

C-227

COLLECTIVE BARGAINING AGREEMENT

BETWEEN

CITY OF MISSOULA

AND

THE MONTANA FEDERATION OF PUBLIC EMPLOYEES (MFPE)

MISSOULA WASTERWATER DIVISION CHEMISTS UNIT

JULY 1, 2019 – JUNE 30, 2023

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THIS COLLECTIVE BARGAINING AGREEMENT, made and entered into this 4th day of February 2020, by the MONTANA FEDERATION OF PUBLIC EMPLOYEES Wastewater Division Chemists Unit (hereinafter referred to as the "Federation") and the CITY OF MISSOULA (hereinafter referred to as the "Employer"), has as its purpose the promotion of harmonious relations between the Federation and the Employer; the establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, and other conditions of employment.

### **ARTICLE 1-RECOGNITION**

The Employer hereby recognizes the Federation as the exclusive bargaining representative for City of Missoula Wastewater Division Chemist employees but excluding the Superintendent, Treatment, Collection and Lab/pretreatment supervisors, Clerical, Work Study, or Student Intern Employees and seasonal employees.

### **ARTICLE 2-MANAGEMENT RIGHTS**

Any management rights not specifically relinquished herein shall be retained by the Employer. Management rights retained by the Employer shall include, but not be limited to those management rights established in Montana state law pursuant to Section 39-31-303, M.C.A. The rights established pursuant to Section 39-31-303, M.C.A., are as follows:

Public employees and their representatives shall recognize the prerogatives of public employers to operate and manage their affairs in such areas as, but not limited to:

- (1) direct employees;
- (2) hire, promote, transfer, assign, and retain employees;
- (3) relieve employees from duties because of lack of work or funds, or under conditions where continuation of such work is inefficient and non-productive;
- (4) maintain the efficiency of government operations;
- (5) determine the methods, means, job classifications, and personnel by which government operations are to be conducted;
- (6) take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;
- (7) establish the methods and processes by which work is performed.

### **ARTICLE 3-FEDERATION SECURITY**

Section 1. Employees are not required to join the Federation. Upon receipt of written authorization from an employee, the Employer agrees to deduct the regular monthly Federation dues of such employee from the employee's pay and remit such deduction to the Federation. The Federation shall notify the Employer in writing of any change in the amount of such regular membership dues to be deducted. Such designation by an employee shall be effective until specifically revoked in writing at any time by the individual employee in accordance with the Federation withdrawal policy.

Section 2. The Federation agrees to indemnify, and hold the Employer harmless against any and all

claims, suits, orders or judgments brought or issued against the City as a result of any action taken or not taken by the City under the provisions of this Article.

#### **ARTICLE 4-FEDERATION RIGHTS**

**Section 1. Nondiscrimination** No employee member of the Federation shall be discharged or discriminated against for upholding or asserting rights established pursuant to this Collective Bargaining Agreement.

**Section 2. Visits by Federation representatives** The Employer agrees that staff representatives of the Federation shall be permitted to come on the premises of the City Wastewater Division facility for the purpose of investigating and discussing grievances if the Federation representative first obtains a mutually agreeable time with the City of Missoula Wastewater Division Superintendent or their designated representative, so long as the visit by the Federation representative does not, in any way, interfere with the efficient and normal operation of the Wastewater Division's facilities and does not last any longer than one-half (1/2) hour on any individual work day.

**Section 3. Employee Federation activities** The Employer agrees that one City employee Federation steward may investigate and discuss grievances at the City of Missoula Wastewater Division facility provided that the investigation and discussion does not, in any way, interfere with the efficient and normal operation of the Wastewater Division's facilities and does not last any longer than fifteen (15) minutes on any given individual workday.

**Section 4. Employee at bargaining table** The Employer agrees that one City employee who is a member of the Federation may have leave-with-pay to attend actual negotiating sessions with regard to collective bargaining agreements with the Employer, so long as the presence of the employee at the bargaining table does not require the City to provide a substitute worker at the job site for the employee who is attending collective bargaining negotiation sessions.

**Section 5. Solicitation** The Federation agrees that, except as set forth herein the Federation members shall not solicit membership in Federation activities during working hours.

**Section 6. Posting Place** The Federation shall be granted space on bulletin boards provided by the Employer, in order to post Federation material.

**Section 7. Personnel Files** Employees shall have the right to inspect their personnel files with Employer's Human Resources Department employees and shall be provided a copy of any material in their personnel files upon request. The first time that a request is made for a copy of a particular item in the employee's personnel file, the copy shall be made at City expense, if any additional copies are ever made of that item the employee shall pay the City the copying rate then in effect for those additional copies.

**Section 8. Copies of the Agreement** The Employer shall prepare and make available one (1) copy of this Agreement to the bargaining agent and one (1) copy to the Federation employee shop steward for use by the employees in the bargaining unit.

## ARTICLE 5-HOURS OF WORK AND OVERTIME

Section 1. A workweek shall comprise the time period Sunday through Saturday. Eight (8) hours of work including two (2) fifteen (15) minute break periods near the middle of each half shift whenever feasible shall constitute a day's work. By mutual written agreement between the employer and the employee, an employee may work an alternative workweek schedule consisting of four ten-hour days or some other combination of hours. For any such mutually agreeable alternative forty-hour workweek consisting of workdays longer than eight hours in a day, the requirement to pay overtime for more than eight hours of work in a workday shall be waived. Work may be interrupted near the middle of the workday to allow for a one-half (1/2) hour lunch break without pay. Forty (40) hours of work during a workweek shall constitute a week's work. Statutory legal holiday pay shall be for eight hours per legal holiday, except that employees who are regularly scheduled to work more than eight hours per day shall receive the holiday benefit as set forth in Article 6, Section 2.

Section 2. Employees employed for a work week longer than forty (40) hours or for a time period during a specific workday that is in excess of a day's work as defined herein shall receive compensation for the overtime employment at the rate of one and one-half (1 1/2) times the hourly wage rate at which employed, including longevity, or the employee may elect to take compensatory time in lieu of pay at the rate of one and one-half (1 1/2) hours for every overtime hour worked, and fringe benefits. Accumulated compensatory time must be used within 180 days. Overtime will not be paid more than once for the same hours worked. Compensatory time not used within 180 days shall be purchased by the City (Employer) at the rate of one and ½ times the hourly rate of the employee. The City (Employer) reserves the right at its discretion to pay out unused compensatory time prior to the end of each fiscal year.

Section 3. Wastewater Chemists shall report for work each scheduled workday unless otherwise notified by the Employer. The Employer reserves the right to reschedule to a later shift during the same calendar day an employee who appears for a scheduled work shift. In such event, the employee who arrived for a scheduled shift shall receive two hours of call back pay at straight time.

Section 4. Employees called back to work on a regularly scheduled day off shall be guaranteed a minimum of four (4) hours pay. Employees called back to work on the same day that they have previously completed a day's work shall be guaranteed a minimum of two (2) hours' work and a minimum of two (2) hours' pay.

Employees called in early for work within two (2) hours of the commencement of their regularly scheduled shift may be required to continue working on into their regularly scheduled shift and shall receive overtime for any hours of work in excess of eight (8) hours during the workday. All call-back pay shall be paid at the overtime rate of pay.

Section 5. Whenever it becomes necessary to assign employees to remain at work to work overtime or when it becomes necessary to call back employees, the Employer shall assign employees according to ability to perform work, availability, and whenever possible on a voluntary basis. Overtime assignments will be distributed as equally as possible among those employees at work who are qualified to perform the work.

Section 6. This Article is intended to be construed only as a basis for overtime and shall not be construed as a guarantee of hours of work per day or per week. In the event there is a cutback in hours of work per day or per week, the cutback shall be handled in accordance with the layoff provisions of this Agreement.

Section 7. The Employer shall make a good faith effort to provide all employees with a minimum of one (1) designated weekend, consisting of Saturday and Sunday off each month. A designated weekend shall mean a weekend specified by the Employer as being the designated weekend for a particular month and such weekend shall be specified as being designated within thirty (30) calendar days prior to such designated weekend.

Section 8. The Employer shall provide employees ten (10) calendar days' notice of shift changes, except by mutual agreement of Employer and employee or in extraordinary circumstances. The City will also provide an explanation of the reasons for the shift change.

Section 9. Whenever an employee works more than two hours beyond their scheduled shift the city will provide a hot meal to the employee during the time period that the employee is working beyond the more than two (2) hours time period.

#### **ARTICLE 6-LEGAL HOLIDAYS**

Section 1. The following are legal holidays in the State of Montana and are hereby recognized as legal holidays for the City Wastewater Division employees. Employees shall be granted a day off with regular pay for each of the following holidays:

- (1) New Year's Day, January 1
- (2) Martin Luther King, Jr. the third Monday in January
- (3) President's Day, the third Monday in February
- (4) Memorial Day, the last Monday in May
- (5) Independence Day, July 4
- (6) Labor Day, the first Monday in September
- (7) Columbus Day, the second Monday in October
- (8) Veterans Day, November 11
- (9) Thanksgiving Day, the fourth Thursday in November
- (10) Christmas Day, December 25
- (11) State General Election Day, in year's when state and national elections are conducted statewide
- (12) Any day declared a national legal holiday for all governmental subdivisions within the entire nation by the President of the United States; any day declared a state legal holiday for all state and local government political subdivisions by the Governor of the State of Montana; any day declared a legal holiday for all city government employees by the Mayor of the City of Missoula.

Section 2. Employees who are required to work on an actual or observed holiday shall be compensated at one and one-half times their regular hourly rate of pay and shall be eligible for a different day off. A day is understood as the number of hours that an employee is regularly scheduled to work. Full-time employees who regularly work more than 8 hours per day will receive Holiday Pay equal to the number of hours they are regularly scheduled to work for holidays on which they are scheduled to work.

**Section 3.** An employee shall be eligible for holiday pay if the employee is on the active payroll of the City and if the employee has worked their full regularly scheduled workday before or after the legal holiday unless they are excused by the City Wastewater Division Superintendent authorizing vacation leave or the employee is sick.

**Section 4.** Holidays, including those allowed in lieu of the actual holidays occurring while an employee is on a paid sick leave or a paid vacation shall be earned by the employee and not charged as sick leave or vacation.

**ARTICLE 7-VACATIONS**

**Section 1.** Each regular full-time employee shall earn annual vacation leave credits from the first day of employment. For calculating vacation leave credit, 2,080 hours (52 weeks x 40 hours) shall equal 1 year. Vacation leave credits earned shall be credited at the end of each pay period. However, employees are not entitled to any vacation leave with pay until they have been continuously employed for a period of 6 calendar months.

**Section 2.** An employee may maintain (warehouse) but not accrue annual vacation leave credits while in a leave without pay status.

**Section 3.** Vacation leave credits are earned at a yearly rate calculated in accordance with the following schedule, which applies to the total years of an employee's employment with the City whether the employment is continuous or not. A working day equals eight (8) hours for the purpose of accumulating vacation leave credits. All requests for use of vacation time off must be made using the request for leave form designated by the Employer. Use of vacation time is subject to approval by the Employer.

<u>Years of Employment</u>	<u>Working Days Credit</u>	<u>Working Hours Credit</u>
1 day through 10 years	15	120
10 years through 15 years	18	144
15 years through 20 years	21	168
20 years on up	24	192

**Section 4.** The scheduling of vacations shall take place as follows: An annual vacation calendar shall be posted the first working day of January. Employees shall be given sixty (60) days to record their vacation request. If more than one (1) employee requests a particular period of time for their vacation and if, in the opinion of the Employer, only one (1) employee can be released during this period of time, the most senior employee shall be provided that time off. Such seniority rights on establishing a vacation period can only be implemented by an employee on one occasion and the next most senior employee's vacation date would be honored should there be a conflicting date; therefore an employee's choice of first vacation shall have precedent over a more senior employee's second vacation selection and a second vacation selection priority over a senior employee's third vacation selection. Vacation requests that are recorded following the sixty (60) day recording period will be handled on a "first come, first serve" basis, with the approval of the Employer.

Section 5. Absence from employment by reason of illness shall not be chargeable against unused vacation leave credits unless approved by the employee.

Section 6. Accumulation of vacation leave.

- (1) Annual vacation leave may be accumulated to a total not to exceed two times the maximum number of days earned annually as of the end of the first pay period of the next calendar year. Excess vacation time is not forfeited if taken within 90 calendar days from the last day of the calendar year in which the excess was accrued.
- (2) An employee who terminates their employment for reason not reflecting discredit on the employee shall be entitled upon the date of such termination to cash compensation for unused vacation leave, assuming that the employee has worked the qualifying period set forth in Section 2-18-611, M.C.A.
- (3) However, if an employee transfers to another department or agency of the City, there shall be no cash compensation paid for unused vacation leave. In such a transfer, the receiving department or City agency assumes liability for vacation credits transferred with the employee.

Section 7. Other. It shall be unlawful for an employer to terminate or separate an employee from his employment in an attempt to circumvent the provisions of this Article.

## **ARTICLE 8-SICK LEAVE**

Section 1. Each regular full-time employee shall earn sick leave credits from the first day of employment. For calculating sick leave credits, 2,080 hours (52 weeks x 40 hours) shall equal one (1) year. Sick leave credits shall be credited at the end of each pay period. Sick leave credits shall be earned at the rate of 12 working days for each year of service without restriction as to the number of working days that may be accumulated. A working day equals eight (8) hours for the purpose of accumulating sick leave credits. Employees are not entitled to be paid sick leave until they have been continuously employed ninety (90) days.

An employee may use sick leave credits for:

- a) illness;
- b) injury;
- c) medical disability;
- d) maternity-related disability, including prenatal care, birth, miscarriage, abortion, or other medical care for either employee or child;
- e) quarantine resulting from exposure to contagious disease;
- f) medical, dental or eye examination or treatment;
- g) necessary care of or attendance to an immediate family member, or at the employer's discretion, another relative, for the above reasons until other attendance can reasonably be obtained; and
- h) death or funeral attendance for an immediate family member or, at the employer's discretion, for another person.

Section 2. An employee may not accrue sick leave credits while in a leave-without-pay status.

Section 3. An employee who terminates employment with the City is entitled to a lump-sum payment equal to one-fourth of the pay attributed to the accumulated sick leave. The pay attributed to the accumulated sick leave shall be computed on the basis of the employee's salary or wage at the time they terminate their employment with the state, county, or city. Accrual of sick leave credits for calculating the lump-sum payment provided for in this subsection begins July 1, 1971. The payment therefor shall be the responsibility of the City wherein the sick leave accrues. However, no employee forfeits any sick leave rights or benefits he had accrued prior to July 1, 1971. However, where an employee transfers between departments or agencies within the City government they shall not be entitled to a lump-sum payment. In such a transfer, the receiving department or agency shall assume the liability for the accrued sick leave credits earned after July 1, 1971, and transferred with the employee.

Section 4. Whenever the Human Resources Department, Wastewater Division Superintendent and Public Works Director have reason to believe that an individual employee might be abusing sick leave, they may request the employee claiming or using sick leave to substantiate their claim.

Section 5. Wastewater Division employees may use accumulated sick leave for a serious affliction of one of the employee's immediate family requiring the employee's presence; for attending the funeral of one of the employee's immediate family requiring the employee's presence; as well as for their own personal illnesses. The immediate family shall consist of spouse, children, parents, brother, sister, grandparents or relative in a like degree of the employee's spouse, or who has been a permanent member of the employee's household.

Section 6. Termination pay shall be paid on the next regularly scheduled payday after the date of termination.

Section 7. An employee who receives a lump-sum payment pursuant to this section and who is again employed by any agency shall not be credited with any sick leave for which the employee has previously been compensated.

Section 8. Abuse of sick leave is cause for dismissal and forfeiture of the lump-sum payments provided for in this section. Chronic, persistent, or patterned use of sick leave may be subject to progressive discipline.

Section 9. Any Wastewater Division employee intending to make proper use of approved sick leave shall notify the Wastewater Division Superintendent as soon as possible of the employee's need to make use of sick leave.

In all instances the employee making proper use of approved sick leave shall notify the Wastewater Division Superintendent or their designated representative by the beginning of the work shift on the day sick leave is intended to be requested, except in those instances where the employee becomes sick after the beginning of the work shift on the day sick leave is requested. Whenever an employee becomes sick after the beginning of the work shift on the day sick leave is requested, the employee shall have the responsibility to notify the Employer as soon as possible of their intent to use sick leave. Documentation of use of sick leave must be made in writing using the request for leave form

designated by the Employer. Documentation must take place prior to the use of sick leave or as soon as possible upon return to work in the event of unplanned illness or injury.

Section 10. In the event that an employee on annual vacation leave becomes ill and the illness results in a delay in the commencement of a vacation or the cancellation of either a portion of or the remaining days of the scheduled vacation, if the employee immediately notifies the Wastewater Division Superintendent of the circumstances causing either the delay in the commencement of their vacation, or in the cancellation of either a portion of or the remaining days of the vacation, then the employee shall be afforded the right to use sick leave rather than vacation leave for the days affected upon furnishing the Employer with acceptable medical certification of illness if requested by the Wastewater Division Superintendent.

Section 11. There shall be no limit to the amount of sick leave accumulation during the course of an employee's service to the City.

Section 12. Employees requesting leave other than sick leave must first use:

- (1) any accumulated holiday time before using any accumulated compensatory time, and
- (2) any accumulated compensatory time before using vacation time off.

#### **ARTICLE 9-OTHER LEAVES**

Section 1. Military Leave. Any City Wastewater Chemist, who is a member of the organized militia of this state or who is a member of the organized or unorganized reserve corps or military forces of the United States and who has been an employee for a period of six (6) months shall be given leave of absence with pay for a period of time not to exceed fifteen (15) days in a calendar year for attending regular encampments, training cruises, and similar training programs of the organized militia or of the military forces of the United States. This leave shall not be charged against the employee's annual vacation time.

Section 2. Jury Duty. Each City Wastewater Chemist who is under proper summons as a juror shall collect all fees and allowances payable as a result of the service and forward the fees to the City Finance Office. Juror fees shall be applied against the amount due the employee from their employer. However, if an employee elects to charge their juror time off against their annual leave, they shall not be required to remit their juror's fees to their employer. In no instance is an employee required to remit to their employer any expense or mileage allowance paid them by the court.

Section 3. Serving as a witness. A City Wastewater Division Chemist subpoenaed as a witness shall collect all fees and allowances payable as a result of the service and forward the fees to the City Finance Office. Witness fees shall be applied against the amount due the employee from their employer. However, if an employee elects to charge their witness fees off against their annual leave, they shall not be required to remit their witness fees to their employer. In no instance is an employee required to remit to their employer any expense or mileage allowances paid him/her by the Court.

Section 4. Leave of Absence Without Pay to Hold Public Office.

- (1) In the event a City Wastewater Division Chemist is elected or appointed to a public office

in the city, county, or state, the City shall grant such employee a leave of absence without pay, not to exceed one hundred eighty (180) calendar days per year, while they are performing public service. The employee must request in advance and in writing the aforementioned leave of absence without pay.

(2) Employees granted a leave shall make arrangements to return to work within ten (10) calendar days following the completion of the service for which the leave was granted unless they are unable to do so because of illness or disabling injury certified by a licensed physician.

Section 5. Family leave. Family leave of up to 90 calendar days may be used for the purpose of birth or adoption of a child, serious illness or injury of a child, spouse or parent, serious personal illness or injury, for a family member who is called to active duty and has a qualifying exigency and up to 26 weeks of leave to care for a family member injured in the line of duty. Family leave time up to 90 calendar days shall be offered in accordance with the procedures described in Section 06-06 (Family and Medical Leave) in the City Personnel Policy Manual.

Employees who request leave without pay status for the purpose of taking family leave and who have expressed their intention to return to work at the end of the leave time shall be reinstated to their original job, or to an equivalent position with equivalent pay and accumulated seniority, retirement, and other benefits.

Section 6. Leave without pay. Leave without pay shall be as agreed to and authorized by the City of Missoula Wastewater Division Superintendent. During a leave without pay status, no vacation or sick leave or service time for retirement will accrue. Longevity and seniority do not accumulate in a leave without pay status. City payment of health and dental insurance premiums continue only for the remainder of the month in which the leave without pay status commences.

Requests for leaves without pay for time periods in excess of ninety (90) consecutive days shall be submitted to both the Mayor and their designee and the Wastewater Division Superintendent and must be approved by both before any leave without pay can be taken.

Section 7. Education Leave. Education leave shall mean employees attending job related courses at an accredited vocational or post-secondary educational institution for up to eight (8) credit hours per academic year.

- A. Education leave with pay may be granted to any employee, with the department head's approval, after 6 months of continuous employment.
- B. The department head shall forward a notice of the education leave to the Human Resources Office and to the Mayor (or their designee) outlining the length of the leave, person(s) involved, and approximate cost to the City.
- C. Employees on education leave will report back to work for the balance(s) of their working day after scheduled classes is/are over and within a reasonable time allowed for travel.

If class times are other than the employee's scheduled working hours, there will be no time off with pay.

- D. The City, upon receiving evidence of satisfactory completion of approved job related courses, will reimburse the employee for tuition and books for up to \$500.00 per fiscal year.

Reimbursement of funds to the employee may be subject to City budget constraints.

Individual employees are encouraged to submit proposals for reimbursable educational and training courses to the wastewater division administration pursuant to the City's educational reimbursement policy. Such requests should be made during the first ninety (90) calendar days of each calendar year in order to allow wastewater division administration an opportunity to include such requests in the budget for the new fiscal year.

By September 1st, the administration shall notify each employee who submits a request for funds for reimbursable education and training courses of their acceptance, or the reasons for denial. Notification shall be in writing.

### **ARTICLE 10-SENIORITY**

Seniority means an employee's length of continuous service with their division and shall be computed from the date the employee began continuous service in the department.

- (1) To be absent from the job due to layoffs will be considered lost time for the purpose of seniority; however, previous service upon reemployment shall count toward seniority;
- (2) To be absent from the job due to a leave of absence without pay will be considered lost time for the accrual of seniority; however, previous service upon reemployment is counted toward seniority;
- (3) To be absent from the job due to involuntary active military leave will not affect seniority. Such time spent in military service will count toward seniority;
- (4) An employee's continuous service for purpose of seniority shall be broken by voluntary resignation, discharge for justifiable cause and retirement;
- (5) The Employer shall post a seniority roster on the effective date of this Agreement and on January 1 of each year thereafter. Employees may protest their seniority designation through the usual grievance procedure if they have cause to believe an error has been made;
- (6) Absences due to injury in the line of duty for a time period up to one (1) year shall be considered as time worked for the purposes of accruing seniority.

### **ARTICLE 11-VACANCIES AND PROMOTIONS**

Section 1. Whenever a newly created or vacant position is to be filled, the Employer shall post such an opening notice. The posting shall be in a place normally used to post employee oriented material, and shall include:

- (1) classification of open position;
- (2) pay for the position;
- (3) deadline for accepting applications;
- (4) minimum qualifications necessary to be eligible for the position.

Section 2. Current regular full time or regular part time Wastewater Division Chemists will have the first opportunity to apply for vacant and new positions within the bargaining unit. The City will advertise for outside applicants to fill a vacant or new position only when city management determines that no internal applicant possesses the qualifications desired of the individual needed to fill the vacancy or new position.

Whenever two or more internal applicants apply for an opening and where qualifications and work experience for the position are substantially similar; and the applicant has the physical ability to perform the essential tasks of the position, seniority shall be the determining factor in awarding a position to an internal applicant. This provision shall not apply to probationary employees. Upon promotion, an internal applicant may serve a six (6) month probationary period for the position. Any time during this six-month period management, for cause or at the request of the employee, may return this employee to their original position at their previous rate of pay.

Employees in a training or cross-training position will be allowed to return to their old position after the training is completed.

Section 3. All job openings shall be posted for at least seven (7) calendar days before being filled.

Section 4. (1) An employee who is involuntarily transferred shall receive compensation that is equal to or greater than the compensation received in their previous position. An involuntary transfer does not include a situation where an employee bumps another employee as a result of employment reassignment or layoffs within the department, or where an employee was promoted and then returned to their previous position because of inability to satisfactorily perform job duties and responsibilities in the promoted position or the employee requests a transfer back to their position.

(2) An employee who is bumped into another position by another employee shall not be entitled to compensation that is equal to the compensation received in their previous employment position unless the position the employee is bumped into is compensated at the identical wage level.

## **ARTICLE 12-GRIEVANCE AND ARBITRATION PROCEDURE**

A "grievance" is defined as any dispute involving the interpretation, application, or alleged violation of the express provisions of this Agreement. Grievances or disputes that may arise shall be settled in the manner set forth herein. If time limits set forth herein are not adhered to by either one of the parties, the grievance shall be settled in favor of the party that is not in default of the time limits. Saturday and Sunday are not considered working days for City staff. The employee may have their Federation representative present in all steps of the grievance procedure. Any employee may directly contact either the Public Works Director or the Human Resources Department if they believe the grievance procedure process is being obstructed.

### Step 1. Informal Discussion.

Within seven (7) calendar days after its occurrence, the aggrieved party shall verbally discuss their complaint with their immediate supervisor or if the grievance involves a disciplinary action, with the supervisor issuing the disciplinary action. If discussions are unable to resolve the grievance, the respondent, within three (3) additional working days will give a verbal reply to the complaint, advising the aggrieved party of his or her options.

Step 2. Discuss with Division Superintendent and notify Union.

If the grievance is not settled at Step 1, the aggrieved party shall, within three (3) additional working days schedule a meeting with the Wastewater Treatment Division Superintendent to discuss the grievance. The Superintendent will have five (5) calendar days following the meeting to respond to the complaint and attempt resolution. At this step, the Federation shall be notified in writing by the employee of the grievance and written proof of that notification shall be provided to the Wastewater Treatment Division Superintendent or their designee.

Step 3. Formal written grievance, Public Works Director

If the grievance is not settled at Step 2, the aggrieved party shall, within seven (7) calendar days, submit the grievance through the Federation, in writing, to the Public Works Director. This written grievance shall set forth: (1) the nature of the grievance, (2) the facts on which it is based, (3) the provisions of the agreement allegedly violated, and (4) the relief requested. If any of these elements are missing from the written grievance, it will not be considered and will be terminated at Step 2. The Public Works Director will have seven (7) calendar days to set up a meeting with the appropriate parties to hear testimony and discussion. The Director will then have seven (7) additional days to prepare a written response.

Step 4. Formal Written Submittal to Mayor

If the grievance is not settled satisfactorily at Step 3, the written grievance shall, within seven (7) additional calendar days be submitted through the Federation, in writing to the Mayor or their designee. The grievance shall contain the same elements as listed in Step 3 or it will not be considered. The Mayor or their designee shall, within seven (7) calendar days after receipt of the written grievance to schedule a meeting with the appropriate parties to hear discussion and testimony. The Mayor will then have seven (7) additional days after the meeting to prepare a written response.

Step 5. Conciliation Meeting

If the matter is not resolved at this point, a conciliation meeting will be held with the parties involved as a final attempt to settle the dispute prior to proceeding with the arbitration. The Mayor or their designee shall preside over this proceeding. If, for whatever reason, a conciliation meeting does not take place within ten (10) working days following the Mayor's written response, either party to the Agreement may unilaterally call for arbitration proceedings as called for in Step 6 of the grievance procedure.

Step 6. Arbitration.

Any dispute which has not been resolved by the above grievance procedure may be submitted to arbitration by the aggrieved party through the Federation, providing it is submitted within ten (10) working days after the conciliation meeting. The aggrieved party shall notify the other party in writing of the matter to be arbitrated and the contract provisions allegedly violated. Within five (5) working days the parties shall request a list of five (5) qualified names from the State Board of Personnel Appeals. The Federation and the Employer shall each strike two (2) names in alternate order, and the

remaining shall be the arbitrator. The Federation shall strike the first name. In cases where an employee is the aggrieved party, authorization to submit the grievance to arbitration shall be final and binding on both parties. Costs incurred for the arbitrator shall be borne equally by both parties. Authority of the arbitrator is limited to matters of interpretation or application of the express provisions of this Agreement that directly pertain to the issue(s) submitted in writing for arbitration. The arbitrator shall consider and decide only the specific issues submitted in writing, and shall have no power or authority to add to, subtract from, amend, or modify any of the terms or provisions of this Agreement.

If a grievance is not presented within the time limits set forth above it shall be considered waived. A time limit in each step may be extended by mutual agreement of the Employer and the Federation. If a grievance does not contain the necessary elements listed in Step 3, it shall be considered waived.

Employer grievances shall be filed with the Federation representative at Step 2 of the procedure.

### **ARTICLE 13-LAYOFFS**

Section 1. If due to shortage of work or funds, or change in the organization, it becomes necessary to lay off employees those with the least seniority in the Chemist job description shall be laid off first, unless it is necessary for the normal operation of the Wastewater Division facilities to retain a particular classification of employee. Layoffs within classifications shall be by layoff of those with the least seniority within the classification, unless there is a significant change in job performance as evidenced by the last three (3) performance evaluations. Employees affected by any layoffs shall have the right to bump less senior employees in other classifications for which they are currently qualified and physically able to perform the duties of the employment position. Employees subject to layoff shall receive a minimum of ten (10) working days advance notice prior to such layoff.

Section 2. Recall of laid-off employees shall be made in the reverse order of layoff. Employer recall of laid-off employees shall be by registered mail notice to the employees being recalled at the employee's last known address that has been given to the Employer. The employee shall have the responsibility to keep the Employer informed of address changes. Employee response to the Employer's recall letter must be received by the Employer within five (5) calendar days of receipt of notice of recall from layoff. Failure to timely respond shall constitute a waiver of right to recall. All employee recall rights shall expire twelve (12) months after the employee's layoff date.

Section 3. Employees shall be laid off in the following order:

- (1) emergency employees;
- (2) seasonal employees;
- (3) probationary employees;
- (4) regular employees.

### **ARTICLE 14-SUSPENSION AND DISCHARGE**

Section 1: Each employee shall be considered as a probationary employee for their first six (6) months of continuous employment service, after which their seniority shall date back to their date of

hire. There will be no seniority among probationary employees. Probationary employees may be laid off, discharged, or otherwise dismissed for cause at the sole discretion of the City and shall not be entitled to use the grievance and arbitration procedures provided for in Article 12 (Grievance and Arbitration), unless covered by this contract. A probationary period shall not mean the same as or be considered in any way related to employee training periods with respect to various employment classifications within the Wastewater Division.

**Section 2.** An employee may be disciplined or discharged only for just cause. The Employer will administer progressive discipline in accordance with the provisions of the City of Missoula Personnel Policy Manual. Prompt feedback on performance and constant communication is necessary between supervisors and their employees. In addition, if an employee is not performing their duties in a satisfactory manner, it is the responsibility of their supervisor to give proper notice and guidance outlining the deficiencies. The following progressive disciplinary procedures shall be utilized however, it should be understood that depending on the nature and circumstances of the unsatisfactory performance, the department head may use any disciplinary measure appropriate within their judgment:

- A. Level One: A warning from the employee's supervisor outlining the unsatisfactory job performance and the corrective measures to be taken.
  - 1. The warning shall contain:
    - a. the date and time the warning was given,
    - b. what performance deficiency or violation has occurred,
    - c. the corrective measures that need to be taken,
    - d. the time period the employee has in which to improve their performance or correct their behavior, and
    - e. what further actions will be taken if the employee does not improve their performance or correct their behavior.
  - 2. Copies of the notice outlining the warning will be forwarded to the employee and to the Personnel Department for placement in the employee's personnel file.
  - 3. The employee shall have the right to make a written response to the warning and to have that response placed in their personnel file with the warning.
  - 4. The warning shall remain in effect for six months.
  
- B. Level Two: A written reprimand by the employee's department/division head outlining the unsatisfactory job performance and the corrective measures that need to be taken.
  - 1. The department/division head shall write a letter, which states the date, time, and nature of the reprimand and the corrective measures that need to be taken.
  - 2. Copies of the written reprimand will be forwarded to the employee and to the Personnel Department for placement in the employee's personnel file.
  - 3. The written reprimand will remain in effect for one year for the unsatisfactory job performance stated on the written reprimand form. Further remedial actions, including dismissal, may be taken in this time frame if the unsatisfactory job performance is not corrected.
  
- C. Level Three: The department head suspends the employee for up to five working days for continued unsatisfactory job performance after the employee has been notified

through a warning or written reprimand that their performance is unsatisfactory.

1. The department head shall write a letter stating the date, time, and nature of the suspension and the corrective measures that need to be taken.
  2. Copies of the suspension letter will be forwarded to the employee and Personnel Department for placement in the employee's personnel file.
  3. Dismissal may be automatic for 3 months following the suspension if the unsatisfactory job performance is not corrected.
- D. Level Four: Following the suspension and if the employee's job performance has not been corrected in the 3-month time frame, the department head, with the approval of the Mayor or their designee, may dismiss the employee for disciplinary reasons involving violation of work rules, regulations, or other personnel or departmental policies and procedures.
- E. It should be understood that depending on the nature and circumstances of the unsatisfactory performance, the department head may use any disciplinary measure appropriate within their judgment. Further, Section 09-03, Dismissals, 09-02.

Section 3.     Dismissal for Cause - The following non-inclusive reasons are sufficient for dismissal for good cause:

1. Incompetence or inefficiency in the performance of duties.
2. Conviction of a criminal offense involving moral turpitude.
3. Violation of any lawful or official regulation or order, or failure to obey any lawful direction made and given by a supervisor where such violation or failure amounts to an act of insubordination or a breach of proper discipline, or has resulted or might reasonably be expected to result in loss or injury to the City or public.
4. Wanton use of offensive conduct or language toward the public, City officials or other employees.
5. Carelessness and negligence in the handling and control of City property.
6. Inducing or attempting to induce any City employee to commit an unlawful act or to act in violation of any lawful and reasonable official regulation or order.
7. Taking any fee, gift, or other valuable thing in the course of work or in connection with work, for personal use when such is given with the expectation of receiving a favor or better treatment.
8. Dishonesty in the performance of duty.
9. Unauthorized absence from work.
10. Drinking of alcoholic beverages or using any drug(s) to the extent of affecting job performance as determined by the City.
11. Consumption or use of alcoholic beverages or illegal drugs while at work.
12. Possession, use, distribution, or manufacture of a controlled substance in the work place.
13. Failure to satisfactorily perform job duties, disruption of the employer's operation, or other legitimate business reason.

## **ARTICLE 15-DISCRIMINATION**

The Employer agrees not to discriminate against any employee for his or her activity in behalf of, or membership in, the Federation.

The Federation recognizes its responsibility as the exclusive bargaining agent and agrees to represent all employees in the unit without discrimination.

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, race, color, creed, national origin, or political affiliation. The Federation shall share equally with the Employer the responsibility for applying this provision of the Agreement.

The Federation recognizes that the City of Missoula is an Equal Employment Opportunity/Affirmative Action Employer with responsibility for insuring compliance with all policies and laws pertaining to historically underrepresented groups and classes, including but not limited to women, minorities and individuals with disabilities.

## **ARTICLE 16-PERFORMANCE APPRAISALS**

Section 1. A formal program of employee appraisal shall be established to insure that all employees are performing to the standards of the position and to assist employees in improving and maintaining skills.

Section 2. Written evaluation shall be prepared on a form specified by the City of Missoula.

Section 3. Any such appraisals shall be shown to the employees and a copy provided upon request. The employee shall have the opportunity to make written comments regarding the appraisals, which shall be made a part of the appraisal and/or personnel file.

## **ARTICLE 17-LABOR MANAGEMENT RELATIONS MEETINGS**

Section 1. The Employer and the Federation agree to schedule Labor-Management meetings upon request. The purpose of these meetings is to (1) review and recommend solutions to work related issues; (2) improve communications; (3) reduce potential conflicts; (4) improve productivity and (5) reduce Division costs. The meetings will not, however, take the place of the grievance procedure outlined in Article 12, nor shall these meetings be construed or intended to take the place of formal collective bargaining sessions.

Section 2. The Labor-Management meetings shall include at least the Division Superintendent representing management and no more than one employee selected by the Union membership. The Public works Director and/or the MPEA Field Representative may be requested to attend any meeting.

Section 3. The bargaining unit member(s) will receive paid release time to attend Labor-Management meetings when scheduled during normal work hours.

Section 4. Prior to the scheduled Labor-Management Committee meetings, each party must submit to the other its agenda items. The agenda shall be limited to items of a group rather than individual concerns that cannot easily be solved through established supervisory channels.

Section 5. The Division Superintendent shall organize the meetings.

#### **ARTICLE 18-SAFETY**

- (1) The City shall pay for and encourage each new employee to get a hepatitis B vaccination.
- (2) The City shall furnish a place of employment which is safe for employees therein and shall furnish and require the use of such safety devices and safeguards and shall adopt and use such practices, means, methods, operations and processes, as are reasonably adequate to render the place of employment safe and shall do every other thing reasonably necessary to protect the life and safety of employees.
- (3) No person shall remove, displace, damage, destroy, carry off or refuse to use any safety device or safeguards and shall adopt and use such practices, means, methods, operations, and processes, as are reasonably adequate to render the place of employment safe and shall do every other thing reasonably necessary to protect the life and safety of employees.
- (4) Employees shall notify the supervisor of any safety hazards incident to their employment.
- (5) The employees shall select an employee to assist the City Wastewater Division Superintendent in conducting plant safety meetings. One safety meeting shall be conducted each calendar quarter of each calendar year. Additional safety meetings may be scheduled as safety issues warrant. Such meetings shall take place during the employee's normal working hours with no reduction in pay or benefits.
- (6) The City Wastewater Division management will attempt to conduct one safety meeting per month, but no less than one safety meeting per quarter, per calendar year.
- (7) Newly hired employees shall as part of the probationary period undergo all safety training deemed necessary by management to perform assigned duties.

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#### **ARTICLE 19-SAFETY EQUIPMENT AND PROTECTIVE CLOTHING**

The City agrees to provide personal safety equipment and protective clothing at the wastewater facility for all bargaining unit employees:

1. Rubber Gloves
2. Rubber Boots
3. Raingear
4. Safety equipment: ear protectors/plugs, safety goggles/glasses; dust masks.
5. Two (2) sets of coveralls: one (1) insulated and one (1) un-insulated per fiscal year.

NOTE: Personal safety equipment and protective clothing provided by the City shall be limited to on-the-job use. It shall be the responsibility of the employee to clean their own City-provided safety and protective gear. The City will provide washing facilities at the treatment plant for this purpose. Other items may be added to this list upon the recommendation of the safety committee and approval by plant management.

**ARTICLE 20-LIFE, HEALTH AND DENTAL INSURANCE**

For as long as the City of Missoula administers its own self-funded life, health and dental insurance plan, the City agrees to work with the Union on related issues, including premiums and plan design, through the Union’s representative on the Employee Benefits Committee (EBC). The Union agrees to accept life, health and dental insurance premiums and plan design, provided the premiums and plan design are as approved by City Council for all other City Employees covered by the plan. In the event that a premium adjustment or benefit restructuring is deemed necessary and adopted by the City Council, the Federation will agree to those changes.

**ARTICLE 21-WAGES**

The employer agrees to pay Chemist employees pursuant to the wage schedule listed below:

<b>Fiscal Year</b>	<b>Effective Date</b>	<b>Classification Rate</b>
FY20 Reclassification	7/1/19	\$30.7126
FY21 Reclassification	7/1/20	\$33.2157
FY22	7/1/21	\$34.2122
FY23	7/1/22	\$35.2385

**ARTICLE 22-LONGEVITY**

Wastewater Division Chemists shall not be entitled to earn longevity pay until they has completed one (1) continuous full year of employment service with the Employer. Longevity shall be effective on the employee’s annual anniversary date after completing one (1) year of service. No credit shall be allowed toward longevity for a leave of absence or time not worked during a break in employment service. Wastewater Chemists shall be granted longevity pay at the rate of seven dollars (\$7.00) per month for each full year of service with the City.

**ARTICLE 23-SPECIAL PROVISIONS**

Section 1. The Employer agrees to furnish a locker for each employee.

Section 2. An employee shall receive fifty cents (\$.50) per hour for any professional certification that is approved in writing by the Public Works Deputy Director of Utilities. Employees shall be responsible for achieving such certification on their own time and at their own expense, however, the Wastewater Division shall pay for continuing education units required to maintain such certification and associated renewal costs.

Section 3. With prior supervisory approval, the Employer shall reimburse employees in an amount not to exceed \$255.00 per year for the purchase of work boots and/or prescription safety glasses. The employee must provide a receipt to receive such reimbursement.

**ARTICLE 24-STRIKES AND LOCKOUTS**

Section 1. The Federation recognizes the essential nature of the services provided by the Wastewater Division Chemists covered by this Agreement in protecting the health and general welfare of the public. Therefore, the Federation agrees that there shall be no concerted activities, such as work interruptions, slowdowns, work stoppages or strikes by the Wastewater Division Chemists covered by this Agreement during the term of this Agreement. In the event of any unauthorized or illegal work interruptions, slowdowns, work stoppages or strikes by the Wastewater Division Chemists covered by this Agreement, the Federation agrees that it will join the Employer in requiring its members to return to work immediately.

Section 2. The Employer agrees that it will not lock out any employee during the term of this Agreement as a result of a labor dispute with the Federation provided that the employees covered by this Agreement do not engage in any unauthorized or illegal work interruptions, slowdowns, work stoppages or strikes by the Wastewater Division Chemists covered by this Agreement during the term of this Agreement.

#### **ARTICLE 25-CONTRACT WORK**

The Federation recognizes that the right of contracting or subcontracting work is vested in the City. It is mutually understood and agreed that the City may contract out any or all work on matters related to laboratory operations.

It is mutually understood and agreed that if the City exercises its right to contract out laboratory work, that the exercise of that right by the City shall not result in either the layoff of any employee employed by the City who is a member of the bargaining unit covered by this Agreement or in a reduction of normal hours of work wages; holiday time earned; leaves herein agreed to; health and dental insurance benefits; Federation rights; and Federation security as each of these provisions are herein agreed to.

#### **ARTICLE 26-PROVISIONS TO CONTINUE IN EFFECT**

In the event the term of this contract expires without the parties reaching agreement on an amended collective bargaining agreement, all of the provisions of this Agreement shall remain in full force and effect during the intervening period until an amended collective bargaining agreement is agreed to by the parties.

It is mutually understood and agreed that the Federation shall have the right to engage in concerted activities after the expiration of the effective date of this Agreement, and that the Employer shall have the right to lock out any employee after the expiration of the effective date of this Agreement. The Federation's right to engage in concerted activities shall be limited to activities that pertain to hours, wages, or conditions of employment involving the employees covered by this Agreement.

#### **ARTICLE 27-SEVERABILITY**

If any section, subdivision, paragraph, sentence, clause, phrase, or other provision of this Agreement is ever declared by a court of record to be unlawful, unenforceable, or not in accordance with

applicable federal or state laws, all other sections, subdivisions, paragraphs, sentences, clauses, phrases, and other provisions of this Agreement shall remain in full force and effect for the duration of this Agreement.

**ARTICLE 28-AGREEMENT TO BE EFFECTIVE AS IS FOR ITS DURATION**

The City and the Federation expressly waive and relinquish the right, and each agrees that the other shall not be obligated during the term of this Agreement to bargain collectively with respect to any subject or matter whether referred to or covered in this Agreement or not specifically referred to or covered in this Agreement, even though each subject or matter may not have been within the knowledge or contemplation of either or both the Employer or the Federation at the time they negotiated or executed this Agreement and even though such subjects or matter was proposed and later withdrawn.

**ARTICLE 29-TERM OF AGREEMENT**

The terms of this Agreement shall be extended for four (4) years, July 1, 2019 through June 30, 2023. This Agreement shall be automatically renewed from year to year thereafter unless either party shall notify the other in writing sixty (60) days prior to the expiration date that it desires to modify or terminate this Agreement.

In the event that such notice is given, either or both parties may make proposals and negotiations shall begin not later than thirty (30) days prior to the expiration date.

IN WITNESS WHEREOF, said parties of this Agreement have hereunto set their hands and seals this 13  
\_\_\_\_\_ day of ~~February~~ February 2020.

FOR THE FEDERATION

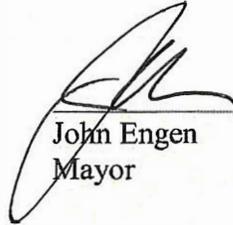


Eric Feaver  
President, MFPE



Lynn McCamant  
MFPE Team Member

FOR THE CITY



John Engen  
Mayor

ATTEST:

  
Martha L. Rehbein  
City Clerk