

RESOLUTION NO. 36 2020

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO
A LABOR AGREEMENT WITH THE AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, OHIO COUNCIL 8, AFL-CIO FOR WAGES AND
BENEFITS FOR EMPLOYEES WITHIN THE DEPARTMENT OF PUBLIC WORKS
FROM SEPTEMBER 1, 2020 THROUGH AUGUST 31, 2023**

WHEREAS, the City of Montgomery entered negotiations with the American Federation of State, County and Municipal Employees, Ohio Council 8, AFL-CIO ("AFSCME") to establish a labor agreement governing wages and benefits for its member/employees within the Department of Public Works; and

WHEREAS, the City of Montgomery has negotiated an agreement with AFSCME, which agreement the administration has recommended to the City Council for approval.

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Montgomery, Hamilton County, Ohio, that:

SECTION 1. The attached labor agreement between the City of Montgomery and the American Federation of State, County and Municipal Employees, Ohio Council 8, AFL-CIO for the benefit of employees within the Department of Public Works is ratified and approved by the Council of the City of Montgomery. The City Manager is authorized and directed for and on behalf of the City of Montgomery to enter into said agreement.

SECTION 2. This Resolution shall be in full force and effect from and after its passage.

PASSED October 7, 2020

ATTEST: Connie M. Gaylor
Connie M. Gaylor, Clerk of Council

Christopher P. Dobrozsi
Christopher P. Dobrozsi, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon
Terrence M. Donnellon, Law Director

AGREEMENT

between

**THE
AMERICAN FEDERATION OF STATE,
COUNTY AND MUNICIPAL EMPLOYEES
OHIO COUNCIL 8
AFL-CIO**

And

THE CITY OF MONTGOMERY

September 1, 2020– August 31, 2023

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ARTICLE 1

PREAMBLE

This Agreement, entered into by the City of Montgomery, Ohio, hereinafter referred to as the “Employer” or “City” and the American Federation of State County And Municipal Employees Ohio Council 8, AFL-CIO, hereinafter referred to as the “AFSCME” or “Union,” has as its purpose to comply with the requirements of Chapter 4117 of the Ohio Revised Code.

ARTICLE 2
RECOGNITION

Section 2.1 The Employer recognizes AFSCME as the sole and exclusive representative for all full time employees of the Employer in the certified bargaining unit defined as follows:

Included: All Employees of the City of Montgomery in the Public Works Department: Service Worker 1 and Service Worker 2.

Excluded: All management-level, confidential and supervisory employees as defined in the Act and all seasonal and casual employees as defined by the Board, including Public Works Director, Assistant Public Works Director, Construction/Compliance Inspector and Service Supervisor.

Section 2.2 Whenever the word “Employee” or “Bargaining Unit” or “Laborer” is used in this Agreement, it shall be deemed to mean the Employee(s) in the bargaining unit covered by this Agreement.

ARTICLE 3

ASSOCIATES / UNION BUSINESS

Section 3.1 The Union is authorized to select one (1) steward and one (1) alternate to conduct approved Union business for the bargaining unit. The steward/alternate, upon giving reasonable notice, and upon authorization from the City Manager or designee, may be allowed reasonable time off without loss or gain in pay to investigate a grievance, consult with the Employer in processing a grievance, or to assist in the settlement of disputes. Permission to investigate and/or process a grievance or attend a disciplinary hearing during on duty time is at the sole discretion of the Employer.

Section 3.2 The Union agrees to provide the Employer within 30 days of the effective date of this Agreement with:

- A. The name, address, and telephone number of the professional staff member who will act as representative for the Union local; and
- B. The names of Union steward and alternate.

Section 3.3 The Union further agrees to keep such lists current, and the Employer has no obligation to recognize or deal with any Union official or steward not so designated.

Section 3.4 Rules governing the activity of Union representatives are as follows:

- A. The Union agrees that no representative of the Union (Employee or non-Employee) shall interfere, interrupt or disrupt the normal work duties of other employees unless authorized by this Agreement or with the express, prior approval of the City Manager or his/her designee. The Union further agrees not to conduct Union business during working hours except to the extent authorized by the Agreement or with the express, prior approval of the City Manager or designee.
- B. The Union shall not conduct Union activities in any work area during work hours. Upon notifying the supervisor of the general nature of the Union activity, Union members can discuss union business on lunch breaks and other breaks, but it acknowledges that it cannot exclude non-union members from common areas.

Section 3.5 The Union representative or Employee shall cease unauthorized Union activities immediately upon the request of any supervisor of the area in which Union activity is to be or is being conducted.

Section 3.6 The Union shall select up to a total of two (2) Employees to serve as negotiating committee representatives and one (1) alternate may substitute for a committee representative.

ARTICLE 4
MANAGEMENT RIGHTS

Section 4.1 The Union recognizes that the City shall have the exclusive right to manage the operations, control the premises, direct the work force and maintain efficiency of operations. Among the City's management rights, but not by way of limitation, are the following:

- A. Determine matters of inherent managerial policy which include, but are not limited to areas of discretion or policy such as the functions and programs of the Employer, standards of services, its overall budget, utilization of technology, and organizational structure;
- B. Determine the overall methods, process, means or personnel by which the Employer's operations are to be conducted;
- C. Maintain and improve the efficiency and effectiveness of the Employer's operations;
- D. To determine the mission of the Public Works department and the personnel, methods, means, and procedures necessary to most efficiently fulfill that mission;
- E. To determine the size and composition of the work force;
- F. Determine the adequacy of the work force, as well as to make, amend, and enforce work rules and regulations, standard operating procedures and general and special orders;
- G. To lay off Employees or abolish positions;
- H. To hire, schedule, promote, demote, transfer and assign Employees;
- I. To recruit, select, and determine the qualifications and characteristics desired in new hires;
- J. To suspend, discipline, reduce or discharge Employees;
- K. To train or retrain Employees as management deems appropriate and require Employees to maintain certifications, including but not limited to certifications required by the State of Ohio to perform a particular job;
- L. To schedule or not schedule overtime in the manner that promotes efficient department operations;
- M. To determine the location, size and number of facilities;
- N. To determine quality standards in order to promote efficient operations;
- O. To schedule Employees and establish their hours and days of work;

- P. To select the type, quantity and quality of equipment, tools and machinery to be used in the methods of operating them and the responsibilities therefore;
- Q. To take necessary action during emergency situations;
- R. To establish and enforce a tardiness and absenteeism policy permitting discipline, including termination, for any violation thereof;
- S. To establish and enforce a Drug and Alcohol Policy permitting discipline, including termination, for any violation thereof;
- T. To generally manage the Public Works Department's business as it deems best; and
- U. To subcontract bargaining unit work. The Union acknowledges that the City has always subcontracted work and it maintains the right to continue to do so. If bargaining unit positions are expected to be reduced as a result of subcontracting, the parties agree to bargain about the decision. If the parties reach impasse, the City will meet and confer with the Union regarding the effects of the City's decision, if the decision is to proceed with subcontracting.

The above listing of management rights shall not be deemed to exclude other proper functions not specifically listed herein or traditionally exercised by the Employer.

ARTICLE 5

NO STRIKE OR LOCKOUT

Section 5.1 The Employer and the AFSCME recognize that a work stoppage of any kind may create a clear and present danger to the health and safety of the public. This Agreement provides machinery for the orderly resolution of grievances. Therefore the parties agree that:

- A. During the term of this Agreement, the Union shall not, for any reason, authorize, cause, engage in, sanction, condone or assist in any strike, sit down, sit in, cessation, stoppage, refusal to work, picketing, or any other concerted activity which would interrupt the operation or services of the Employer.
- B. During the life of this Agreement, the Employer shall not cause permit or engage in any lockout of the bargaining unit Employees unless those Employees have violated Section A above.

Section 5.2 In addition to any other remedies available to the Employer, any Employee or Employees, either individually or collectively, who violate Section A above is/are subject to disciplinary action up to and including discharge or removal by the Employer.

Section 5.3 In addition to any other liability, remedy or right provided by applicable law or statute, should a strike, sit down, sit in, cessation, stoppage or refusal to perform work occur, the Union, within twenty-four (24) hours of a request by the Employer, shall:

- A. Publicly disavow such action by the Employees;
- B. Advise the Employer in writing that such action by Employees has not been caused or sanctioned by the Union;
- C. Notify Employees of its disapproval of such action and instruct such Employees to cease action and return to work immediately;
- D. Post notices on the Union Bulletin Boards advising that it disapproves of such action, and requesting Employees to return to work immediately.

Section 5.4 Nothing in this Article shall be construed to limit or abridge the Employer's right to seek other available remedies provided by law to deal with any unauthorized or unlawful work stoppages.

ARTICLE 6
PROBATIONARY PERIOD

Section 6.1 Any Employee promoted into a higher level position shall be required to successfully complete a promotional probationary period of one hundred eighty-five (185) calendar days. An Employee serving a promotional probationary period whose performance is judged unsatisfactory may be returned to his/her former classification and pay level. The return of an Employee to his/her former classification and pay level shall not be subject to the grievance procedure.

Section 6.2 During the first three hundred sixty-five (365) calendar days of employment, a newly hired Employee shall be considered a probationary Employee. The probationary period may be extended up to an additional six (6) months. Probationary Employees shall not have access to the grievance and arbitration procedures of this Agreement for the purpose of appealing a disciplinary action and/or termination.

ARTICLE 7

DUES DEDUCTION

Section 7.1 Dues Check Off. The Employer shall make payroll deductions from pay or wages of Employees upon submission of a signed checkoff card for the Employee. Amounts deducted shall be remitted to the Controller of Ohio Council 8, American Federation of State, County and Municipal Employees, AFL-CIO, at 6800 North High St., Worthington, Ohio 43085. The Union shall advise the Employer, in writing, of the amounts to be deducted.

Section 7.2 The payroll deduction shall be made by the Employer biweekly. If an Employee has insufficient pay or wages to satisfy the amount to be deducted, the Employer will make successive deductions until the amount to be deducted has been satisfied. Monies deducted pursuant to the provisions of this section shall be remitted to the Union within 30 days of their deduction. Each remittance shall be accompanied by the following alphabetical list:

- A. For Employees for which deductions were made, the name, job title, address, phone number, employee identification number, and the amount deducted.

Section 7.3 Any Employee who has submitted a dues checkoff authorization card may withdraw or revoke the same at the time and in the manner specified on the dues checkoff authorization card signed by the Employee or as amended by the union if the amendment specifies a shorter revocation period than one fifteen (15) day period tied to the end of the collective bargaining agreement. Copies of Employees' dues checkoff authorization cards are available from the Union upon request.

Section 7.4 The Union shall indemnify and hold harmless the Employer from any claims made against the Employer arising out of this article.

ARTICLE 8

NO DISCRIMINATION

Section 8.1 There shall be no discrimination by the Employer or the Union against any Employee in accordance with State and Federal law, and on the basis of such Employee's membership or non-membership in the Union.

Section 8.2 Words used in this Agreement in the masculine gender will be read and construed in the feminine gender as well, unless otherwise indicated.

ARTICLE 9
DISCIPLINE

Section 9.1 The tenure of every Employee subject to the terms and conditions of this Agreement shall be during good behavior and efficient service. No Employee shall be reduced in pay and position, suspended, removed or discharged except for grounds stated in this Agreement. The Employer may take disciplinary action against any Employee in the bargaining unit only for just cause. In addition to disciplinary action as set forth in this Article, the Employer may take this type of action for actions occurring while the Employee is on duty in any capacity, or off-duty representing him/herself as an Employee of the City of Montgomery in any way (implicitly or explicitly) or if the conduct impacts the Employee's ability to perform his/her job or be trusted.

Forms of disciplinary action are:

- A. Verbal warning (written record)
- B. Written reprimand
- C. Suspension without pay
- D. Reduction in classification or rank
- E. Discharge from employment

Section 9.2 Among other things, incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, absence without leave, or any conduct unbecoming an Employee or any other acts of misfeasance, malfeasance, or nonfeasance shall be cause for disciplinary action up to and including termination.

The following list is intended to provide employees with a general idea of the type behavior that may result in disciplinary action. This list is not meant to be all inclusive.

- A. Gross neglect of duty or refusal to comply with management's lawful instruction.
- B. Insubordination.
- C. Indecent conduct or conviction of a felony or of a misdemeanor while an employee of the City (excluding minor traffic offenses).
- D. Intentional falsification of personnel records, time reports or other City records.
- E. Indulging in offensive conduct or using offensive language.
- F. Unauthorized sleeping on duty.

- G. Being under the influence or in possession of intoxicants or illegal drugs, or misusing any prescription or non-prescription drug, while on duty.
- H. Deliberate or careless conduct endangering the safety of the Employee or other Employees including provoking of or instigating of a fight during working hours or on City premises.
- I. Inducing or attempting to induce any employee in the service of the City to commit an unlawful act or to act in violation of any City departmental official regulations, orders, or professional ethics.
- J. Accepting any fee, gift, or other valuable thing in the course of or in connection with work for personal use from any person or groups of persons when such a gift or other valuable thing is given in the hope or expectation of receiving a favor or better treatment than accorded other persons.
- K. Unauthorized use of City property, whether that property be vehicles, machinery, uniforms or office material.
- L. Discussing with unauthorized persons any confidential information gained through their employment with the City.
- M. Excessive tardiness, inattentiveness to work, failing to start work at a designated time, quitting work before proper time, or leaving Employer's premises during working hours without authorization from the Public Works Director or his/her designee.
- N. Using tobacco products in unauthorized areas.
- O. Violating a safety rule or safety practice. Failure to report an accident or to falsify reports concerning accidents.
- P. Failure to report to work without giving the supervisor, Public Works Director or his/her designee, notice of absence by the beginning of that scheduled work day, unless it is impossible to give such notice. Only emergency situations will be regarded as exceptions.
- Q. Vending, soliciting, or collecting contributions on the Employer's time.
- R. Unauthorized possession of items such as firearms, explosives, or other weapons on City property at any time.
- S. Willful or careless abuse, damage, or destruction of City property at any time.

Section 9.3 In issuing discipline, the City may take into account the nature of the violation, the Employee's record of discipline and the Employee's performance record.

Section 9.4 Any Employee charged with or under indictment for a felony who is not disciplined or discharged by the Employer, may be placed on unpaid leave of absence without pay until resolution of the court proceedings. An Employee may use accrued but unused vacation or holiday time during the leave. An Employee found guilty by the trial court of a felony shall be summarily discharged and shall have no recourse through the grievance or arbitration procedures. Where the charges are reduced to a misdemeanor or the Employee is found innocent of the charges, the Employee may be subject to discipline pursuant to the terms of this Article. The Employer may continue to pay the Employee's insurance premiums as provided for in this Agreement during the unpaid leave of absence.

Section 9.5 Any record of an oral reprimand shall, upon written request of the Employee, be removed from the personnel file after one year from the date of reprimand; provided that no intervening discipline has occurred.

Section 9.6 Any record of a written reprimand shall, upon written request of the Employee, be removed from the personnel file after three years from the date of the reprimand; provided that no intervening discipline has occurred.

ARTICLE 10
GRIEVANCE PROCEDURE

Section 10.1 The term “grievance” shall mean an allegation that there has been a breach, misinterpretation, or improper application of this Agreement. It is not intended that the grievance procedure be used to effect changes in the Articles of this Agreement or those matters which are controlled by the charter and ordinances of the City of Montgomery, the provisions of the Federal and/or State laws and/or by the United States or Ohio State constitution.

Section 10.2 All grievances must be presented at the proper step and time in progression in order to be considered at the next step. Grievances involving lost pay discipline (suspension, reduction in pay, removal or discharge) shall be initiated at Step 3 of the grievance procedure.

The aggrieved may withdraw a grievance at any point by submitting, in writing, a statement to that effect, or by permitting the time requirements at any step to lapse without further appeal.

Any grievance not answered by the Employer’s representatives within the stipulated time limits may be advanced by the Employee to the next step in the grievance procedure. Time limits set forth herein may only be extended upon mutual agreement. A grievance may be brought by any member of the bargaining unit. Where a group of bargaining unit Employees desire to file a grievance involving a situation affecting more than one member of the bargaining unit in a similar manner, one member selected by such group will process the grievance, and shall so indicate that the grievance is a group grievance.

Wherever used in this procedure, the word “day” shall mean calendar day. Whenever a time limit ends on a Saturday, Sunday, or a holiday, the end of the time limit shall run until the end of the next day which is not a Saturday, Sunday or holiday.

Section 10.3 A grievance must be submitted to the grievance procedure within seven (7) calendar days after an Employee knows or should have known the facts giving rise to the grievance, otherwise it will be considered not to have existed.

Section 10.4 All grievances must be submitted on a form agreed to by the parties and must contain the following information to be considered:

- A. Aggrieved Employee’s name and signature;
- B. Date, time, and location of grievance;
- C. Description of incident giving rise to the grievance;

- D. Date grievance was first discussed;
- E. Name of supervisor with whom grievance was first discussed;
- F. Date grievance was filed in writing;
- G. Article(s) and Section(s) of the Agreement alleged to have been violated; and
- H. Desired remedy to resolve grievance.

Section 10.5 Any grievant may, if he/she so desires, have an AFSCME representative accompany the grievant at any step or meeting provided for in this Article.

Section 10.6 It is the mutual desire of the Employer and the AFSCME to provide for prompt adjustment of grievances, with a minimum amount of interruption of the work schedules. Every responsible effort shall be made by the Employer and the AFSCME to effect the resolution of grievances at the earliest step possible. In furtherance of this objective, the following procedures shall be followed:

Step 1: Within the established time limits, the aggrieved Employee shall submit his/her written grievance to the Assistant Public Works Director. It shall be the responsibility of the Assistant Public Works Director or designee to investigate the matter and to provide a written response to the aggrieved Employee within seven (7) calendar days following his/her receipt of the grievance.

Step 2: If the grievance is not resolved in Step 1, the Employee may within seven (7) calendar days following the Step 1 reply, refer the grievance to the Public Works Director. The Public Works Director or designee shall have seven (7) calendar days in which to schedule a meeting, if he/she deems such necessary, with the grieved Employee. The Public Works Director or designee shall investigate and respond in writing to the grievance within seven (7) calendar days following the meeting date or seven (7) calendar days following receipt of the grievance, whichever is later.

Step 3: If the grievance is not resolved in Step 2, the Employee may refer the grievance to the City Manager or designee within seven (7) calendar days after receiving the Step 2 reply. The City Manager or designee has seven (7) calendar days in which to schedule a meeting with the aggrieved Employee. The City Manager or designee shall investigate and respond in writing to the grievant and/or appropriate representative within fourteen (14) calendar days following the meeting.

Step 4: A grievance unresolved at Step 3 may be submitted to arbitration upon request of AFSCME in accordance with the provisions of Section 7 of this Article hereinafter set forth.

Section 10.7 AFSCME, based upon the facts presented, has the right to decide whether to arbitrate a grievance. Within fourteen (14) calendar days from the date of the final answer on a grievance from Step 3, the AFSCME shall notify the Employer in writing of its intent to seek arbitration over an unresolved grievance. The AFSCME may withdraw its request to arbitrate at any time prior to the actual hearing. Any cancellation fee due the arbitrator shall be paid by the party or parties canceling the arbitration. Any grievance not submitted within the fourteen (14) calendar day period described above shall be deemed settled on the basis of the last answer by the Employer or his/her representative(s).

- A. The arbitrator shall be selected in the following manner: The parties shall jointly request of the Arbitration and Mediation Service (“AMS”) a panel list of nine (9) arbitrators from within 125 miles of Cincinnati, Ohio. AMS rules (which permit the parties to rank and strike arbitrators) shall apply to selection procedures and conduct of hearings. Either party may once reject the list and request from AMS another list. The parties may at any time mutually agree to an alternate arbitration service or method of selection of an arbitrator.
- B. If either party challenges the arbitrability of a grievance, it shall notify the other party of its challenge and intent to raise the issue at the arbitration hearing. At the hearing, the first question to be placed before the arbitrator is whether or not the issue is arbitrable and within his/her jurisdiction to decide. If the arbitrator determines the grievance is arbitrable, the grievance will be heard on its merits before the same arbitrator.
- C. The arbitrator shall not have the power to add to, subtract from, or modify any of the terms of this Agreement. Furthermore, in explanation of the Employer’s right to promulgate rules and regulations, general orders and standard operation procedures set forth herein in the Management Rights clause, the Union or grievant shall not have recourse through the grievance and arbitration procedure to challenge the reasonableness or appropriateness of the Employer’s existing or future rules and regulations, general orders or standard operating procedures; provided that the

Employer has given the Union or Employees the required notice and permits the Union, upon request, to meet and confer with respect to the proposed rule.

- D. This provision does not prevent an Employee disciplined by any such existing or future rule to grieve the application of that rule to his/her particular circumstances.
- E. The decision of the arbitrator shall be final or binding on the grievant, AFSCME and the Employer. The arbitrator shall be requested to issue his/her decision within thirty (30) calendar days after the conclusion of testimony and arguments and submission of final briefs.
- F. The fees and other costs for the services of the arbitrator, the cost of any proofs produced at the direction of the arbitrator, the fee of the arbitrator, and the cost of the hearing room, if any, shall be borne equally by the Employer and AFSCME. The fees and costs of any non-employee witnesses shall be borne by the party calling them. The fees of the court reporter shall be paid by the party asking for one, or split equally by the parties if both parties desire a court reporter or request a copy of any transcripts. Any bargaining unit member whose attendance is required for such hearing shall not lose pay or benefits to the extent such hearing hours are during normally scheduled working hours on the day of the hearing.

Section 10.8 Disciplinary actions of verbal warning (written record) and written reprimand may be appealed to Steps 1, 2 and 3 of the grievance procedure, but may not be appealed to Step 4.

Section 10.9 As this Agreement provides for final and binding arbitration of disciplinary action involving suspension without pay, reduction in classification or rank, and/or termination from employment, consistent with ORC 4117.10, neither the State Personnel Board of Review nor Civil Service Commission shall have jurisdiction to receive and determine any appeal relating to such disciplinary action. This Agreement and Article shall be the sole recourse for any dispute between the parties herein in regard to disciplinary matters.

ARTICLE 11

MISCELLANEOUS

Section 11.1 Nothing in this Agreement shall be construed or permitted to impede, prohibit or prevent the Employer from satisfying its obligations under the Americans With Disabilities Act (ADA) or the Family Medical Leave Act (FMLA). Furthermore, nothing in this Agreement shall limit, impede or prohibit the Employer from exercising available options offered or available to the Employer under the ADA and the FMLA and the development of policies consistent with this paragraph.

ARTICLE 12

LABOR MANAGEMENT

Section 12.1 Quarterly, if requested by either party or as otherwise agreed by the parties, Labor Management Meetings will be held between the City and the Union. Said committee may be composed of up to three (3) representatives of the City and three (3) representatives selected by the Union.

ARTICLE 13

DOCUMENTATION

Section 13.1 Upon request an employee shall receive a copy of any document that the City requires the Employee to sign other than sign-in sheets; provided the document is retained by and in the possession of the City.

ARTICLE 14

UNIFORMS

Section 14.1 Clothing. The Employer will provide uniform t-shirts or long sleeve shirts, trousers, shorts and sweat shirts for each Employee required to wear uniforms. Where uniforms are provided for Employees, the Employees must wear them properly at all times. The Employer has complete discretion regarding the uniforms and required safety attire and equipment. The uniforms will be cleaned and mended at the Employer's expense (except shirts and sweatshirts, which will be laundered by employees). Uniforms will be supplied to each Employee required to wear uniforms so that each Employee has one clean uniform each work day. Bibs and coats will be purchased every other year by January 31. These uniforms are provided by a uniform company with which the City contracts. Uniforms will be replaced on an as-needed basis. Upon termination of employment, uniforms must be promptly returned, and the cost of missing uniforms will be deducted from the Employee's final paycheck. Shorts may only be worn at the discretion of the Public Works Director or Designee between April 1 and November 1. Shorts may not be worn at any time an Employee is engaged in work that would be more safely completed by an Employee wearing long pants.

Section 14.2 Employees will be reimbursed up to \$250 annually for the purchase of boots. To receive reimbursement, an Employee must present proof of purchase, and the boots must meet quality, color, and safety standards as determined by the City in its sole discretion. Any variation from this standard must be pre-approved in writing by the Public Works Director. If a requisition to purchase boots is necessary, the City will process the requisition before January 31.

Section 14.3 Equipment, insignia, buttons, and other items not issued or required by the Employer may be utilized or worn only with the permission of the Public Works Director.

Section 14.4 When uniforms or equipment that are property of the Employer are damaged or lost through willful damage or through neglect by the Employee, the repair or replacement cost of such items shall be deducted from the pay of the responsible Employee. When such loss or damage occurs as the result of an incident that is beyond the reasonable control of an Employee, repair or replacement shall be made at the expense and discretion of the Employer.

Section 14.5 Where a bargaining unit employee supplies evidence that he/she sustained damage to personal property while performing the duties of his/her assigned work, provided that such damage was not the result of willful misuse or negligence on the part of the Employee, the Employer shall

reimburse the Employee for the cost of necessary repairs or replacement up to a maximum of one hundred dollars (\$100.00) per year, or, in the case of eyeglasses, the actual replacement of exactly the same eyeglass. The Employee shall present the damaged property for the Employer's inspection prior to the repair or replacement of the property. Repair or replacement of the property shall be at the Employer's option.

ARTICLE 15

WAGES AND COMPENSATION

Section 15.1 Employees will be paid in accordance with the City’s Bonus Incentive Plan. Any major changes made to the Bonus Incentive Plan shall be first submitted to the Union for its consideration before implementation.

Section 15.2 Effective on the first day of the first full pay period after September 1, 2020, the wage range for all bargaining unit Employees shall be as follows, which reflects a 2.75% increase:

	MINIMUM	MAXIMUM
Service Worker I:	\$21.78	\$27.21
Service Worker II	\$26.45	\$32.98

Section 15.3 Effective on the first day of the first full pay period after September 1, 2021, the wage range for all bargaining unit Employees shall be as follows, which reflects a 2.75% increase:

	MINIMUM	MAXIMUM
Service Worker I:	\$22.38	\$27.96
Service Worker II	\$27.18	\$33.89

Section 15.4 Effective on the first day of the first full pay period after September 1, 2022, the wage range for all bargaining unit Employees shall be as follows, which reflects a 2.75% increase:

	MINIMUM	MAXIMUM
Service Worker I:	\$23.00	\$28.73
Service Worker II	\$27.93	\$34.82

Section 15.5 This Bonus and Incentive Plan may include a merit bonus of up to two percent for those Employees who have reached the top of their established pay range.

Section 15.6 The Employer may determine the appropriate placement of new hires within the pay range established by this Agreement.

Section 15.7 Employees may only advance from Service Worker I to Service Worker II after obtaining a Class “A” Commercial Driver’s License and after working as Service Worker I for three years. The CDL requirement may be waived by the City Manager, in his or her sole discretion, based upon the needs of the City.

The full amount of the required contributions to the Ohio Public Employees Retirement System (“Plan”) shall be withheld from the gross pay (salary reduction method) of each person who is or becomes a contributing member of the Plan, which shall be paid to the Plan by the City of Montgomery. This salary reduction by the City of Montgomery is, and shall be designated as, Employee contributions and shall be in lieu of contributions to the Plan by each person. No person subject to this salary reduction shall have the option of choosing to receive the required contribution to the Plan directly instead of having it withheld and paid by the City of Montgomery or of being excluded from the withholding and remittance by the City.

The City of Montgomery shall, in reporting and making remittance to the Plan, report that the public Employee’s contribution for each person subject to this salary reduction has been made as provided by the statute.

The total salary for each Employee shall be the salary otherwise payable under this Agreement. Such total salary of each Employee shall be payable by the City in two parts: (a) deferred salary and (b) cash salary. An Employee’s deferred salary shall be equal to that percentage of that Employee’s total salary which is required from time to time by the retirement system to be paid as an Employee contribution by that Employee, and shall be paid by the City to the retirement system on behalf of that Employee as a salary reduction and in lieu of the Plan Employee contribution otherwise payable by that Employee. An Employee’s cash salary shall be equal to that Employee’s total salary less the amount of the pick-up for that Employee, and shall be payable, subject to applicable payroll deductions, to that Employee. The City shall compute and remit its Employer contributions to the Plan based upon an Employee’s total salary. The total salaries payable under this Agreement shall not be greater than the amounts it would have paid for those items had this provision not been in effect.

Section 15.8 Maintaining Certifications: Any Employee must maintain all certifications and licenses (including a valid State Driver License) that the Employee held when the Employee was hired or that the Employee obtained during employment. An Employee who fails to maintain certifications or licenses may receive discipline, up to and including demotion and termination.

ARTICLE 16
HOURS OF WORK AND OVERTIME

This Article is intended solely to define an Employee's expected hours of work. This section does not constitute a guarantee by the City that such hours or any overtime shall in fact be worked.

Section 16.1 So long as the overtime provisions of the Fair Labor Standards Act ("FLSA"), as amended, are applicable to state and local governments, the Employer shall pay overtime in accordance with existing rules and regulations applicable to the FLSA. Work performed in excess of forty (40) hours in any work week shall be compensated at the rate of time and one-half of the Employee's regular rate of pay, according to FLSA.

Section 16.2 Definition. The standard work week consists of five (5) days Monday through Friday that begin at 7:30 a.m. and ends at 4:00 p.m. During the standard work week, Employees will normally be scheduled to work 40 hours. Employees may take a one-half hour unpaid lunch break and two fifteen minute paid breaks. Changes in the hours of the regularly scheduled work day shall not be arbitrarily made by the Employer; however, in the event the Employer decides to change the hours, a minimum of three calendar days posted notice shall be provided to the Employees affected by such a change.

Section 16.3 Lunch Period and Breaks. Management will ensure that Employees will receive at least one-half hour lunch period during their regularly scheduled tour of duty, which generally begins at 11:00 a.m. Consistent with a normal work schedule, such periods shall begin within the five and one-half hour period following the start of the Employee's work day. If, in the opinion of the supervisor, it becomes necessary to postpone the lunch period, the regular work day may be shortened by the length of the normal lunch period. Lunch periods shall begin at the time the Employee ceases performing his or her assigned duties. The Employee is expected to be at his or her work assignment ready to work at the end of the lunch period. Travel or clean up time shall not extend the lunch period. At the discretion of the supervisor, crews may combine a break period with the lunch period to accommodate travel time or similar issues.

Reasonable time for breaks from work will be granted. This will normally consist of a total of two fifteen minute periods, one before and one after the lunch period as determined by the Public Works Director or his/her designee. Travel or clean up time shall not extend break periods. Smoking is not a reason for additional break time. An Employee who smokes will be expected to do

so in accordance with the City policy and not in a manner which causes the Employee to be away from his or her work assignment for periods in excess of breaks provided under this section. Employees shall also be dressed for work and begin work at the start of their designated shift.

Section 16.4 Assignment of Overtime. The Employer has the right to determine when the need for overtime exists and to require Employees to work overtime. For purposes of assignment of overtime, said work shall be defined as:

- A. Snow and ice control
- B. Miscellaneous and other emergency situations
- C. Scheduled overtime

The Employer shall establish an overtime rotation list with the names of employees who have volunteered for such work, based on classification, and the Employees on said list shall be ranked in order of seniority. This list can be adjusted by the Employer based upon the needs of the City so long as overtime opportunities are equalized at the next reasonable opportunity. The list shall be periodically updated or revised as needed. The Employer shall offer overtime to Employees on the applicable list in the order in which the employees' names appear ranked with the most senior employee at the top of the list. When an overtime need arises, the Employer shall contact the name of the employee next appearing after the last employee who accepted an overtime assignment on the list. If an employee declines to accept an offer of overtime, or fails to answer a telephone call, the employee will be deemed to have declined the overtime, and the Employer shall contact the next name on the overtime list. If no employee on the applicable list accepts the overtime, the Employer may assign it to the least senior employee on the relevant list or may assign the work to other Public Works employees outside the bargaining unit.

If the overtime work is of an emergency nature (as determined by the Employer), the Employer may offer the overtime to the work crew or employees performing the work at the close of the regular shift in lieu of the procedures set forth above. If no such employees accept the overtime, the procedures set forth above shall apply.

Section 16.5 No Pyramiding. There shall be no duplication or pyramiding in the computation of overtime or other premium wages. Nothing in this Agreement shall be construed to require the payment of overtime and other premium pay more than once for the same hours worked.

Section 16.6 Basis for Computing Overtime and Premium Pay. Overtime pay will be earned and computed consistent with the following:

- A. A full-time Employee will receive overtime compensation for all hours worked in excess of 40 hours per week. The overtime rate of pay will be one and one-half times the Employee's hourly pay rate.

Section 16.7 Overtime Authorization and Reporting Procedures: Employees shall have prior and proper authorization to work in excess of their normally scheduled shift. Overtime authorization shall be approved by the Public Works Director or designee. This includes but is not limited to special meetings, trainings, events and other activities relating to the Employee's duties at the City. Employees that work an authorized overtime period shall complete, validate, and submit an Overtime Reporting Form with their Time Sheet and Payroll record.

Section 16.8 Call-Out Pay: A "call out" occurs when an Employee is called to work and is expected to report for work within two (2) hours of the time of the call. Notwithstanding the provisions of any other paragraph in this Article, an Employee who works call-out time shall be paid for actual hours worked at the applicable rate from the time of reporting, but shall receive no less than three (3) hours pay at the appropriate rate of pay as set forth in this Article, except when the call-out time is adjacent to the beginning or end of the Employee's work day. Call-Outs for Employees must be approved by the Public Works Director or designee. Attendance at required meetings and/or special events of the City of Montgomery do not qualify as a "Call-Out" and will be paid at the rate of actual time incurred.

ARTICLE 17
COMPENSATORY TIME

Section 17.1 Upon application and approval by the Employee's supervisor, the City may grant compensatory time at a rate of one and one-half (1-1/2) hours for each hour of overtime worked in lieu of the payment of cash for overtime.

Section 17.2 Compensatory time is to be used in increments of no less than one (1) hour at any one time and is subject to prior approval by the Employee's supervisor. An employee requesting compensatory leave shall complete a leave request form at least 24 hours in advance of the requested leave.

Section 17.3 An Employee may accumulate up to forty (40) hours of unused compensatory time in a compensatory time bank. Once this limit is reached, the Employee either will be paid in cash for additional accrued overtime hours or else must use some compensatory time before any additional overtime hours may be accumulated.

Section 17.4 The City may choose to periodically cash out an employee's compensatory time at any time during his/her employment with the City. An Employee will be fully compensated for all unused compensatory time accumulated at the time employment terminates. The rate of compensation shall be at the regular rate of pay earned at the time of termination.

ARTICLE 18
PERSONAL DAYS

Section 18.1 Full-time Employees are eligible to take up to thirty-two (32) hours of paid personal leave during each calendar year.

Section 18.2 Personal days are to be used in units no less than two (2) hours at any one time and are subject to prior approval by the Employee's supervisor by completing a Leave Request form at least 24 hours in advance of the requested leave.

Section 18.3 During an Employee's first calendar year of employment, the earned personal days are prorated according to the number of days remaining in the calendar year, divided by 365, multiplied by the total personal leave available to the Employee's job classification, and rounded to the nearest half day.

Section 18.4 Personal days may not be carried over and accumulated from year to year. All unused personal time at year end will be canceled out and not paid.

Section 18.5 At the termination of employment any unused personal days will be canceled out and not paid.

Section 18.6 At retirement, any personal days remaining unused in the calendar year of retirement will be paid to the Employee.

ARTICLE 19

HOLIDAYS

Section 19.1 The following holidays shall be observed with pay:

New Years Day

Martin Luther King Day

Memorial Day

Independence Day

Labor Day

Thanksgiving Day

Day After Thanksgiving

Christmas Eve Day

Christmas Day

Section 19.2 Employees working a 40-hour per week schedule will receive the recognized holiday off in lieu of holiday pay, subject to the discretion of the Employer.

Section 19.3 Employees who are not available for duty on any of the above designated holidays due to unpaid leave, layoff, or disciplinary suspension, shall not be eligible for holiday pay for that holiday.

Section 19.4 In order to receive holiday pay, an Employee must work their scheduled shift before and their scheduled shift after the holiday, unless their absence from work is due to illness or injury, in which event a physician's statement will be required, or the Employee is granted time off by the Public Works Director or his/her designee for vacation or other approved leave.

ARTICLE 20

VACATION

Section 20.1 Full-time bargaining unit Employees who have completed one (1) or more years of service in the bargaining unit shall accrue vacation leave according to the following schedule:

COMPLETED YEARS OF SERVICE	VACATION BENEFIT
1-5	80 hours
6	88 hours
7	96 hours
8	104 hours
9	112 hours
10	120 hours
11	128 hours
12	136 hours
13	144 hours
14	152 hours
15 or more	160 hours

Vacation leave shall be accrued for each completed pay period at a rate proportional to the number of hours of vacation entitlement as defined in the table above. Vacation leave shall not accrue when an Employee is on any unpaid leave, in layoff status, or on disciplinary suspension.

Section 20.2 Vacation leave may be scheduled as follows:

- A. Employee may use vacation in not less than 4 hour increments.
- B. The Employer may refuse to grant vacation leave that is requested less than fourteen (14) days in advance.
- C. No more than two (2) Employees shall be scheduled for vacation during the same period. This limitation may be waived by the Public Works Director in his/her sole discretion.

Section 20.3 The maximum number of accrued but unused vacation days cannot exceed twice the Employee's annual vacation entitlement.

Section 20.4 All vacation requests must be made on the Montgomery "Employee Leave Request Form" and provided to the Public Works Director.

Section 20.5 Vacation selection will be based on rank seniority at Montgomery between January 1st and February 1st of each year. Beginning February 1st vacation selection will be determined by the date that the request is submitted. The Employee submitting his/her vacation request the earliest will be granted leave, as long as the request is otherwise in compliance with this Article.

Section 20.6 Notwithstanding Ohio Revised Code §9.44, an Employee shall not be permitted to transfer accumulated vacation leave credits from prior service at a previous place of employment with the State or any of its subdivisions.

ARTICLE 21
LEAVES OF ABSENCE

Section 21.1 Leave Without Pay. Employees may be granted the following types of unpaid leaves of absence:

A. Disability Leave. A physically or mentally incapacitated Employee may request a disability leave. A disability leave for a period not to exceed six (6) months may be granted when the disability continues beyond the accumulated sick leave rights and beyond the Employee's right to leave under the Family and Medical Leave Act ("FMLA"), as amended, provided the Employee furnishes satisfactory medical proof of such a disability along with his/her written request. Such medical proof of a disability must certify that Employee is likely to recover within six (6) months and must indicate that the Employee is one of the following:

1. Hospitalized or institutionalized;
2. On a period of convalescence following hospitalization or institutionalization authorized by a physician at the hospital or institution; or
3. Declared incapacitated for the performance of the duties of his/her position by a licensed physician.

It is the Employee's responsibility to request a disability leave since such disability leave is not granted automatically when the Employee's sick and FMLA leave has expired.

In order to maintain re-employment rights, the Employee must request to return prior to the conclusion of the disability leave. Upon an Employee's return from disability leave, replacements for workers on disability leave may be terminated by the Employer.

B. Employer Required Disability Leave. The Employer may require an Employee to be examined by a licensed physician, selected by the Employee from a list of three physicians submitted by the Employer, at the Employer's expense. An Employee found to be unable to physically perform the substantial duties of his/her position shall be placed on Disability Leave as described in Paragraph A above.

- C. Return to Work. To be eligible to return to work from a disability leave, the Employee shall furnish a statement by a qualified physician releasing the Employee as able to return to work. The Employer may also require the Employee to be examined by a licensed physician, selected by the Employer, at the Employer's expense. If the physician hired by the Employer and the Employee's physician are in disagreement regarding the ability of an Employee to return to his/her duties, the Employer's physician and Employee's physician will mutually select a third physician to resolve the disagreement as to the determination of return to duty. The cost of such evaluation/examination shall be borne equally by the parties. The decision of the third physician shall be binding upon the City, the Union, and the Employee.
- D. Leave of Absence. The Employer may grant an unpaid leave of absence to any Employee for personal reasons of the Employee. The maximum length for such leave is six (6) months, and such leave may not be renewed or extended. Failure of the Employer to grant an unpaid leave of absence shall not be subject to the grievance procedure.
1. The authorization of a leave of absence without pay is a matter of administrative discretion. The Employer will decide in each individual case if a leave of absence is to be granted.
 2. The granting of any leave of absence is subject to approval of the Employer. Except for emergencies, Employees shall advise the Employer 60 days prior to commencement of the desired leave so that the various departmental functions may proceed properly.
 3. Upon completion of a leave of absence, the Employee is to be returned to the position formerly occupied, or to the next available similar position if the Employee's former position is filled or no longer exists.
 4. An Employee may return to work before the scheduled expiration of leave as requested by the Employee and agreed to by the Employer. Failure of the Employer to grant a request for early termination of an approved leave of absence shall not be subject to the grievance procedure. If an Employee fails to return to work at the expiration of an approved leave of absence, the

Employee, absent extenuating circumstances, shall be removed from his/her position and shall not receive seniority time for the period of leave.

- E. Except as required by the Family and Medical Leave Act, as amended, no benefits or service credit shall be accrued by an Employee granted an unpaid leave of absence. At the Employee's option, an Employee granted a non-FMLA unpaid leave of absence may continue his or her coverage under the City's health insurance plan and other group insurance benefit plans, only if the Employee pays the full cost of such coverage.
- F. The Employer will comply with the Family Medical Leave Act, as amended.

Section 21.2 Leaves With Pay. Employees may be granted the following types of paid leaves of absence:

A. Court Leave

The Employer shall grant full pay where an Employee is summoned for jury duty. All compensation for such duty shall be reimbursed to the Employer unless such duty is performed totally outside of normal working hours. An Employee released from jury duty prior to the end of his/her scheduled work day shall report to work for the remaining hours. Employees will honor any subpoena issued to them, including those from Worker's Compensation, Unemployment Compensation and State Employment Relations Board hearings. The Employer will not pay Employees who appear in court for criminal or civil cases, when the case is being heard in connection with the Employee's personal matters, such as traffic court, divorce proceedings, custody, appearing as directed with juvenile, etc. These absences would be leave without pay, personal leave, or vacation at the discretion of the Employee, provided the Employee has available leave. An Employee shall request prior approval for court leave, in order for such leave to be granted.

B. Military Leave

Employees will receive military leave according to State and Federal law.

ARTICLE 22
SICK LEAVE

Section 22.1 Full-time bargaining unit Employees shall accrue sick leave at the rate of 3.692 hours for each fourteen day pay period to a maximum accrual of 96 hours in any calendar year. Sick leave shall accrue while an Employee is on duty and on vacation leave, but shall only accrue during the first 80 consecutive hours while an Employee is on sick leave. Sick leave accrual shall cease for any sick leave exceeding 80 hours. Sick leave shall not accrue while an Employee is on any unpaid leave, on layoff, on disciplinary suspension, or in overtime status.

Section 22.2 Sick leave shall be granted to an Employee, upon approval by the Employer or his/her designee, for the following reasons:

- A. Illness or injury of the Employee when such illness or injury prohibits the Employee from performing the normal duties of his/her work assignment.
- B. Illness or injury of a member of the Employee's Immediate Family where the Employee's presence is reasonably necessary for the health and welfare of the affected family member. Sick leave usage for this purpose shall be limited to 24 hours per incident.
- C. Sick leave may be used to attend the funeral of a member of the Employee's Immediate Family. Such usage shall be limited to 24 hours, including the date of the funeral.
- D. Medical, optical, dental, or other appointments with a licensed medical practitioner when such appointments cannot be scheduled during non-work time.
- E. Exposure of the Employee to a contagious disease which could be communicated to and jeopardize the health of other Employees. Use of sick leave for this purpose may require the confirmation of necessity by a licensed medical practitioner and the Employer.
- F. Pregnancy, childbirth, and related medical conditions, but only to the extent the Employee is rendered unable to work by reason of such condition.

"Immediate Family" as used in this article shall be limited to mother, father, son, daughter, spouse, brother, sister, grandparent, grandchild, or a legal guardian or other person who stands in the place of a parent (in loco parentis). In the case of death, mother-in-law, father-in-law, brother-in-

law, sister-in-law or a spouse's sibling's spouse, sick leave usage is permitted for a maximum of 24 hours. In addition, the term Immediate Family for the purpose of this Article can include any aunt, uncle, nephew or niece who was a permanent resident of the Employee's household at the time of their death.

Section 22.3 When an Employee is unable to report to work due to illness or injury, he/she shall notify his/her immediate supervisor or other designated person as soon as possible, but no less than one hour before the time he/she is scheduled to report to work, unless extenuating circumstances prohibit. The Employee is not permitted to leave messages on any voicemail or e-mail system in lieu of contacting the supervisor directly. Employees are responsible for contacting the Supervisor on each day of absence in accordance with this section unless the Employee is hospitalized or has presented a written statement from a qualified physician specifying the anticipated date of return, or unless other arrangements are made with the Public Works Director or his/her designee. Failure to provide proper notification may result in denial of sick leave for the period of absence and/or disciplinary action. An Employee who is absent from duty without leave or without notice to his or her supervisor of the reason for such absence will be subject to discipline pursuant to this Agreement.

Section 22.4 Upon return to work, an Employee shall complete and sign an application for sick leave use on a form provided by the Employer to justify the use of sick leave.

Section 22.5 Sick leave usage, when approved, shall be charged in a minimum of one hour increments. In order to receive pay for sick leave usage, an Employee must comply with all departmental rules and regulations governing application and use. Falsification of an application for sick leave or a medical practitioner's statement shall be grounds for disciplinary action, including termination. The Employer maintains the right to investigate any request for sick leave use and any excessive abuse or use of sick leave. The Employer also maintains the right to have any Employee examined by a licensed medical practitioner selected and paid by the Employer to verify the proper use of sick leave. The Employer may deny the payment of sick leave if an investigation indicates that the absence was not within the provisions of or the spirit of this Article. Denial of sick leave payment shall not preclude the Employer from implementing disciplinary action. Denial of sick leave is not subject to the grievance or arbitration procedures of this Agreement.

The Employer will comply with the Family and Medical Leave Act, as amended.

Section 22.6 All accrued but unused sick leave for each bargaining unit Employee as of September 1, 2008 that was 960 hours or less, plus all sick leave hours accrued after the effective date of this Agreement shall be known as “the sick leave bank.” The policies concerning the sick leave bank shall be as follows:

- A. The maximum number of hours that any Employee can accrue in the sick leave bank is 960 hours. All sick leave hours earned in excess of 960 hours shall not be accumulated in the sick leave bank and shall be lost, subject to subsection B below.
- B. When the number of accrued but unused sick leave hours in the sick leave bank reaches 960 hours, the Employee may request to receive a cash conversion of all hours in excess of 864 hours at a rate of one hour pay for each one and one-half hours in excess of 864 hours. Failure of an Employee to exercise this option shall result in all hours earned in excess of 960 hours to be lost.
- C. An Employee with twenty or more years of service with the Employer in a bargaining unit position who retires from active service with the Employer, shall be paid for 50% of the value of all accrued but unused hours in the sick leave bank at the rate of pay on the date of retirement. An Employee with ten through nineteen years of service with the Employer in a bargaining unit position who retires from active service with the Employer, shall be paid for 33-1/3% of the value of all accrued but unused hours in the sick leave bank at the rate of pay that is in effect as of the date of retirement.

Section 22.7 Exhaustion of Leave.

Upon exhaustion of accrued sick leave, the Employee may be permitted to use accrued vacation leave. A physically or mentally incapacitated Employee who has exhausted all leave may request a disability leave in accordance with Article 21 of this Agreement.

Section 22.8 Disability Separation. If the Employee presents a physician's statement that the disability is not likely to exceed six (6) months, a disability leave may be requested in accordance with the provisions of Article 21 of this Agreement. If the Employee's physician cannot certify likely recovery within six (6) months, or if the Employee remains unable to return to work after the expiration of the six (6) months leave, the Employee shall be placed on disability separation. The Employee may request reinstatement to his or her prior classification or any lower classification in

the same classification series within a period of six (6) months from the date the Employee was placed on disability separation or unpaid sick leave, whichever was earlier.

An Employee requesting reinstatement from a disability separation may be required to submit to an examination by an Employer selected occupational physician or a physician specializing in the Employee's area of alleged disability. The examination must show that the Employee has recovered from the disability and is able to perform all of the material duties of the position to which reinstatement is sought. The Employer shall pay the cost of the examination.

In the event there is no vacancy in the Employee's prior classification or a lower classification in the same classification series, the Employee may displace only an Employee with less seniority. If no Employee has less seniority, the Employee requesting reinstatement shall be laid off. Any Employee displaced by an Employee returning from disability separation shall be subject to the layoff and recall provisions of this Agreement.

ARTICLE 23

OCCUPATIONAL INJURY LEAVE (OIL)

Section 23.1 Each full-time bargaining unit Employee shall be entitled to occupational injury leave (OIL) to a maximum of seventy-five (75) calendar days for each qualifying injury. OIL may be granted to an Employee (a) who suffers a workers' compensation eligible on-the-job injury or occupational disease from an identifiable incident that occurred in the course of performance of his or her official duties within the scope of his or her employment with the Employer; and (b) where such injury directly results from a hazard particular to the service worker position; and (c) who is off work due to said injury for a continuous period of seven (7) calendar days. The City may decide to waive the requirement to use sick leave during the initial seven (7) calendar day period, but a City decision not to waive the requirement to use sick leave shall not be subject to the grievance procedure under this contract. Payment of OIL is conditioned upon the Employee's submission of supporting medical evidence to establish the Employee's inability to work. An Employee who is receiving OIL benefits will be required to use Family and Medical leave (if eligible) concurrently with OIL. If the City compensates the Employee in a manner consistent with salary continuation after the expiration of Occupational Injury Leave, such leave will be chargeable against accumulated sick leave, personal leave, compensatory time, and vacation leave.

Section 23.2

- A. Injuries covered by this benefit will be limited to those incurred because of hazardous (1) Work on or near a road; (2) Tree maintenance; (3) Work involving shock hazards; (4) Heavy machinery work; (5) Work in confined spaces; (6) Snow operations; or (7) Other similarly hazardous events beyond the control of the employee.
- B. In the event of a service connected injury incurred in the active discharge of duty particular to public service workers described above and beyond the control of the Employee, and not characteristic of other occupations, which injury is not the result of negligence, recklessness, self-infliction, intoxication, or being under the influence of illegal drugs or legal drugs not used in compliance with a prescription or "horseplay" by the Employee, the Employer shall consider a request for OIL from an eligible Employee and if approved, grant full pay for a period not to exceed seventy-five (75) calendar days. This time shall not be charged to the Employee's sick time. No extensions of this OIL benefit are permitted.

Section 23.3 An Employee applying for OIL shall, in compliance with the rules of the Ohio Bureau of Workers' Compensation, sign a medical release authorizing the Employer or its designee to request all medical information related to the alleged injury, and/or treatment for the body part(s) alleged to be injured. The Employee is also required to complete a provider list identifying any and all physicians, medical facilities, and pharmacies who have treated or filled prescriptions for the Employee for the alleged injury or who have treated the Employee for the same body part in the past. The Employee may be required to submit to an exam by a licensed medical practitioner selected and paid for by the Employer.

Section 23.4 Any Employee claiming an occupational injury under this Article shall file an injury claim with the Ohio Bureau of Workers' Compensation (OBWC) as soon as possible. The Employee is required to complete an internal accident report within 24 hours or as soon as physically possible. An Employee who is receiving OIL leave will not request or be entitled to receive Temporary Total Disability (TTD) Compensation from the Ohio Bureau of Workers' Compensation for the same period for which they have received OIL benefits. An Employee eligible for OIL will receive said benefits after the first seven (7) calendar days. An Employee can use eligible accrued paid leave for the initial time off work before he or she is eligible for OIL. If the BWC/Industrial Commission ultimately allows the claim, the eligible Employee's OIL benefits will be retroactively granted to the first day of absence, and he or she will be credited the initial sick or vacation time used. In the event the claim is ultimately denied by the BWC/IC, the Employee will revert back to sick leave status and will be charged sick leave or vacation time for any period he or she previously received OIL. For any period during which the Employee is receiving OIL, the Employee shall remit said payments back to the OBWC for the period during which the Employee received full pay from the Employer while on OIL.

Section 23.5 It is understood and agreed that the Employee and Employer will complete salary continuation forms for the period for which OIL is being paid. Said forms will be submitted to the Ohio BWC. OIL benefits are considered wages in lieu of compensation. After OIL benefits have been exhausted, the Employee must continue to accept salary continuation if the City chooses to maintain salary continuation.

Section 23.6 Prior to determining an Employee's eligibility for OIL, the Employer will determine whether transitional work (within the City) or a modified duty off site (MDOS) is available. If

restrictions are provided by the physician of record (POR), the Employer will determine whether there are any assignments within the City that the Employee can perform within his or her restrictions. If there are no job assignments within the City that are within the Employee's restrictions, the Employer or its designee will determine whether there is MDOS within the Employee's restrictions. It is strictly the management right of the Employer to determine if transitional work within the restrictions is available within the City. If the POR, after communicating within the Employer or its designee about the availability of transitional work, has not provided restrictions, and the Employee is certified as totally disabled, the Employer will adjudicate the request for OIL.

Section 23.7 No entitlement to OIL shall arise from a personal injury sustained while an Employee is engaged in private employment of any nature whether or not such private employment is related to the work conducted by the Employee for the City, and whether or not such private employment was secured through the City of Montgomery.

Section 23.8 Before an Employee on injury leave will be permitted to return to his or her former position of employment, he or she shall submit to the Public Works Director a physician's statement and any other required documentation concerning the injury, demonstrating his physical ability to satisfactorily perform all the duties of his position. Additionally, the Public Works Director may require the Employee to submit to an examination by a physician selected by the City, at the City's expense, if there is any question about the Employee's ability to return to full duty.

ARTICLE 24

INSURANCE

Section 24.1 The Employer shall make available to all bargaining unit Employees comprehensive major medical, hospitalization, health care, and dental insurance. If the Employer determines that it is necessary to change insurance carriers, the Employer agrees to meet with the Union prior to implementing the change in order to negotiate the impact of any proposed changes. A change in third party administrators (to administer the City's plan) does not constitute a change in carrier.

Section 24.2 For the term of this Agreement, the Employer shall pay the monthly cost of providing insurance as listed in Section 1 above to the maximum cost per month as listed below. If the cost to the Employer for providing such insurance exceeds the maximum amount per month as listed below, fifty percent (50%) of the cost that is in excess of the maximum shall be paid by the Employer and

fifty percent (50%) of the cost that is in excess of the maximum shall be paid by the Employee. Insurance cost payments made by the employee shall be by payroll deduction.

Medical Maximum Per Month – Family Plan

Effective October 1, 2020:	\$1,483.81
Effective October 1, 2021:	\$1,572.84
Effective October 1, 2022:	\$1,667.21

Medical Maximum Per Month – Employee and Spouse

Effective October 1, 2020:	\$1,077.99
Effective October 1, 2021:	\$1,142.67
Effective October 1, 2022:	\$1,211.23

Medical Maximum Per Month – Employee and Child

Effective October 1, 2020:	\$1,077.99
Effective October 1, 2021:	\$1,142.67
Effective October 1, 2022:	\$1,211.23

Medical Maximum Per Month – Single Plan

Effective October 1, 2020:	\$539.24
Effective October 1, 2021:	\$571.59
Effective October 1, 2022:	\$605.89

Dental Maximum Per Month – Family Plan and Single Plan*

Effective October 1, 2020:	\$187.00
Effective October 1, 2021:	\$192.61
Effective October 1, 2022:	\$198.39

*These effective dates are intended to be consistent with the plan years. If the plan year changes, the effective dates will be changed accordingly.

Section 24.3 If the Employer determines that it is necessary to change insurance coverages and/or if the anticipated cost of insurance coverages as they exist or as proposed to exist is to exceed the cap set forth in Section 2 above, then these issues shall be referred to the Employee/Management Health and Benefits Plan Committee for review and recommendation to the Employer. The committee shall be comprised of five (5) members, one of whom shall be appointed by the Union, one of whom shall be appointed by the Police Department, one of whom shall be appointed by the Fire Department, and one of whom shall be appointed by the administrative staff employees. The fifth member of the

committee shall be appointed by the City Manager. The committee shall have the authority to recommend a change in either the level of or provider for health care benefits, which include comprehensive major medical, hospitalization or health care insurance, and dental benefits provided by the self-funded program. The committee shall have the authority to continue the current plan benefits at the cost of the employees if the committee determines that such health care benefits at such cost are in the best interests of the employees. The committee shall not have the authority to modify the ceiling limits on Employer paid health care costs. A majority of the committee shall constitute a quorum and it may take action or make recommendations only by a consensus vote of its committee members. If the committee is unable to reach consensus after exhausting all efforts to do so, the recommendation shall be made by a majority vote of the committee members.

Section 24.4 The Employer shall provide, at no cost to the Employee, term life insurance coverage on each Employee in an amount equal to the Employee's annual salary, rounded off to the nearest one thousand dollars (\$1,000.00).

Section 24.5 A difference between any employee (or his/her beneficiary) and the insurance carrier(s) or the processor of claims shall not be subject to the grievance procedure provided for in the Agreement between the Employer and the Union.

The failure of any insurance carrier(s) to provide any benefit for which it has contracted shall result in no liability to the Employer or to the Union; nor shall such failure be considered a breach by the Employer or the Union of any obligation undertaken under this or any other agreement. Nothing in this Agreement, however, shall be construed to relieve any insurance carrier from any liability it may have to the Employer, Union, bargaining unit employee or beneficiary of any bargaining unit employee.

ARTICLE 25

DRUG FREE WORK PLACE

Section 25.1 The Union agrees with and supports the City's drug testing program and is committed to ensuring a safe, drug free workplace. To achieve that goal, the Union hereby agrees to adhere to a drug testing policy in place at the ratification of this Agreement or that is developed thereafter consistent with the CDL regulations and the Ohio Bureau of Workers Compensation guidelines that permit the highest discount to the City. Implementation of a drug testing policy or any major changes to the City's drug testing program shall be first submitted to the Union for its consideration prior to such implementation or change.

ARTICLE 26

BULLETIN BOARD

Section 26.1 Bulletin Board. The City will provide a bulletin board at the City Public Works Department Building for use by the Union and bargaining unit Employees. The City may post notices on the board of matters relating to vacancies within the City. The Union may post on the board notices relating to recreational and social events applicable to bargaining unit Employees; elections or election results; general membership meetings and other related business meetings; general Union business of interest to bargaining unit Employees. The Employer may remove any notice posted that attacks another employee, contains derogatory attacks upon the Employer or another organization, or contains comments regarding a candidate for public or union office.

ARTICLE 27

MODIFICATION, SEPARABILITY AND CONFLICT OF LAWS

Section 27.1 Unless otherwise specifically provided herein, the provisions of this Agreement shall be conclusive as to all bargainable matters relating to wages, hours of work, and working conditions. Therefore, the Employer and the Union for the term of this Agreement, each agree that the other shall not be obligated to bargain collectively with respect to any subject matter referred to by the Agreement unless the Employer and the Union mutually agree to alter, amend, supplement, enlarge, or modify any of its provisions.

Section 27.2 If any provision of this Agreement is found to be illegal or unenforceable by a court of competent jurisdiction, all other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

Section 27.3 The parties agree that this Agreement will be the sole and exclusive recourse available to Employees and the parties hereto.

Section 27.4 All sections of this Agreement that are inconsistent with Ohio law are intended to supersede Ohio law, in accordance with Chapter 4117 of the Ohio Revised Code. The parties agree that some sections of the Agreement may specifically identify certain Ohio laws that are superseded and others may not. If a section does not specifically indicate that Ohio law is superseded, that section shall nevertheless be interpreted to supersede Ohio law.

Section 27.5 In the event of invalidation of any Article or Section, as described in this Agreement, the parties agree to meet, if requested in writing, within thirty (30) days of such request for the purpose of renegotiating said Article or Section by good faith negotiations up to and through the impasse procedure as provided under Ohio Revised Code § 4117.

ARTICLE 28

SENIORITY

Section 28.1 **Definition:** Seniority shall be defined as the length of continuous service measured in years, months and days that an Employee has accumulated as a Full-time Employee in the service of the City of Montgomery.

Section 28.2 **Accrual:**

- A. An Employee's seniority shall commence after the completion of the probationary period and shall be retroactive to the first day the Employee reported for work as a full-time Employee.
- B. Seniority shall accrue during a continuous authorized leave of absence without pay up to 6 months or for the period of an approved maternity leave, if the Employee (1) returns to work immediately following the expiration of such leave of absence or maternity leave; if the Employee is recalled into employment; and during a sick leave of up to 12 months; (2) is laid off for 12 months or less and is recalled to employment; or (3) is on sick leave for up to 12 months.

Section 28.3 **Loss of Seniority:** An Employee's seniority shall be lost when he or she:

- A. terminates voluntarily;
- B. is discharged for cause;
- C. exceeds an official leave of absence;
- D. is laid off for a period of more than 12 months;
- E. fails to notify the Employer of his/her intent to return to work on a recall from layoff, within five (5) days after the Employer has sent notice to him/her to return by letter or telegram with a copy to the Union to the last address furnished to the Employer by the Employee. It shall be the responsibility of the Employee to advise the Employer of his/her current address.

Section 28.4 **Application:** Seniority shall apply in layoffs and recalls and for scheduling of vacations.

ARTICLE 29

SAFETY OF EQUIPMENT

Section 29.1 If an Employee feels the equipment assigned for his/her use is not suitable for use, the Employee shall immediately report it to his/her superior for a determination by supervisor of whether or not it should be used.

Section 29.2 All Employees shall report unsafe equipment to the Director of Public Works in writing and the Employee shall receive a copy of this report for his/her records.

Section 29.3 All employees are responsible, at the end of any given workday, for cleaning equipment used and reporting any defect found during the use of such equipment.

Section 29.4 The City may provide safety training for all Public Works' Employees on an annual basis in the discretion of the Employer.

ARTICLE 30

LAYOFF AND RECALL

Section 30.1 When the Employer determines that a long-term layoff is necessary, they shall notify the affected Employee(s) no less than fourteen (14) calendar days in advance of the effective date of the layoff. Employees will be notified of the Employer's decision to implement any short-term layoff, lasting seven (7) calendar days or less, in which case the Employer shall notify the affected Employee as soon as possible.

Section 30.2 Employees who are laid off shall be placed on a recall list for a period of three hundred sixty five (365) calendar days. If there is a recall, Employees who are still on the recall list shall be recalled, in the inverse order of their layoff provided they are presently qualified to perform the work in the classification to which they are recalled. Any recalled Employee requiring additional training to meet new position qualifications in existence at the time of recall must satisfactorily complete the additional training requirements within twelve (12) months of the recall.

Section 30.3 Notice of recall shall be sent to the Employee by certified mail or hand delivered to the Employee's last known residence. The Employer shall be deemed to have fulfilled its obligations by mailing the recall notice by certified mail, return receipt requested, to the last mailing address provided in writing by the Employee.

Section 30.4 The recalled Employee shall have five (5) calendar days following the date of receipt or attempted delivery of the recall notice to notify the Employer of his/her intention to return to work and shall have fourteen (14) calendar days following the receipt or attempted delivery of the recall notice in which to report for duty, unless a different date for returning to work is otherwise specified in the notice.

Section 30.5 An Employee who is laid off in excess of 365 calendar days shall be paid for all accrued but unused vacation leave or any other accrued paid leave that would be payable upon termination.

ARTICLE 31

WAIVER IN CASE OF EMERGENCY.

Section 31.1 In cases of emergency, such as acts of God or civil disorder, declared by the President of the United States, the Governor of the State of Ohio, the Hamilton County Sheriff, the Mayor, or the City Manager of the City of Montgomery or Federal or State Legislature, the following conditions of this Agreement may be temporarily suspended by the Employer:

- A. time limits for the processing of grievances; and,
- B. all work rules and/or agreements and practices relating to the assignment of Employees.

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

ARTICLE 32

LONGEVITY

Section 32.1 All bargaining unit members shall be compensated with an annual longevity pay bonus upon the completion of each year of service. The longevity bonus will be computed upon the bargaining unit member's length of service with the City of Montgomery. The amount of the bonus shall correspond to the following schedule and will be added to the employee's base hourly rate:

<u>Number of Years of Completed Service</u>	<u>Annual Pay Supplement</u>
0-4	0.00
5	.17
6	.18
7	.19
8	.20
9	.22
10	.23
11	.24
12	.25
13	.26
14	.28
15	.29
16	.30
17	.31
18	.32
19	.34
20	.35
21	.36
22	.37
23	.38
24	.40
25	.41
26	.42
27	.43
28	.44
29	.45
30	.46

Section 32.2 Longevity pay shall be paid on the first pay period following the Employee's anniversary date.

ARTICLE 33

CONTINUING EDUCATION/TUITION REIMBURSEMENT

Section 33.1 Full time employees who have completed their Probationary Period are eligible to be reimbursed for all or part of the tuition or registration costs for a related course or training using the following criteria:

- A. Courses must be pre-approved by the Public Works Director and City Manager.
- B. The course must be related to the employee's job, as determined by the City, and offered by an approved educational institution. Post graduate (Master and Doctoral) work is not eligible for reimbursement.
- C. If an Employee wants to take a job-relevant course, the Employee must let the Public Works Director know the number, cost and relevance of the course(s) in time to include such training/educational reimbursement in the City budget. Thus an Employee must submit his or her request in June or July for coursework in the following fiscal year.
- D. Funds will be available for Employees who make such requests on a first come, first served basis, and requests are subject to funding availability.
- E. The amount of course reimbursement is based on the final grade you receive for the course as follows:
 - A = 100%
 - B = 80%
 - C = 60%
 - Less than C = 0%

 - Pass = 50%
 - Fail = 0%
- F. If an Employee's employment with the City terminates for any reason within one year after completing the course, the Employee must agree and hereby agrees to pay the City back 50% of the amount reimbursed, which will be withheld from the Employee's final pay check.

- G. If an Employee is eligible to receive educational benefits from other sources, such as the Veterans Administration, the City will not reimburse the employee's educational expenses.

Section 33.2 All educational tuition reimbursement shall be directly related to the Employee's position with the City. The Public Works Director shall make the determination as to the appropriateness of the training to the employee's position, and the availability of funds within the departmental operating budget for tuition reimbursement.

Section 33.3 Procedure

- A. The employee must notify the Public Works Director by June/July of the year before taking a course in order to be considered for educational assistance.
- B. The employee must complete a Tuition Refund Application. This form must be submitted to the Public Works Director and City Manager in advance of registering for the course.
- C. Once the course is completed, the employee must submit the approved tuition refund application with all necessary documentation to the finance department for reimbursement.

ARTICLE 34

P.E.O.P.L.E. DEDUCTION \forall CREDIT

Section 34.1 The Employer agrees to permit the deductions and practices in this Article to the extent that they do not become burdensome on the City's administration. The Employer, in its sole discretion, may discontinue participation in and eliminate any obligations it may have according to this Article by providing a 30-day notice to the Union President.

Section 34.2 All bargaining unit employees shall have P.E.O.P.L.E. donations deducted from their paycheck upon request of said employee(s). The requested amount deducted shall be transmitted in the same manner to AFSCME Ohio Council 8 as the membership dues deduction, except by separate check.

Section 34.3 All bargaining unit employees may join a credit union of their choice, and the City shall deduct requested amounts and shall transmit said amounts to the credit union of the employee's choice.

ARTICLE 35

DURATION

Section 35.1 This Agreement shall be effective as of midnight on the 1st day of September, 2020 and shall remain in full force and effect until midnight on the 31st day of August, 2023.

Section 35.2 If either party desires to modify or amend this Agreement, it shall give written notice of such intent no earlier than 120 calendar days prior to the expiration date of this Agreement, and no later than 60 calendar days prior to the expiration date of this Agreement. Such notice shall be via certified mail with return receipt requested or a date and time stamped letter of intent.

Section 35.3 The parties acknowledge that during the negotiations, which resulted in this Agreement, each had the unlimited right to make demands and proposals on any subject matter not removed by law from the area of collective bargaining. In addition the parties acknowledge that the entire understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement. The provisions of this Agreement supersede any prior agreement and constitute the entire Agreement between the Employer and Union and all prior agreements, either oral or written are hereby canceled.

IN WITNESS WHEREOF, the parties hereto have subscribed their names on this ____ day of _____, 2020.

FOR THE UNION

FOR THE CITY:

Tony Brothers, Negotiating Team

Brian K. Riblet, City Manager

Scott Schulte, Negotiating Team

Julia E. Prickett, Human Resources Manager

Rebecca Frankenhoff, AFSCME
Representative

Gary Heitkamp, Public Works Director

S. Mike Rogers, Public Works Supervisor

W. Joseph Scholler, Special Labor Counsel

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