for a trust fund program to provide dental and vision coverage for bargaining unit members and dependents.

## **8.2 Medical**

The Employer agrees to maintain health and medical insurance benefits at no premium cost to the bargaining unit members. Medical insurance will be provided to bargaining unit employees through the Association of Washington Cities (AWC) Employee Benefits Trust.

Each LEOFF 1 employee has the following option to choose from:

- Regence Plan A

Each LEOFF 2 employee has the following options to choose from:

- Regence HealthFirst PPO Plan
- Group Health Co-pay Plan 2 (\$10 Co-pay)
- Regence High Deductible Health Plan (HDHP) with Health Savings Account (HSA) - beginning in January 2014
  - For employees choosing the Regence HDHP with HSA the City's contributions will be paid into the employee's account in 24 equal semi-monthly contributions as described below.
  - Semi-Monthly Contributions into the Health Savings Account:
    - Employee Only - \$83.33 (\$2,000 Annually)
    - Employee + 1 Child - \$125.00 (\$3,000 Annually)
    - Employee + 2 Child - \$131.25 (\$3,150 Annually)
    - Employee + Spouse - \$166.66 (\$4,000 Annually)
    - Employee + Spouse + 1 Child - \$208.33 (\$5,000 Annually)
    - Employee + Spouse + 2 Children - \$214.58 (\$5,150 Annually)

The City will identify a financial institution for management of HSA accounts. Reasonable administrative fees imposed by the HSA vendor will be debited to individual accounts. Employee may elect to make additional contributions to the Health Savings Account from their own salary. The combined annual contributions by the City and the employee may not exceed the maximum allowable by the Internal Revenue Service without incurring penalties or loss of the tax advantaged status. During open enrollment or when there is a qualifying event employees may adjust their contribution amounts.

The AWC and GHC medical plan benefit design, including plan cost sharing and future plan design changes, are at the discretion of the AWC Board of Trustees. The joint Health and Welfare Committee identified in Section 2 below will no longer control such plan design.

If AWC changes the terms of the AWC PPO (HealthFirst) Plan or the Regence High Deductible Health Plan, or Group Health changes its Cooperative Plans, the City can implement those changes on the date the change is effective per AWC or Group Health. The City will provide the IAFF thirty days advance notice of the changes. In the event the changes substantially and materially impact bargaining unit members in an adverse fashion, the Union may bargain the impacts of the change(s), utilizing the statutory framework provided by RCW 41.56. When bargaining impacts and effects, the parties will consider all relevant factors, including but not limited to the impact on employees of the changes and the amount of additional premium paid by the City for insurance for that year.

The Union accepts the AWC plan changes implemented prior to this Agreement.

Verified Same-Sex Domestic Partner Benefits. For the purposes of Article 8, (medical, dental, vision, but not including the medical Opt-out Incentive), an employee's "verified same-sex Domestic Partner" shall be eligible to enroll in employee health benefit programs, similar to those provided to a spouse. For purposes of this article, the term "spouse" shall also include any verified "Domestic Partner", as per the City policy. Verification shall be accomplished through the City's affidavit process.

**Effective 1/1/2017 the City will offer the following plans to LEOFF 2 employees:**

- Regence Health First \$250 plan with an employee premium share of 10% for dependents.
- Regence HDHP with HSA

For employees choosing the Regence HDHP the City's contributions will be paid into the employee's account in 24 equal semi-monthly contributions as described below.

**SEMI MONTHLY CONTRIBUTIONS**

- Employee only - \$84.00 (2,016.00 annually)
- Employee + 1 child - \$125.00 (3,000.00 annually)
- Employee + 2 child - \$184.50 (4,428.00 annually)
- Employee + spouse - \$166.67 (4,000.08 annually)
- Employee + spouse + 1 child - \$208.34 (5,000.16 annually)
- Employee + spouse + 2 children - \$267 (6,408.00 annually)

The City will identify a financial institution for management of HSA accounts. Reasonable administrative fees imposed by the HSA vendor will be debited to individual accounts. Employees may elect to make additional contributions to the Health Savings account from their own salary. The combined annual contributions by the City and the employee may not exceed the maximum allowable by the Internal Revenue Service without incurring penalties or loss of the tax advantaged status. During open enrollment or when there is a qualifying event, employees may adjust their contribution amounts.

- Group Health Copay Plan 3, \$200 plan with an employee premium share of 2% for dependents.
- Group Health Access PPO with a 0% premium share.

If AWC changes the terms of any of the plans offered, the City can implement those changes on the date the change is effective per AWC or Group Health. The City will provide the IAFF thirty days advance notice of the changes. In the event the changes substantially and materially impact bargaining unit members in an adverse fashion, the Union may bargain the impacts of the change(s), utilizing the statutory framework provided by RCW 41.56. When bargaining impacts and effects, the parties will consider all relevant factors, including but not limited to the impact on employees of the changes and the amount of additional premium paid by the City for insurance for that year.

The Union accepts the AWC plan changes implemented prior to this Agreement.

For purposes of this Article, the term "spouse" shall also include any verified "Domestic Partner", as per the City policy. Verification shall be accomplished through the City's affidavit process.

**LEOFF 1 Employees and Dependents:**

LEOFF 1 employees have the AWC's Regence Plan A. The employee's dependents will be enrolled in the AWC Preferred Provider Organization (PPO) Medical Plan.

**LEOFF 2 Employees and Dependents:**

The employees will have the choice of the AWC's Preferred Provider Organization (PPO) Medical Plan or a Group Health Cooperative (GHC) of Puget Sound Medical Plan, and the Regence HealthFirst High Deductible Health Plan as offered by AWC and chosen by the bargaining unit.

**LEOFF 1 and LEOFF 2 Dependent Premium Sharing:**

Employees pay 10% of all dependent medical insurance premiums. Beginning January 1, 2012, and continuing thereafter, Dependent Medical premium sharing will be 15% for those members who select the Regence HealthFirst PPO plan. Members who select the HealthFirst HDHP/HSA will not contribute toward premium-sharing and will receive contributions to the HSA as outlined above. For those members selecting Group Health, the dependent premium share will be 10%.

- Effective 1/1/2017 Dependent Medical premium sharing will be 10% for those Members who select the Regence HealthFirst \$250 plan. Members who select the HealthFirst HDHP/HSA will not contribute toward premium-sharing and will receive contributions to the HSA as outlined above. For those members selecting Group Health Copay Plan 3, \$200, the dependent premium share will be 2%. Members who select the Group Health Access PPO will have a 0% premium share.

#### Voluntary Medical Plan Opt-Out with Financial Incentive:

At ratification, the Employer will provide the following incentive rates for Medical Opt-out to employees who voluntarily opt-out of the City medical coverage. The medical opt-out incentive shall be calculated as fifty percent (50%) of the average of the City's monthly contributions to the HealthFirst PPO plan and the Group Health Co-pay Plan 2 at each coverage tier.

Effective January 1, 2017, the employer will provide a medical opt-out incentive to employees who voluntarily opt-out of medical plan coverage by the City. The medical opt-out incentive shall be calculated as fifty percent of the average of the City's monthly contributions to the two most expensive plans at each coverage tier.

Payable monthly as taxable wages, unless the employee elects to contribute an equivalent amount to a deferred savings plan or FSA during the specified enrollment period. Capped at employee, one spouse and two children. Paid only if opt-out (un-enrollment) causes a decrease in the actual premiums the City is paying.

### **8.3 Establishment of Health and Welfare Committee**

- A. The Committee shall make a good faith effort to inform all affected employees on how to reduce costs of the medical, dental and vision services. It is further agreed that the Union will take an active role in promoting and educating its members in prudent health care use. The Committee shall consist of one member appointed by Union Local No. 106 and three members appointed by the Mayor.
- B. During the life of this agreement, the Health and Welfare Committee shall meet on an annual basis or as required.

### **8.4 Dental and Vision Coverage**

- A. **Vision Care.** The City will provide vision care benefits for employees and their eligible dependents except that vision exams will be provided annually through the AWC medical plan. Employees electing the HDHP must pay for vision exams. Benefited employees are eligible for the vision plan starting the first day of the calendar month following employment in, or conversion to, a bargaining unit position.

- B. **Dental Coverage.** Regular full time employees and their dependents are covered by the dental benefit plan starting the first day of the calendar month following employment in, or conversion to, a bargaining unit position.

### **8.5 COBRA**

Employees shall be entitled to receive those health and welfare benefits provided by the Federal Comprehensive Omnibus Budget Reconciliation Act of 1986.

### **8.6 Medical Expense Reimbursement Plan (MERP)**

- A. The City and Union agree to implement the MERP as follows:

1. Mandatory Participation:

All current and future employees, including those enrolled in the City RHS plan, must fully and irrevocably participate in the MERP, including all monthly contributions and any conversions of leave conducted under this agreement.

2. Monthly Contributions:

- a) In lieu of educational incentives, the City shall make \$75 monthly contributions for eligible employees on a pre-tax basis to the Washington State Council of Firefighters (WSCFF) Employee Benefit Trust for the purposes of the MERP. Effective the first pay period following ratification the City shall increase the monthly contribution to \$100. Effective January 1, 2017 the City shall increase the monthly contribution to \$125.
- b) Contributions will begin in the month that the employee is in paid status for the first full pay period of that month.
- c) The City will neither withhold retroactively nor prospectively.
- d) The contribution rate to the Trust shall be \$75 per month that an employee is in paid status for the full first pay period of the month. Effective the first pay period following ratification the City shall increase the monthly contribution to \$100. Effective January 1, 2017 the City shall increase the monthly contribution to \$125.
- e) The Union shall have the option to request an adjustment to the contribution rate with 30 days advance written notice to the City and in accordance with the beginning of a pay period.
- f) Any additional contributions shall be on a pre-tax basis from (and thereby reduce) the salary of each employee.
- g) Any adjustments to the contribution rate shall be in accordance with Internal Revenue Service (IRS) rules and regulations to ensure favorable tax treatment.

3. Conversion of Retiree Sick Leave Cash Out for Service Credit in the MERP:

Upon retirement, the City shall make contributions to the WSCFF Employee Benefit Trust in an amount equal to a maximum of 1000 hours of accumulated sick leave at the rate of 30% for LEOFF II members, provided that the maximum contribution shall be 300 hours of sick leave. The dollar amount of the contribution shall be calculated at the hourly equivalent rate of the employee's base pay. All qualifying employees must participate in the conversion and contribute the full 30% up to the 300-hour maximum into the plan thereby eliminating the cash out option. In the event the sick leave contributions are no longer applied to the MERP, they will be cashed out as originally agreed upon in

Article 15, Section 1, H. of the this Agreement. Effective at ratification, sick leave contributions to the MERP will be suspended. The Union will give the City 30 days advance notice for contributions to be reinstated.

4. Conversion of Retiree Vacation Leave Balance for Service Credit in the MERP:  
Currently, the election of vacation leave is not an option provided under the MERP. However, if offered, the Parties agree that the Union may request to open this Agreement to include the conversion of vacation balances at retirement if it meets City approval after appropriate legal, financial and administrative review, and understanding the specific terms of the agreement will be determined.
5. Defense, Indemnification, and Hold Harmless:  
The Union agrees to defend, indemnify and hold the City harmless against any and all actions, claims, proceedings, suits, orders and judgments (“Claims”) brought or issued against the City or its agents arising out of any action or inaction by the City relating in any way to the MERP, other than claims brought by the Union to enforce the obligations to make contributions as set forth above. This defense, indemnification, and hold harmless provision applies to all such Claims brought by, without limitation, any individual, business, organization, governmental unit, or other entity.
6. Right to Terminate:  
The City has the right to terminate this agreement upon 30 days written notice in the event the IRS issues a ruling or guidance contrary to the opinion reflected in Exhibit A to this Memorandum of Understanding. There shall be no right to terminate or revoke the provisions of this agreement when such termination or revocation would conflict with the favorable tax treatment of the contributions and conversions set forth above.
7. Compliance with IRS Rules and Regulations:  
This Agreement shall be administered in strict accordance with IRS rules and regulations

### **8.7 Life Insurance/Accidental Death and Dismemberment**

The City shall provide life insurance to all employees of the bargaining unit which shall be equal to twice the employee's annual salary.

The City further agrees to provide an accidental death and dismemberment coverage plan to each member of the bargaining unit as provided to exempt employees.

### **8.8 Short Term Disability Insurance.**

The City shall help defray a portion of the cost of a short-term disability insurance plan for LEOFF II 106S bargaining unit members and pay to the Local 106 LEOFF II Committee 100% of the premium cost up to a maximum of \$60.00 per month for each LEOFFII 106S bargaining unit member. The Committee will receive payment of said sums, in trust, and utilize the same for the purpose of purchasing supplemental short-term disability time loss insurance benefits.

## ARTICLE 9 - VACATION LEAVE

### 9.1 *Operations Division*

Vacation leave for employees assigned to the operations division (24 hour shift schedules) shall be earned at the following rates:

Years of Service	Hours Accrued Monthly	Number of 24 Hour Shifts Annually
2 through 4	10	5
5 through 9	14	7
10 through 14	18	9
15 through 19	20	10
20 and up	22	11
Effective 7/16/2016	24	12

### 9.2 *Administrative Department*

Vacation leave for employees assigned to the 40 hour per week administrative schedule shall be earned at the following rates:

Years of Service	Hours Accrued Monthly
2 through 4	6.67
5 through 9	9.34
10 through 14	16
15 through 19	18
20 and up	20

In lieu of increasing the administrative vacation accrual beyond the city cap, but to match the increase achieved in 106 bargaining, there will be a 0.25% increase in the administrative premium on the first pay period following ratification.

### 9.3 *Vacation Requests*

Requests for vacation shall be made with as much advance notice as possible. One shift prior to the requested shift off is considered minimum.

- A. Vacation shall be scheduled and taken on a seniority basis so as to cause the minimum of interference with the functioning of the department. Unless otherwise mutually agreed by the City and the employee, operations battalion chiefs shall be scheduled to take vacation time off in units of 24 hours; other bargaining unit employees shall take time off in units of time consistent with their work schedule.
- B. An employee must be on regular paid status (wages or accrued banks) for 15 calendar days in a month in order to accrue vacation for that month.
- C. Vacation days or shifts conflicting with periods of time when an employee is officially on sick or disability leave will be cashed out at the end of the calendar year.
- D. Employee's accrued bank at ratification may be retained, used or cashed out.

- E. Employees may accrue up to a maximum of two years of vacation accrual.
- F. Annual vacation leave cash out shall begin with the 2009 calendar year vacation scheduling. Employees assigned to the 40 hour work week may cash out up to 40 hours of vacation, provided they have a bank balance of at least 80 hours. This time must be taken in a minimum of 8 hours, but may be taken in higher increments. Personnel assigned to the operations division may cash out up to 48 hours provided they have a bank balance of at least 96 hours. This time must be taken in full shift increments (24 hours). Cash out declaration must be made at the same time as other City department notifications. Cash out participation is optional.
- G. New Experienced Division Chiefs, at the end of the first calendar year, the employee's remaining vacation bank will be cashed out down to the balance consistent with the hours to be scheduled based on their seniority for the next calendar year. This payout will occur as soon as reasonably possible the following year. An experienced Division Chief who is separated from City employment prior to the completion of nine months from his/her date of hire, shall forfeit all hours above their earned monthly accruals during the first year.

#### **9.4 Termination**

The City agrees that, in the event of termination of employment for any reason, separated employees shall be entitled to cash compensation in lieu of any accrued, unused vacation except as outlined in section 3 (g) of this Article.

### **ARTICLE 10 - HOURS OF WORK**

#### **10.1 Operations Division Schedule**

A four- platoon schedule shall be employed for all Operations Division personnel.

#### **10.2 Annual Hours**

The annual hours for Battalion Chiefs shall be 2,448 hours, or approximately 46.9 hours per week. This schedule results in an average 42 hour per week shift schedule and an annual debit shift bank of five shifts per year. Debit shifts for the calendar year are the result of the difference between the work schedule, accrued holidays and the contractual work week.

- A. Debit shifts will be flexibly and cooperatively scheduled to cover for time off of other Battalion personnel.
- B. Battalion Chiefs are responsible for scheduling their debit shifts. Debit shifts may be depleted by working or by trading the shifts for accrued compensatory time and/or vacation leave balances. Remaining debit shifts must be schedule or depleted at a minimum of one per quarter, so that no more than one debit shift remains to be scheduled in the fourth quarter. All debit shifts must be worked or depleted by the end of the year. If a Battalion Chief fails to deplete all debit shifts, any remaining at the end of the year will be reconciled from accrued vacation leave balances to eliminate the debit shift balance, with a reduction in pay also made if necessary. If a Battalion Chief terminates employment during the year, the Bank will be calculated on a pro-rated basis by pay period before accruals are applied to the balance.

**10.3 Administrative Division Schedule**

The hours of work for other employees in the bargaining unit shall be scheduled by the employer not to exceed 40 hours per week averaged annually. Members of the bargaining unit, not assigned to the Operations Division, shall work a 40-hour work week, scheduled flexibly with management approval.

**ARTICLE 11 - EXCHANGE OF TIME**

**11.1 Shift Exchanges**

Employees shall have the right to exchange scheduled duty periods with the approval of their supervisor subject to the following conditions:

- A. Shift exchanges shall be voluntary.
- B. Shift exchanges shall not result in any additional cost to the City.
- C. Shift exchanges shall not interfere with department operations.
- D. Shift exchanges shall be conducted in accordance with department policies and procedures.
- E. Shift exchanges resulting in more than 30 consecutive days off including compensatory days, and vacation days must be approved by the Fire Chief or his designee. Shift exchanges will not be unreasonably denied.
- F. Shift exchanges for disability leave coverage resulting in more than 30 consecutive days off must be approved by the Fire Chief or his designee.

**11.2 Sick Leave on Exchange**

Employees who become sick/injured in the performance of duty while working an exchange of time shall not owe the City time. Sick leave will be deducted on an hour-for-hour basis and in accordance with the workers' compensation program.

**11.3 Failure to Report for Duty on Exchange**

Employees who fail to report for duty on an exchange of time for reasons unrelated to sickness or injury shall reimburse the City for additional expenditure caused by the employee's failure to report, in addition to any progressive discipline imposed. The employee shall reimburse the City for the hours absent from the exchange by working overtime hours/shifts before earning further overtime pay or compensatory time. An employee who cannot work an exchange of time because of illness or injury shall reimburse the City from the sick leave accrual bank at the rate required for replacement personnel. LEOFF I employees may reimburse up to 48 hours bank established in Article 15, Section 4.

**ARTICLE 12 - COMPENSATORY TIME**

**12.1 Compensatory Time Scheduling**

When the City has employees available in addition to the minimum staffing standards currently practiced, the Battalion Chiefs in the Operations Division shall have the option to schedule their compensatory time up to 2 weeks in advance.

**12.2 Compensatory Time Minimum Hours Use**

Unless otherwise mutually agreed by the City and the employee, operations battalion employees shall be scheduled to take compensatory time off in units of 24 hours; other bargaining unit employees shall take time off in units consistent with their work schedule.

**12.3 Compensatory Time Cash Out**

Accrued compensatory time in excess of 24 hours may, at the City's option, be paid-off at the employee's Base Hourly Rate of Pay.

At the employee's request, accrued compensatory time may be cashed out quarterly at the employee's Base Hourly Rate of Pay. Such requests must be made by the end of each quarter, and will be paid at the beginning of the following quarter.

At the end of each quarter, accrued compensatory time in excess of 24 hours may, at the City's option, be cashed out at the employee's Base Hourly Rate of Pay. Any remaining balance will be carried forward to the following quarter.

**ARTICLE 13 - ADMINISTRATIVE SUPPORT ASSIGNMENTS**

When changing assignments from Operations to Administration, or the reverse, except during periods not exceeding three months, for light duty or special project assignments, accrual rates will change to those of the new assignment. Hours previously earned are not changed. For example, if the hours were earned in Operations, those hours are kept when moved to Administration. An administrative assignment does not accrue holiday hours. Operations personnel placed in an administrative assignment will continue to accrue sick leave and vacation hours at the administrative accrual rate (up to the Operations Maximum banks) for a 2-year period, after which the accrual will stop until the employee's sick leave and vacation bank falls below the administrative maximum accrual bank for the duration of the administrative assignment.

**ARTICLE 14 - MEDICAL/PHYSICAL EXAMINATIONS**

**14.1 Employment physicals**

Any person to be newly employed or to be re-employed as a firefighter shall be required to pass a physical examination that meets the current standards applicable to Bellingham Firefighters and such other examination standards set forth by the Bellingham Civil Service Commission.

**14.2 Mandatory physical examinations**

Regular employees shall have a minimum of one physical examination biannually until age 40 and annually thereafter. The City shall pay the cost of such examinations. These examinations shall be performed by a qualified physician designated by the Chief of Fire Department. These examinations shall be for the purpose of determining the employee's ability to perform his/her duties with average efficiency. Employees will be compensated for testing to include the laboratory visit and actual physical exam, for actual time, rounded to the nearest tenth of an hour (6 minutes), with a one hour minimum, at an overtime rate. Compensation for additional testing must have prior approval of the Chief. Employees will not be compensated for treatment resulting from the initial physical examination.

**14.3 Additional examinations**

Employees returning from disability or sick leave shall be subject to physical performance, fitness and/or medical examinations appropriate to the employee's class and assignment. Physical performance

examinations shall include components of typical fire ground operations and fitness examinations shall be conducted in accordance with the standards and procedures developed by the Health and Safety committee. These examinations shall be for the purpose of determining the employee's ability to perform his/her duties with average efficiency. Employees will not be compensated for return to work, fit for duty examinations or pension board-directed examinations performed by their own medical provider, but will be compensated if directed by the Chief to be examined by the Department-designated physician. Additional physical examinations and supplemental medical evaluations may be ordered by the Chief or the Pension Board and shall be compensated as hours worked.

**14.4 Corrective Measures**

In requiring a physical examination or medical evaluation, the Chief or Disability Board shall request that the examining physician recommend measures to be taken by the employee to correct or improve any health or physical condition which significantly impairs the employee from performing his or her assigned duty with average efficiency. The Chief may direct the employee to follow such corrective measures within the timeframe recommended by the physician. Failure to follow corrective measures shall be grounds for disciplinary action.

**ARTICLE 15 - SICK LEAVE**

**15.1 LEOFF II Employee Sick Leave Accrual and Use**

- A. All new employees who are not eligible for LEOFF I benefits shall be entitled to a beginning sick leave bank in the amount of 228 hours, to be used in the event the employee is sick or injured.
- B. For the purposes of this Article, immediate family shall be construed as follows: spouse, children, mother, father, brother or sister, grandparent, grandchild of employee or spouse. The term "spouse" shall also include any verified same and opposite sex "Domestic Partner", as per the City policy. Verification shall be accomplished through the City's affidavit process.
- C. In addition, employees shall accrue sick leave at the rate indicated below for each calendar month of consecutive and continuous employment in which he or she has been paid for the minimum working hours as noted below exclusive of sick leave or leave without pay.

	<b>Operations</b>	<b>40 Hour Week</b>
Sick leave hours earned per month:	17 hours	10 hours
For minimum hours paid of:	96 hours	96 hours
To maximum accrual of:	1440 hours	1440 hours

- D. Upon changing assigned work week schedule, except during periods not exceeding three months of light duty or special project assignments, the employee's accrual rate, minimum hours required, maximum allowable accruals and existing accruals will be converted to the appropriate standard as outlined above.
- E. LEOFF II employees may use sick leave to supplement workers' compensation coverage in order to provide full regular pay.

- F. Employees may use vacation or other earned compensatory time in lieu of or to supplement sick leave.
- G. The City will comply with the requirements of State and Federal family and medical leave laws.
- H. An employee has the choice to use any and all sick leave or other accrued paid time off for:
  1. Employee's illness and/or serious health condition
  2. Medical, dental or vision appointments
  3. Medical, dental or vision appointments of a minor dependent
  4. Medical appointments of an immediate family member with a serious health condition
  5. To care for an immediate family member who is ill or with a serious health condition that requires treatment or supervision
  6. The employee's physical or mental incapacity to the extent that the employee is unable to perform the duties of the assigned position, unless released by the physician for duty-related light duty
  7. Enforced quarantine in accordance with health regulations

Note: For personnel working in minimum staffing positions, department policy and procedures shall govern the use of sick leave for medical, dental, and/or vision appointments.

Management retains the right to investigate concerns about the use or abuse of sick leave.

For this Article, an "immediate family" member is defined as a child, parent, spouse, parent-in-law, or grandparent of the employee.

### **15.2 LEOFF II Employee Retirement**

Upon retirement, a LEOFF II employee shall receive payment for up to a maximum of 1000 hours of accumulated sick leave at the rate of 30%. The maximum payment under this article shall be for 300 hours. Payment is calculated at the hourly equivalent rate of the employee's base pay.

### **15.3 LEOFF II Work Related Disability Leave Payments**

For a LEOFF II employee who works 24 hour shifts and who qualifies for Workers Compensation Benefits from a work-related injury or illness, disability leave payments shall be made as provided below beginning on the date of injury or illness and continuing for the period during which the employee qualifies for temporary total disability payments pursuant to RCW 51.32.090.

- A. **Purpose.** The purpose of this section is to provide to LEOFF II employees who work a 24 hour shift and who have a work-related injury or illness certain disability leave payments (1) to comply with RCW 41.04.500 et seq. and (2) to supplement the payments required by said statute in order to provide payments for the first five calendar days beginning from the day of injury or illness.
- B. **Source of Payment.** The source of the disability leave payments shall be as follows: (1) One-half of the amount of the payment shall be paid by the employer; and (2) One-half of the amount of the payment shall be charged against any accrued sick leave of the employee. In computing such charge the employer shall convert accumulated days of accrued leave to a money equivalent based on the base pay of the employee (as defined herein) at the time of the injury or illness.

If the employee has no accrued sick leave during the period of the disability, the employee shall receive only that one-half to be paid by the employer.

- C. **Amount of Payment.** The disability leave payment shall be an amount, when added to any amounts payable under RCW 51.32.090, shall result in the employee receiving the same pay he or she would have received for full time active service (i.e., base pay as defined herein at the time of the injury or illness) taking into account that industrial insurance payments are not subject to federal income or social security taxes.
- D. **Time of Payment.** Payment shall be made on the next regular City pay day following fourteen days from the date of injury. Payment is deferred until this time in order to determine what, if any, amounts were payable under workers' compensation temporary total disability payments pursuant to RCW 51.32.090.
- E. **40-Hour Shift Employees.** For a LEOFF II employee who works a forty hour shift and who qualifies for temporary total disability payments pursuant to RCW 51.32.090, disability leave payments will be paid beginning on the sixth calendar day from injury or illness pursuant to the provisions of RCW 41.04.500 et seq.
- F. Light duty assignments are at the sole discretion of the Fire Chief

**15.4 LEOFF I Employee Disability**

In lieu of applying for disability leave as provided under RCW 41.26, LEOFF I employees may go on sick leave for up to 48 hours for short term illness or injury. In addition, LEOFF I employees may take up to 48 hours of paid leave per year in order to care for an illness of an immediate family member, in accordance with City sick leave policy.

For the purposes of this Article, immediate family shall be construed as follows: spouse, children, mother, father, brother or sister, grandparent, grandchild of employee or spouse. The term "spouse" shall also include any verified same and opposite sex "Domestic Partner", as per the City policy. Verification shall be accomplished through the City's affidavit process.

**ARTICLE 16 - COMPASSIONATE LEAVE GIVING**

The Union and City will develop a compassionate leave program for Bellingham firefighters as follows:

**16.1 Coordination with City Policy on Compassionate Leave**

Except as otherwise provided in this agreement, the Fire Department program will be consistent with the City Policy on Compassionate Leave.

**16.2 Committee Composition**

A four member committee (one member from each local, one member of fire management appointed by the Chief, and one member from the City Human Resources Department) will be created and will be called the Fire Department Leave Review Committee ("Committee"). The Committee shall review and recommend resolution of all requests for compassionate leave. All such recommendations will be forwarded to the Human Resources Director for approval or disapproval.

**16.3 Requests for Policy Exceptions/Appeals**

- A. An employee or group of employees has the right to appeal approval decisions or request exception to Policy provisions.

- B. Appeals and requests for Policy exceptions shall be submitted to the Leave Review Committee via the Human Resources Director. The Committee will provide a recommendation to the Mayor who will make a final decision.

**16.4 *Compassionate Leave Donations***

Employees may donate, at any time throughout the year, sick leave and/or unlimited vacation hours (accrued but unscheduled), to the firefighter compassionate leave bank. An employee with a sick leave balance of 280 hours or more before the donation, may donate a total of 24 hours in a calendar year. An employee with a sick leave balance of 720 hours or more before the donation, may donate a total of 40 hours in a calendar year.

**16.5 *Compassionate Leave Exclusions***

Compassionate leave will only be paid when the employee has exhausted his/her leave banks, and is not receiving benefits under either workers' compensation or the short term disability leave. If eligible, the employee must first utilize the short term disability leave benefits prior to applying for compassionate leave.

**16.6 *Coordination with Disability Benefits***

Once the employee is receiving long term or LEOFF disability benefits, or six (6) months after leave begins, whichever comes first, they will no longer be eligible for compassionate leave. (LTD eligibility alone does not exclude an employee from receiving compassionate leave).

**16.7 *Compassionate Leave Pay Rate***

Payment for compassionate leave shall be made at the same hourly rate as the employee would be paid for sick leave.

**ARTICLE 17 - HOLIDAYS**

**17.1 *Holidays***

Bargaining unit employees, exclusive of Battalion Chiefs, shall observe as legal holidays the following 12 holidays:

- New Year's Day
- Martin Luther King's Birthday
- President's Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- The day after Thanksgiving Day
- Christmas Day
- The day before or after Christmas Day, as determined by the Mayor
- One floating holiday, in accordance with City Resolution 28-1976
- Any day proclaimed by the City of Bellingham as a holiday

**17.2 *Operations Division Holiday Scheduling***

Battalion Chiefs in the Operations Division shall receive, in lieu of the above, 144 hours of time off with regular pay that shall be incorporated into their regular schedules. Battalion Chiefs in the Operations

Division shall also receive 12 additional hours off with pay for any special holiday granted by the City to other City supervisory personnel.

### **17.3 Administrative Division Holiday Scheduling**

When a holiday occurs on a Saturday, for bargaining unit employees other than Battalion Chiefs in the Operations Division, the preceding regular work day shall be observed. When a holiday occurs on a Sunday, the following regular work day shall be observed. In the event that a holiday occurs during an employee's vacation, an additional day shall be added to the vacation for each such holiday. It is not the intention of the parties that this provision will apply to Battalion Chiefs in the Operations Division. Bargaining unit employees, other than Battalion Chiefs, shall also celebrate, on the day granted, any special holidays granted other city supervisory personnel.

## **ARTICLE 18 - BEREAVEMENT LEAVE**

In the event of a death in the immediate family of a member of the bargaining unit, that member shall be granted the leave set forth to attend the funeral or other memorial event or to otherwise discharge obligations to the family.

A member working a battalion shift schedule (24-hour shifts) shall be granted leave of two 24-hour shifts. A member working a regular day schedule shall be granted a leave of 3 days off with pay if the location of the funeral is within 150 miles of Bellingham or 5 days off with pay if over 150 miles.

For the purposes of this Article, immediate family shall be construed as follows: spouse, registered domestic partner (as defined by state law), children, mother, father, brother or sister, grandparent, grandchild of employee or spouse and other members of the family or friends at the discretion of the Chief. Employees who had a verified opposite sex domestic partner affidavit on file with the City on June 1, 2016, shall be allowed to continue to use bereavement leave under this article as long as that affidavit remains in effect.

## **ARTICLE 19 - JURY DUTY**

- A. An employee summoned to jury duty will notify the Assistant Chief as soon as possible after receiving the jury summons, and shall provide the summons to the Assistant Chief.
- B. An employee that is scheduled to work the night before the required day will be released from work at 2000 hours
- C. An employee asked to report for jury duty but not assigned to a jury will return to work after being released each day as soon as possible. Upon release from jury service an employee will provide the release from service documentation to the Assistant Chief upon return to work.
- D. An employee seated on a jury is exempt from returning to work on a day of jury service. An employee assigned to a jury which spans a weekend or a holiday will be required to work all assigned shifts during that span with the exception of the 12 hours preceding the next scheduled jury duty day.
- E. All funds received for jury duty, exclusive of mileage reimbursement, will be turned into the City. The employee may not waive the jury pay from the court. The employee will turn in the compensation documentation received to the Assistant Chief.

## **ARTICLE 20 - MILITARY LEAVE**

The City will comply with State and Federal laws regarding military leave. In the event the 21st day of military leave as provided under state law includes only part of the employee's scheduled shift, the City will pay the remainder of the shift as paid military leave time.

## **ARTICLE 21 - OVERTIME**

### **21.1 Hours in Excess of Normal Hours of Duty**

Hours worked by an employee in excess of normal hours of duty as defined in Article 10, including time spent at training, recertification, or testing with prior approval of the department, shall be compensated at the rate of time and one-half (1-1/2) the Base Hourly Rate, as defined in Article 25.

### **21.2 Compensatory Time**

Employees shall have the option of choosing overtime as cash compensation or compensatory time prior to the end of any pay period.

### **21.3 Recall to Work**

Employees emergency or non-emergency recalled to work shall be paid at least a 4 hour minimum at the overtime rate except:

- A. Employees responding to a Department emergency callback by pager shall receive one hour overtime compensation if the employee logs in at an assigned station or emergency staging area and is not given a work assignment or standby duties.
- B. If authorized by prior approval to attend a meeting scheduled during an employee's off duty time, including department meeting, training session or special project employees shall be paid for actual time of attendance with a one hour minimum.
- C. Employees mandated by subpoena to appear on their off-duty time at inquiries, hearings or in court for matters which arise in connection with the employee's performance of duty shall be compensated at the overtime rate of pay for actual time in appearance with a one hour minimum. All expert fees and/or witness fees paid for an employee's appearance while on overtime shall be submitted to the City.
- D. Employees scheduled to work for more than 15 minutes immediately before, or required to work for more than 15 minutes after the scheduled relief time, will be paid for a minimum of one hour overtime.
- E. Employees required to attend a mandatory staff meeting will be paid a minimum of hours, but additional duties may be assigned if the meeting is less than the 4-hour period.
- F. An absent employee will be replaced by another eligible employee of equal rank and qualification whenever possible. When a replacement of equal rank and qualification is not available, an employee in the next lower rank of that division or promotional series may be hired.
- G. Emergency Mobilization: Any employee who is voluntarily deployed outside of Washington State Homeland Security Region One (Whatcom, Skagit, Snohomish, Island and San Juan counties), as part of a Washington State Fire Mobilization, Emergency Management Assistance Compact (EMAC) or a Federal Emergency Management (FEMA) request for

assistance shall be subject to the compensation reimbursement and regulations related to the deployment. Overtime will include travel time and time worked exclusive of days when the member was relieved from duty. For members regularly assigned to a 40 hour week, the overtime will be the hours worked outside their normal schedule.

- H. Time away from work/home for a voluntary emergency response deployment requested by the agencies listed above within Region One will be compensated from the time the employee begins travel to the incident until their return to Bellingham. Normally scheduled Fire Department work time while deployed shall be counted as hours worked, and overtime will be calculated as per the Collective Bargaining Agreement and the FLSA.

## **ARTICLE 22 - UNION-MANAGEMENT RELATIONS**

The City agrees to allow time off for a reasonable number of bargaining unit members to attend Union-Management committee meetings vital to the employees of the Fire Department; provided 48 hours advance notice is given to the Fire Chief and provided such time off results in no additional cost to the City. This shall apply to, but is not limited to, participation in the following:

- Civil Service Commission
- Pension Board
- Disputes arising out of the administration of this agreement
- Health and Welfare, and Safety Committee meetings

No employee shall suffer any loss of pay because of attendance at any of the aforementioned meetings during his normal working hours where such attendance has been requested by the City.

The City shall allow use of one bulletin board in each station and headquarters, to be placed in a convenient location, which the Union may use for the posting of notices of official Union business.

Up to three (3) labor representatives will be paid straight time or provided work relief for actual time in attendance at labor negotiation meetings with the City.

The Department will make available (including, if necessary, hiring overtime coverage) a total of up to 56 hours (cumulative per bargaining unit) per year for Union representatives (as determined by the Union) for attendance at labor relations conferences/educational classes/training, reasonably determined by the Chief to be of mutual benefit to the City and Union. After the 56 hours have been utilized, any additional hours shall be at the Chief's discretion. The Chief and the union will meet to identify the desired conference(s).

## **ARTICLE 23 - NO STRIKE**

The Union agrees that there will be no strikes, slowdowns, stoppages of work or interference with the operations of the Fire Department. Any employee who violates any provisions of this Article shall be subject to disciplinary action including discharge under provisions of the rules and regulations of the Bellingham Civil Service Commission. The City shall make every effort to settle disputes over wages, hours and working conditions by normal negotiations procedures in accordance with RCW 41.56.

## **ARTICLE 24 - MANAGEMENT'S RIGHTS**

Any and all rights concerned with the management and operation of the Fire Department are exclusively the prerogative of the City, unless otherwise provided by the terms of this Agreement. The City has the authority to adopt rules for the operation of the Department and the conduct of its employees, provided such rules are not in conflict with the provisions of this Agreement or applicable law.

The City's rights include, but are not limited to, the right to discipline, temporarily lay off or discharge employees; to assign work and determine the number of personnel to be assigned to duty at any time; and to perform all other functions not otherwise expressly limited by this Agreement. The City agrees that work assignments shall be limited to Fire Department duties.

## **ARTICLE 25 - TUITION ASSISTANCE**

Effective at ratification and pursuant to Article 8, Section 6 (MERP), the City agrees to make monthly contributions to the MERP in lieu of any educational incentive. This provision shall not cause employees covered by this article to be ineligible for tuition assistance pursuant to City policy.

## **ARTICLE 26 - LONGEVITY**

Longevity pay shall be paid to the members of the bargaining unit in accordance with Article 27 and Appendix "A".

Longevity pay shall commence on the employee's adjusted anniversary date. For an employee who was appointed or promoted on or before the 15th day of a month, the adjusted anniversary date shall be the first day of the month in which their appointment or promotion commenced. For an employee who was appointed or promoted on or after the 16th day of the month, the adjusted anniversary date shall be the first day of the succeeding month.

As of January 1, 2010, employees with 15 or more years of service shall irrevocably convert the City's deferred compensation match to longevity pay for the duration of their service.

## **ARTICLE 27 - SALARY/WAGES**

### **27.1 Fair Labor Standards Act**

Terms used throughout this agreement to calculate the various forms of compensation shall be in accordance with this article and federal Fair Labor Standards Act (FLSA) regulations.

### **27.2 Salary**

Salary shall mean the monthly compensation listed on Appendix "A" for the Class and pay grade step. Salary shall be the basis for calculating percentage adjustments to compensation.

- A. Effective January 1, 2012, the salary of the bargaining unit employees as of the date of ratification (except as provided by statute), and employees who retired into the LEOFF retirement system during the term of the agreement shall be based on the captain's wage rate plus the following steps:

STEP	PERCENTAGE	LENGTH OF SERVICE
A	6%	Less than one year of service
B	8%	After one year of service
C	10%	After two years of service

B. Effective October 1, 2013, the salary of the current bargaining unit employees, shall be the top captain's wage rate plus the following steps:

STEP	PERCENTAGE	LENGTH OF SERVICE
A	8%	Less than one year of service
B	10%	After one year of service
C	12%	After two years of service

The above step increases are a result of upon the Union's acceptance of the following conditions:

- Due to Whatcom County's changes in its contract with the City for the provision of EMS Services and their elimination of funding for the MSO position and body of work, it has become necessary to discontinue the position. Local 106S agrees to the elimination of this position and the body of work without any additional bargaining of effects or impacts and agrees that the City can assign any remaining duties to members of other bargaining units or exempt employees as may be needed to ensure the smooth operation of paramedic services and agrees that the City has fulfilled its bargaining obligation with this change. Effective with the reduction in rank for the existing MSO, the calculation pursuant to Article 27, will be made utilizing base, longevity, administrative premium and MSO/Paramedic premium as of December 31, 2013.
- 106S personnel agree to assume responsibilities for day to day administration and supervision of Fire District 8 operations, such as, but not limited to, daily scheduling, incident management, scheduling of fleet and facility maintenance, coordination of daily crew activities and training (as more fully described in the September 16, 2013 e-mail message from Chief Christensen), and agrees that the City has fulfilled its bargaining obligation with this change.
- Union acceptance of schedule and hours changes as defined in Article 10, Section 2, and agrees that the City has fulfilled its bargaining obligation with this change.

C. The salary rates shall be as set forth in Appendix "A".

**27.3 Base Pay**

Base pay shall mean monthly compensation which includes SALARY, PREMIUM and SERVICE LONGEVITY pays.

- A. Base pay shall be the basis of calculations for retirement, overtime and hourly rate of pay.
- B. Base pay shall not be the basis for calculating percentage adjustments to compensation.

**27.4 Service Longevity**

Service Longevity shall mean the monthly compensation listed in Appendix "A" appropriate to the position and length of continuous service in the Bellingham Fire Department.

- A. Service longevity pay may be represented as a fixed dollar amount, percentage of Salary or a combination of each.
- B. Service longevity pay is a component of base pay generally available to all members of the bargaining unit with the same assignment.
- C. Service longevity shall commence in the calendar month following completion of the service requirement.
- D. Service longevity shall not be cumulative; that is, an employee with 15 years of service will receive a total service longevity allowance of 4% of base pay per month and not 7% of base pay per month.
- E. If an employee terminates service, except for disability, and subsequently returns, prior service shall not be counted for the purpose of longevity accrual.

**27.5 Base Hourly Rate of Pay**

Base hourly rate of pay shall mean BASE PAY times 12 divided by HOURS as follows:

- A. For Operations Division personnel assigned to the Fire Suppression schedule, HOURS equal 2,448.
- B. For personnel assigned to a 40 hour week, HOURS equal 2,080.

**27.6 Overtime Pay**

Overtime pay shall mean the periodic compensation for extra hours of work which is paid in accordance with Article 21.

**27.7 Premium Pay**

Premium pay shall mean:

The monthly compensation listed in Appendix A provided to those employees assigned to a 40 hour work week to carry out administrative responsibilities.

Medical Service Officer maintaining a paramedic certification shall receive 3% premium pay on salary per Appendix A only so long as he/she is used as a paramedic in Whatcom County/City of Bellingham. Authorization to operate as a paramedic for the Department is at the discretion of the Department.

**ARTICLE 28 - DEFERRED COMPENSATION**

The City shall match an employee's contribution made to the City's voluntary deferred compensation program of up to that which is outlined below. The City may establish procedures to efficiently maintain the deferred compensation program including reasonable restrictions upon an employee's ability to change his/her contribution level during a calendar year.

The City shall match an employee's voluntary contribution up to:  
4.75%

## **ARTICLE 29 - POSITION ELIMINATION**

Employees whose positions have been eliminated, and whose subsequent pay grade will result in a base pay reduction, shall have their base pay rate frozen unless or until the difference between their wage and the subsequent pay grade is \$25 per month or less. At that time, they shall be placed in the appropriate pay grade.

## **ARTICLE 30 - HEALTH MAINTENANCE INCENTIVE**

### **30.1 *Health and Safety Committee***

The Health and Safety Committee shall be responsible for developing and maintaining the standards and criteria for the health maintenance incentive, and participating employees shall be evaluated to this standard. Union Local 106S shall be entitled to have a representative attend meetings of the committee to receive information and to offer advice, but such representative shall serve in a non-voting capacity. Employees are encouraged, but not required to participate in the health maintenance fitness assessment conducted by the department and shall be given the opportunity on duty to perform the test. An employee who misses the two on-duty opportunities to test should come in on their own time, while off-duty, to perform the test.

In addition, the Health and Safety Committee should publish the baseline results or average results so an individual can compare personal fitness with the group as a whole.

Employees shall be evaluated according to the standard. Those employees who meet the standard and who continue to meet the standard for a period of 12 months shall receive up to \$200 as a health maintenance incentive. Payment shall be made in December of the year the incentive payment is earned.

### **30.2 *Smoke Free Workplace***

Smoking in Fire Department facilities and vehicles, including the apparatus area of the stations, is prohibited. Bargaining unit members are subject to all smoking policies of the City.

### **30.3 *Tobacco Use on Duty or Department Premises***

All new employees hired after January 1, 2007, shall be prohibited from using any tobacco products while on duty and/or on department premises.

## **ARTICLE 31 - DRUG TESTING**

Consistent with the requirements of state and federal law, members of the bargaining unit shall be subject to the drug testing procedure set forth in City Policy PER 01.00.03. (See Appendix "B".)

## **ARTICLE 32 - DISCIPLINARY ACTION**

### **32.1 *Notice of Disciplinary Action***

Before disciplinary action which involves suspension, demotion, termination or other action affecting an employee's compensation, notice will be given by the Chief or his designee to the employee that disciplinary action is contemplated against said employee.

- A. Except as provided below, such notice shall be given at least 48 hours before disciplinary action is taken, unless such notice is waived by the employee.
- B. The requirement for notice shall not prevent the Chief or other supervisory officer from immediately relieving any subordinate employee from duty, pending disciplinary action.
- C. An employee suspended from duty shall not lose any pay or benefits pending disciplinary action, unless the employee is reported in an unfit condition, in which case the employee will not be paid during the period pending disciplinary action unless he wins an appeal from the Civil Service Commission.

**32.2 Union Representation**

If an employee so requests, a Union representative shall be present at any discussion regarding disciplinary action where the employee is present and may intervene as an interested party.

**32.3 Disciplinary Action Timeline**

The City agrees that any disciplinary action shall be initiated within 15 calendar days of the date of the infraction or the date the infraction is brought to the attention of the Chief.

**ARTICLE 33 - GRIEVANCE PROCEDURE**

Grievances or disputes which may arise concerning the scope of this agreement shall be settled in the following manner. Any of the timelines provided below may be extended by mutual agreement.

**33.1 Union Grievance Committee**

The Union Grievance Committee, upon receiving notification of a grievance, shall determine if a grievance exists. If in its opinion no grievance exists, no further action shall be taken.

**33.2 Step 1 - Submission to Fire Chief**

If the Grievance Committee determines that a grievance may exist, a written grievance shall be submitted to the Fire Chief, stating the action that is grieved, the section(s) of the agreement violated, and the remedy that is sought. The grievance shall be filed within 15 calendar days of the action being grieved, or when the employee reasonably should have known of the action, whichever is later. A meeting on the matter shall be arranged with the Chief of the Fire Department for consideration of the grievance, unless the parties mutually agree to waive the meeting. The interested employee may be present if he or she so desires.

**33.3 Step 2 - Submission to Human Resources Director**

If within 15 calendar days of the presentation to the Chief, the alleged grievance has not been settled, a petition shall be submitted within 15 calendar days thereafter to the Human Resources Director for consideration.

**33.4 Step 3 - Submission to Arbitration**

- A. If within 15 calendar days of the presentation of the petition to the Human Resources Director, the alleged grievance has not been settled, either party shall have 15 calendar days to request that the alleged grievance be submitted to a neutral arbiter.

- B. The parties shall initially seek to agree upon a mediator or arbiter. If the parties are unable to agree, the Union may request a list of seven (7) arbiters from Washington or Oregon from the Federal Mediation and Conciliation Service. Each party shall alternately strike from the list until one name remains.
- C. Each party shall bear the expenses of its arbitrator and pay ½ the expenses if any, of the Chairperson. Parties will pay their own attorneys' fees, unless an arbitrator finds that the City's wage case was arbitrary and capricious.
- D. The Arbiter shall not act on any matter that is within the jurisdiction of the Civil Service Commission.
- E. The parties may mutually agree to submit the threshold issue of arbitrability to an arbitrator prior to a hearing on the merits of the case.

**ARTICLE 34 – EXPERIENCED DIVISION CHIEF NEW HIRES**

All experienced Division Chiefs, hired through the external selection process, will be compensated beginning at the current third step pay rate. The following table outlines the applicable pay and benefits:

<b>Position</b>	<b>Pay</b>	<b>Premiums</b>	<b>Seniority List</b>	<b>Service Longevity</b>	<b>Vacation</b>	<b>Sick Time</b>
Division Chief	3 <sup>rd</sup> step	Administrative and other applicable with the position	Date of Hire	Based on hire date of previous employer.	Full one-year annual accrual balance of vacation hours and ongoing monthly accrual as listed for operations or administrative schedule based on hire date of previous employer. See Article 9 for cash out and scheduling provisions.	Upon hire, a LEOFF II employee will receive a full two-year balance of 408 hours for employee on Operations schedule or 240 hours for employee on Administrative schedule. Accrual for 3 <sup>rd</sup> year will be per Article 15 Section 1 g. For application to LEOFF I employees see Article 15 Section 2.

Additional provisions of the Collective Bargaining Agreement will be applied as is standard for a new employee.

**ARTICLE 35 - LOSS AND LIABILITY COVERAGE**

**35.1 LOSS LIABILITY**

The City agrees to assume liability for the loss by theft or damage of personal property of bargaining unit members used in conjunction with bona fide Fire Department business if the supervisor of the activity for which the personal property was needed had declared, in writing, the Department's desire that the employees' private property be used; provided that the loss or damage was not occasioned by the

negligence of the member/owner of the property or some other Fire Department employee to whom he/she had entrusted the property.

**35.2 LEGAL REPRESENTATION/INSURANCE**

The City recognizes that bargaining unit members are City employees for purposes of BMC 4.16.080 and RCW 4.96.041.

**ARTICLE 36 - FITNESS FOR DUTY**

Once per year, upon request by the Union, the Department will provide a copy of the fitness for duty guidelines used by the Department physician.

**ARTICLE 37 - DURATION**

This Agreement shall be in force and effect from January 1, 2014 through December 31, 2017

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2018

**BELLINGHAM FIREFIGHTERS LOCAL NO. 106S**

\_\_\_\_\_  
*Union Representative of Supervisory Unit*

\_\_\_\_\_  
*President of Local No. 106S*

**CITY OF BELLINGHAM:**

**Approved as to Form:**

\_\_\_\_\_  
*Office of the City Attorney*

\_\_\_\_\_  
*Mayor*

**Departmental Approval:**

\_\_\_\_\_  
*Fire Chief*

\_\_\_\_\_  
*Human Resources Services Manager*

**Attest:**

\_\_\_\_\_  
*Finance Director*

**APPENDIX A - SALARY TABLE 2014**

**CITY OF BELLINGHAM  
2014  
FIRE DEPARTMENT STAFF OFFICERS  
PLAN F**

**POSITIONS/TITLES:**

**Battalion Chief                  Division Chief                  Fire Marshal**

**BASE SALARIES are computed as follows:**

- Step 1: Less than one year of service, 8% over Step 5 Captain
- Step 2: After one year of service, 10% over Step 5 Captain
- Step 3: After two years of service, 12% over Step 5 Captain

**LONGEVITY is based on cumulative service with the Bellingham Fire Department and is computed as follows:**

- 1% of salary per month after 5 years
- 2% of salary per month after 10 years
- 4% of salary per month after 15 years plus Deferred Compensation match\*
- 10% of salary per month after 20 years plus Deferred Compensation match\*
- 12% of salary per month after 25 years plus Deferred Compensation match\*

\* Beginning January 1, 2010 the steps at 15 years and above will increase by the Deferred Compensation matching amount defined in Article 26.

**ADMINISTRATIVE PREMIUMS:**

5.0% of Salary shall be provided to employees assigned to a 40-hour work week.

**Actual monthly rates for salary are as follows:**

<i>January 1, 2014</i>	<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>
<b>Salary</b>	<b>\$8,449.00</b>	<b>\$8,605.00</b>	<b>\$8,762.00</b>

**APPENDIX A - SALARY TABLE 2015**

**CITY OF BELLINGHAM  
2015  
FIRE DEPARTMENT STAFF OFFICERS  
PLAN F**

**POSITIONS/TITLES:**

**Battalion Chief    Division Chief    Fire Marshal**

**BASE SALARIES are computed as follows:**

- Step 1: Less than one year of service, 8% over Step 5 Captain
- Step 2: After one year of service, 10% over Step 5 Captain
- Step 3: After two years of service, 12% over Step 5 Captain

**LONGEVITY is based on cumulative service with the Bellingham Fire Department and is computed as follows:**

- 1% of salary per month after 5 years
- 2% of salary per month after 10 years
- 4% of salary per month after 15 years plus Deferred Compensation match\*
- 10% of salary per month after 20 years plus Deferred Compensation match\*
- 12% of salary per month after 25 years plus Deferred Compensation match\*

\* Beginning January 1, 2010 the steps at 15 years and above will increase by the Deferred Compensation matching amount defined in Article 26.

**ADMINISTRATIVE PREMIUMS:**

5.0% of Salary shall be provided to employees assigned to a 40-hour work week.

**Actual monthly rates for salary, longevity, and administrative premium are as follows:**

<i>January 1, 2015</i>	<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>
<b>Salary</b>	<b>\$8,617.00</b>	<b>\$8,777.00</b>	<b>\$8,936.00</b>

**APPENDIX A - SALARY TABLE 2016**

**CITY OF BELLINGHAM  
2016  
FIRE DEPARTMENT STAFF OFFICERS  
PLAN F**

**POSITIONS/TITLES:**

**Battalion Chief                  Division Chief**

**BASE SALARIES are computed as follows:**

- Step 1: Less than one year of service, 8% over Step 5 Captain
- Step 2: After one year of service, 10% over Step 5 Captain
- Step 3: After two years of service, 12% over Step 5 Captain

**LONGEVITY is based on cumulative service with the Bellingham Fire Department and is computed as follows:**

- 1% of salary per month after 5 years
- 2% of salary per month after 10 years
- 4% of salary per month after 15 years plus Deferred Compensation match\*
- 10% of salary per month after 20 years plus Deferred Compensation match\*
- 12% of salary per month after 25 years plus Deferred Compensation match\*

\* Beginning January 1, 2010 the steps at 15 years and above will increase by the Deferred Compensation matching amount defined in Article 26.

**ADMINISTRATIVE PREMIUMS:**

5.0% of Salary shall be provided to employees assigned to a 40-hour work week.

\*\*Effective July 16, 2016, 5.25% of Salary shall be provided to employees assigned to a 40-hour work week.

**Actual monthly rates for salary are as follows:**

<i>January 1, 2016</i>	<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>
<b>Salary</b>	<b>\$8,790.00</b>	<b>\$8,953.00</b>	<b>\$9,116.00</b>

**APPENDIX A - SALARY TABLE 2017**

**CITY OF BELLINGHAM  
2017  
FIRE DEPARTMENT STAFF OFFICERS  
PLAN F**

**POSITIONS/TITLES:**

**Battalion Chief                  Division Chief**

**BASE SALARIES are computed as follows:**

- Step 1: Less than one year of service, 8% over Step 5 Captain
- Step 2: After one year of service, 10% over Step 5 Captain
- Step 3: After two years of service, 12% over Step 5 Captain

**LONGEVITY is based on cumulative service with the Bellingham Fire Department and is computed as follows:**

- 1% of salary per month after 5 years
- 2% of salary per month after 10 years
- 4% of salary per month after 15 years plus Deferred Compensation match\*
- 10% of salary per month after 20 years plus Deferred Compensation match\*
- 12% of salary per month after 25 years plus Deferred Compensation match\*

\* Beginning January 1, 2010 the steps at 15 years and above will increase by the Deferred Compensation matching amount defined in Article 26.

**ADMINISTRATIVE PREMIUMS:**

5.25% of Salary shall be provided to employees assigned to a 40-hour work week.

**Actual monthly rates for salary are as follows:**

<i>January 1, 2017</i>	<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>
<b>Salary</b>	<b>\$9,054.00</b>	<b>\$9,221.00</b>	<b>\$9,389.00</b>
<i>July 1, 2017</i>	<i>Step 1</i>	<i>Step 2</i>	<i>Step 3</i>
<b>Salary</b>	<b>\$9,098.00</b>	<b>\$9,266.00</b>	<b>\$9,435.00</b>

## APPENDIX B

City of Bellingham  
**Policy**

**Title:** DRUG FREE WORKPLACE

**Code:** PER 01.00.03

**Chapter:** Personnel

**Level of Policy:** Administrative

**Date Issued:** April 15, 1989

**Date Revised:** February 1, 2003

**Revised by:** Jo Zeimet, Human Resources Director  
Andy Rowson, Benefits Coordinator

**Developed by:** Kathryn Hanowell, Personnel Manager  
Peter R. Lieurance, Director of Administrative Services

**Approved By:** Mark Asmundson, Mayor

Cancels:

See Also: Drug Free Workplace Act  
Federal Highway Administration (FHWA) Rules on Drug and Alcohol Testing  
Federal Transit Administration (FTA) Regulations on Drug Testing  
Policy PER 15.03.03, Employee Assistance  
Policy ADM 10.04.04, City Commercial Driver's License  
Policy ADM 10.03.08, City Accident Reporting Procedures and Responsibilities for City-owned Vehicles  
Procedure: New Hire CDL  
Procedure: Drug & Alcohol Abuse Observation Procedure - Reasonable Suspicion

### **Purpose**

City government provides a variety of public services. The employees of the City are its most valuable resource, since it is through their work that services are provided. When delivering services, the health and safety of the public and the health and safety of employees are of paramount importance.

Drug and alcohol abuse is a problem of serious concern and one which affects all segments of the community, including the workplace. Such behavior poses risks to members of the public and to City employees. Employees have the right to work in an alcohol and drug-free environment. Members of the public have the right to be free from the harmful effects of alcohol and drug abuse in the provision of public services.

The policy of the City is to provide a safe work environment and to protect the public by ensuring a drug-free workplace.

### **Scope**

All City employees other than uniformed Police Department employees who are covered by policy PER 01.00.05 with the exception noted below. All City employees required to have a current Commercial Driver's License (CDL) as a condition of employment (including police officers required to have a CDL) are subject to the CDL related provisions of this policy.

## **Policy/Conditions**

The City of Bellingham is committed to a drug-free workplace, to educating employees regarding the dangers of substance abuse, and to providing support for employees undergoing treatment and rehabilitation for chemical dependency. The City also is committed to the accountability of employees for violations of this policy through appropriate discipline, up to and including termination.

## **Procedure**

### TREATMENT AND REHABILITATION:

The City provides an Employee Assistance Program for employees needing treatment or rehabilitation as well as medical plan coverage for both inpatient and outpatient treatment. Accrued leaves may be used for treatment and rehabilitation purposes.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program.

### PROHIBITIONS:

This policy prohibits the following:

1. The unauthorized use, possession, manufacture, distribution or sale of an illegal drug, controlled substance or drug paraphernalia on City property or while on City business, in City supplied vehicles or during working hours.
2. The unauthorized use, possession, manufacture, distribution, or sale of alcohol on City premises or while on City business, in City supplied vehicles or during working hours.
3. Storing any illegal drug, drug paraphernalia, or any controlled substance whose use is unauthorized, or any container of alcohol, in or on City property (including vehicles). Unopened containers of alcohol in a private vehicle parked on City property shall not be a violation of this policy.
4. Reporting to work, or working, while under the influence of illegal drugs or alcohol, whether on City premises or on City business, or in City supplied vehicles.
5. Failing to notify the employee's supervisor before beginning work that the employee is taking medications or drugs which may interfere with the safe and effective performance of duties.
6. Refusing to immediately submit to an alcohol and drug test when requested by a supervisor, in accordance with this policy.
7. Failing to provide, by the next work day following a request, a valid prescription for any drug or medication identified when the results of a drug test are positive. If the employee is taking prescription drugs, the prescription must be in the employee's name.
8. Refusing to submit to an inspection as described in the Enforcement section when requested by a supervisor, in accordance with this policy.

9. Failing to adhere to the requirements of any drug or alcohol treatment program in which the employee is enrolled: (a) as a condition of continued employment; or, (b) pursuant to a written agreement between the City and the employee.
10. Violating any criminal drug or alcohol statute while working. Conviction under any criminal drug statute.
11. Failing to notify the City of any arrest or conviction under any criminal drug or alcohol statute by the next work day following the arrest or conviction.

#### MANAGERIAL RESPONSIBILITIES AND GUIDELINES FOR ENFORCEMENT:

Managers and supervisors shall be responsible for enforcement of this policy. The City will provide training to all managers authorized to act under this policy in evaluating and working with substance abuse issues in the workplace.

#### ENFORCEMENT:

When there is a reasonable suspicion to believe that an employee's job performance may be impaired by drugs or alcohol, the supervisor may: (a) direct the employee to submit to a drug/alcohol test; or, (b) search, with or without employee consent, all areas and property in which the City maintains control or joint control with the employee.

#### PRE-EMPLOYMENT TESTING:

All new City employees hired into a City designated safety sensitive position are required to pass a pre-employment drug test prior to hire. The test will be administered after a conditional offer of employment has been made and prior to any tentative start date. In some cases additional testing for CDL holders may be delayed until they are ready to begin driving a CDL vehicle or performing a safety-sensitive function on the job.

A positive test will exclude an applicant from being hired.

All prospective hires, except uniformed Police and Fire personnel, will be tested under the procedures noted in this policy which are consistent with the procedures for CDL holders. The pre-employment protocols for uniformed Police and Fire are on file in the office of the Human Resources Manager.

#### REASONABLE SUSPICION:

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a reasonable person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or that the employee's ability to perform his/her job safely is reduced.

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

1. Slurred speech;
2. Irregular or unusual speech patterns;
3. Impaired judgment;
4. Alcohol odor on breath;
5. Uncoordinated walking or movement;

6. Unusual or irregular behavior such as inattentiveness, listlessness, hyperactivity, hostility or aggressiveness;
7. Possession of alcohol or drugs;

#### IMPAIRMENT:

The supervisor shall directly observe the employee's behavior and document in writing the facts constituting reasonable suspicion. When circumstances permit, a second person shall also observe the employee to verify that there is a reasonable basis to believe that drug or alcohol impairment may be present. If possible, the supervisor shall question the employee with regard to the situation.

When a determination is made that an employee may be impaired because of drug or alcohol use, the employee shall be relieved of his/her duties and placed on paid leave status.

The supervisor shall immediately notify the department head, or in his/her absence, the designee. In the event that this person is not available, the supervisor shall immediately contact the Human Resources Manager for review. Upon review, the department head or designee, or in his/her absence the Human Resources Manager or designee, may authorize the supervisor to require a drug test.

#### DRUG AND ALCOHOL TESTING:

A drug test under this policy is a urinalysis (for drugs) and an evidential breathalyzer test (for alcohol) administered under approved conditions and procedures conducted for the sole purpose of detecting drugs and alcohol. Other methods to detect the presence of alcohol may be added at a later date if approved by the FHWA, including blood/alcohol and saliva tests. The test will be conducted by a City appointed medical laboratory and paid for by the City.

#### SUBJECT:

An employee ordered to submit to a test or an applicant for employment directed to test by the Human Resources Division or hiring department.

#### Obtaining a Urine Sample:

Following authorization for reasonable suspicion or post-accident drug testing, the supervisor or other authorized person will transport the employee to the designated laboratory.

In the case of an applicant for employment or follow up testing the individual shall appear at the designated laboratory at the time instructed by the Human Resources Division or hiring department.

The subject (employee or applicant) will be interviewed by laboratory personnel prior to the sample collection to determine whether the subject is currently using drugs under medical supervision and/or taking over the counter medications which might reasonably impact the test.

The room where the sample is obtained must be private and secure. Documentation shall be maintained that the area has been searched and is free of any foreign substance. For all general employees, CDL holders, and individuals tested under the reasonable suspicion standard an observer shall not be present when the sample is collected. Procedural actions

shall be taken in all tests to ensure the sample is from the subject and was actually passed at the time noted on the record.

In the case of job applicants for uniformed Fire and Police (under separate policy), an observer of the same sex shall be present when the urine sample is taken.

Processing Urine Samples:

Each step in the collection and processing of the urine specimen shall be documented to establish procedural integrity and the chain of custody. When requested for CDL holders, testing shall be under SAMHSA (Substance Abuse and Mental Health Services Administration [formally NIDA standards]) testing procedures and approved laboratories.

Unless specifically noted as in testing for uniformed police officers (under separate policy) or pre-employment tests for firefighters, all testing will be done using SAMHSA procedures and threshold levels.

Uniformed Police and Fire pre-employment testing will be done according to the drug/alcohol testing protocols that are on file in the office of the Human Resources Manager. Confirmation testing will be conducted using Gas Chromatography-Mass Spectrometry. The urine sample shall be retained for 12 months by proper storage method to allow for further testing if necessary.

Specimen samples shall be sealed and labeled. Samples shall be stored in a secure and refrigerated atmosphere. A large enough sample will be taken to allow for a second, follow-up test.

Any sample which has been adulterated or is shown to be a substance other than urine shall be reported as such. Any applicant or employee providing false information about a urine or breath specimen or who attempts to contaminate such sample shall be subject to removal from consideration for hiring or termination.

DRUGS TESTED:

The laboratory shall test for the following drugs at levels that meet or exceed the SAMHSA specified threshold in effect at the time of the test. The list of drugs and specified thresholds for screening level and confirmation level are published by SAMHSA and available in Human Resources or at the laboratory.

Drug

Amphetamines  
Cocaine Metab.  
Opiates  
PCP (Phencyclidine)  
THC (Marijuana)  
Alcohol\*

If SAMHSA should increase or decrease the above list of drugs, the City will utilize the SAMHSA list in effect at the time of the test.

\* Tested through an evidentiary breathalyzer instrument at a level of .02 alcohol/breath concentration or greater, expressed in terms of grams per 210 liters of breath.

#### RESULTS OF DRUG TESTING:

The laboratory will review the results of the test and determine if the sample contains any illegal drug or legal drug or alcohol at levels that would cause impairment or reveal its use in an illegal manner. The lab director will also review the medical history made available by the subject when a confirmed positive test could have resulted from a legally prescribed medication.

For all CDL holders, mechanics and City employees, the results shall be forwarded immediately to the City designated Medical Review Officer (MRO) for further review. The Human Resources Division will send a copy of the drug testing results to the employee's home address.

#### Evaluation of Legal Drug Use:

In the case of prescription drug use that may affect an employee's ability to perform his/her job safely, the laboratory director, or, in the case of employees and all CDL testing, the City's designated Medical Review Officer, will require the subject to provide by the next scheduled work day a bona fide verification of a valid current prescription for the drug identified. The applicant shall be dropped from eligibility, or the employee will be subject to disciplinary action when:

- (a) Verification of a valid prescription is not provided and the employee has not previously notified his or her supervisor;
- (b) The prescription provided is not in the subject's name.

#### POSITIVE DRUG OR ALCOHOL TEST RESULTS:

When there is a confirmed presence of any 1) illegal drug, 2) alcohol (equal to or greater than .02) or 3) legal drug, for which in the opinion of the Lab Director or City designated Medical Review Officer (MRO), no reasonable medical explanation or proof is provided, the subject shall be deemed to have failed the test.

#### Alcohol Level at .02:

When there is a confirmed presence of alcohol at the .02 level, the employee is deemed to be unable to safely operate a motor vehicle, operate machinery or perform safety-sensitive work. If these tasks are part of an employee's job (in the opinion of the supervisor), he/she will be considered unable to work and will be sent home for the remainder of his/her work shift. The individual would be required to take leave without pay (or in the Fire Department would owe work time). The employee would not be permitted to take sick leave, vacation, or compensatory time. The employee would return to work after a period of 24 hours or at the beginning of their next work day or shift (which ever period of time is greater) or after another test shows a breath alcohol level of below .02. Under this policy a breathalyzer test of between .02 and .039 would be considered a positive test but would not result in disciplinary action for the test reading itself other than taking leave without pay for the remainder of his/her work day(s) or shift.

Job Applicant:

In the case of job applicants, the lab director or City MRO shall notify the applicant. An opportunity to have the original urine sample re-tested at the applicant's expense shall be afforded. The applicant must request a re-test within 72 hours. If there is a confirmed positive test, the Human Resources Manager shall notify the department and the applicant shall be removed from eligibility for hire.

Pre-employment test results for uniformed Fire Department employees will be forwarded directly to the Fire Department physician. A copy will be sent to the Human Resources Manager.

Pre-employment test results for uniformed police officers (covered under separate policy) will be reported directly to the Police Chief or Deputy Chief.

Employees:

The employee shall be advised of the positive test result by the City Medical Review Officer. The employee shall be afforded the opportunity to have the original urine sample retested. Re-tests must be requested within a period of 72 hours after notification of an initial positive test by the MRO.

A re-test will be done by the original lab (at the city's expense) unless the employee wishes to pay for a re-test at a different laboratory. The second test must be done under SAMHSA procedures, or for CDL holders by a SAMHSA certified lab. If the subject declines a re-test, or, the re-test confirms the results of the initial test, the Human Resources Manager shall be notified. The Human Resources Manager shall notify the department head of the results and a determination of appropriate action made.

**DISCIPLINE AND/OR REHABILITATION / TREATMENT:**

As with any issue of employee misconduct, an appropriate investigation and assessment of circumstances needs to be made with guidance from the Human Resources Division and the Legal Department. Advice from medical professionals may be sought. A decision to refer for substance abuse evaluation, treatment and/or discipline may be made depending on the nature and severity of misconduct, the employee's work history, and other pertinent facts and circumstances. In certain situations, follow-up drug testing may be recommended and conducted to ensure the employee remains drug and alcohol free.

A referral for evaluation by a substance abuse professional is mandatory for CDL holders when there is a positive test.

Any disciplinary action will be carried out in accordance with Civil Service Rules and applicable union contract agreements.

**NEGATIVE TEST RESULTS:**

Employees who have been tested for drugs and alcohol, where no substance abuse was found, shall receive notice of such findings from the City Human Resources Division. A copy of this notice will not be placed in their personnel file, unless requested by the employee. A record of the negative results shall

be placed in a confidential folder in a separate, secured file maintained by the Human Resources Division.

In the case of job applicants (except Police and Fire), the hiring department shall be notified by the Human Resources Manager that the applicant is clear for hire.

#### CONFIDENTIALITY:

Laboratory reports of positive test results shall not appear in an employee's general personnel folder. Information of this nature will be placed in a separate confidential medical folder that will be maintained by the Human Resources Division.

The positive reports or test results shall be disclosed to the department head only on a need-to-know basis. Disclosures without patient consent, may also occur when: (1) the information is compelled by law or by judicial or administrative process; (2) the information has been placed at issue in a formal dispute between the City and the employee; (3) the information is to be used in administering an employee benefit plan such as for drug or alcohol treatment; (4) the information is needed by medical personnel for the diagnosis or treatment of the patient (employee) who is unable to authorize disclosure.

#### DRUG AND ALCOHOL TESTING FOR COMMERCIAL DRIVERS LICENSE HOLDERS:

All employees of the City who are required to have a Commercial Driver's License (CDL) as part of their jobs are subject to drug and alcohol testing as required by the U. S. Department of Transportation through the Federal Highway Administration. The following procedures apply to CDL holders.

##### Pre-Employment Testing:

All new employees who must have a CDL as a job requirement must pass a pre-employment drug test prior to hire. The test will be administered after a conditional offer of employment has been made and prior to any tentative start date or in the Fire Department, before driving a CDL vehicle. This test will be conducted under the SAMHSA standards and protocols. The test will involve an unobserved urine sample collection for drug testing and an evidential breathalyzer test administered by a Breath Alcohol Technician (BAT) for alcohol. The procedures and protocols are identical to those for all City employees covered above unless specifically noted. All urine drug testing will be conducted by a SAMHSA certified laboratory.

##### Pre-Duty Use of Alcohol:

Employees are prohibited from consuming alcohol for 4 hours before going on duty or before operating a commercial motor vehicle.

This regulation from the FHWA applies to scheduled shifts and all callout situations. If an employee cannot meet this requirement, it is his / her responsibility to tell their supervisor, or person initiating the callout, that they cannot report to work.

##### Reasonable Suspicion Testing:

The definitions and protocols for reasonable suspicion drug and alcohol testing for CDL holders are the same as noted above for all City employees.

### Random Testing:

During the calendar year, 50% of CDL holders will be tested on a random basis for the presence of drugs and alcohol. Approximately quarterly, although testing could occur anytime during the year, names of CDL holders will be drawn randomly using a computer program to select individuals for drug and alcohol testing. These individuals will be scheduled for testing. All individuals will be required to go to a collection site for drug and alcohol testing. No advance warning will be given to employees regarding the date and time of the random test.

The urine sample collection will be the same as noted above in the policy. Urine sample collection will be in an unobserved setting with collection and chain of custody protocols as required under SAMHSA regulations.

Individuals who are scheduled to drive a CDL vehicle or perform a safety-sensitive function (such as a mechanic working on a Police or Fire vehicle, working brakes, etc.) on the day of the random test shall also take a breathalyzer test for alcohol.

Test results and the handling of any positive tests are the same as noted above for all employees.

### Post-Accident Testing:

Any accident involving a CDL vehicle must be reported as soon as possible by the employee to his /her supervisor. The supervisor should investigate the circumstances of the accident and determine if there is reasonable suspicion to require a drug and alcohol test. Testing is mandated in the following circumstances:

- An accident that has resulted in the loss of human life.
- An accident in which the driver receives a citation and there is an injury requiring medical attention away from the scene of the accident.
- An accident in which the driver receives a citation and any vehicle in the accident must be towed from the scene.

Additional rules under the Federal Transit Act apply to City mechanics who have worked on a Transit vehicle involved in an accident and their immediate supervisor. An individual in a safety-sensitive position, such as a mechanic, is subject to drug and alcohol testing, when in the opinion of a supervisor, employee performance caused or contributed to the accident. For example, a mechanic would be tested when he/she worked on a Transit coach's brakes just prior to an accident and a brake problem may have contributed to the accident.

A post-accident drug and alcohol test should be completed as soon as possible. Drug testing must occur no later than 32 hours after the accident. Alcohol testing must occur no later than 8 hours after the accident. If more than two hours elapse before an alcohol test is administered, the City is required to prepare and maintain on file an explanation of why a test was not properly administered for the FHWA.

A driver is prohibited from consuming alcohol for 8 hours after an accident, or until he/she has taken a drug and alcohol test.

Note: a police officer investigating an accident has legal authority under certain circumstances to order a blood sample to be taken for drug and alcohol testing.

### Return to Work Testing:

When an employee has tested positive for drugs or alcohol during a random or post-accident test the same provisions apply as for all employees in the section above on *Discipline and/or Treatment/Rehabilitation*. In addition the following specific rules apply:

- Employees will be referred to the EAP program or to other substance abuse counseling as part of their return to work requirements.
- The employee must comply with any recommended rehabilitation.
- The employee must have a negative re-test before being permitted to return to work.
- Unannounced follow-up tests will be conducted at least 6 times within the first 12 months after an employee returns to work.
- Testing may be extended for a period of up to 60 months after return to work.