

RESOLUTION NO. 2189

A RESOLUTION ACCEPTING AND IMPLEMENTING THE AWARD OF THE STATE ARBITRATOR IN THE INTEREST ARBITRATION OF THE COLLECTIVE BARGAINING AGREEMENT WITH EMPLOYEES REPRESENTED BY TROUTDALE POLICE OFFICERS ASSOCIATION.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The City and Troutdale Police Officers Association (TPOA) bargaining teams have reached an impasse on a three-year Collective Bargaining Agreement (CBA) for the period July 1, 2011 to June 30, 2014.
2. As ORS 243.736(g) provides that it is unlawful for police officers to strike, ORS 243.742 provides for compulsory interest arbitration to resolve contract impasses involving police officers.
3. As a result of the interest arbitration the State Arbitrator awarded the TPOA's last best offer and to resolve the parties' impasse ordered implementation.
4. That it is advisable to accept and implement the CBA Awarded by Order of the State Arbitrator without further delay to avoid unnecessary difficulties in payroll processing and the needed benefits administration and implementation actions.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE:

Section 1. The CBA between the City of Troutdale and TPOA for the period July 1, 2011 through June 30, 2014 is accepted in substantially the form shown in accordance with Exhibit "A" of the staff report.

Section 2. Designates the City Manager or Chief of Police (each a "City Official") to act on behalf of the City, and without further action by the City Council, the City Official is hereby authorized, empowered and directed to sign and implement the CBA on

behalf of the City, and any and all other required and necessary documents to implement the terms, requirements, and benefit programs contemplated by the CBA.

Section 3. Further, the City Official is authorized to execute any supporting and implementing documents, and to take any other action as may be advisable, convenient, necessary, or appropriate to give full force and effect to the terms and intent of the CBA, and the execution thereof by any such City Official shall be conclusive as to such determination.

Section 4. The Finance Director is authorized to disburse funds, subject to annual appropriations, as necessary to fulfill the terms and conditions of the CBA and benefits programs, and is further directed to implement all such actions necessary to ensure budgetary compliance.

Section 5. Upon acceptance, this Collective Bargaining Agreement shall be effective from July 1, 2011.

Section 6. This Resolution shall take effect immediately upon adoption.


YEAS: 5
NAYS: 0
ABSTAINED: 0



Doug Daoust, Mayor

2/13/13

Date



Debbie Stickney, City Recorder
Adopted: February 12, 2013

**IN THE MATTER OF
CITY OF TROUTDALE
AND
TROUTDALE POLICE OFFICERS ASSOCIATION**

Date Issued: January 16, 2013

**INTEREST ARBITRATION OPINION
OF
ALAN R. KREBS**

Appearances:

CITY OF TROUTDALE

TROUTDALE POLICE OFFICERS ASSOCIATION

Kathy A. Peck

Patricia Bridge Urquhart

**IN THE MATTER OF
CITY OF TROUTDALE
AND
TROUTDALE POLICE OFFICERS ASSOCIATION**

OPINION OF THE ARBITRATOR

PROCEDURAL MATTERS

The Arbitrator was selected by the parties with the assistance of the Oregon Employment Relations Board in accordance with Oregon Statute, ORS 243.746(2). A hearing was held in Troutdale, Oregon on October 10 and November 1, 2012. City of Troutdale was represented by Kathy A. Peck of the law firm Williams, Zografos & Peck. Troutdale Police Officers Association was represented by Patricia Bridge Urquhart of the Urquhart Law Office. At the hearing, witnesses testified under oath and the parties presented documentary evidence. There was no court reporter, and therefore, the Arbitrator tape recorded the proceedings for the sole purpose of supplementing his personal notes. Post hearing briefs were submitted to the Arbitrator.

ISSUE

The parties' most recent collective bargaining agreement has an expiration date of June 30, 2011. They reached an impasse in their efforts to reach a successor agreement. ORS 243.736(g) provides that it is unlawful for police officers to strike. ORS 243.742 provides for compulsory arbitration to resolve contract impasses involving police officers, recognizing that

such an alternate procedure “is requisite to the high morale of such employees and the efficient operation of such departments.” This dispute involves a bargaining unit of 17 police officers employed by the City of Troutdale. During their collective bargaining negotiations, the parties reached agreement on all provisions, including all those related to compensation, except for health insurance, which is the only provision at issue here. They agreed that there would be no wage increase for the entire three year term of the agreement, but that the City would newly pick up the entire employee contribution to the PERS retirement program, and would reimburse employees for their six percent contribution retroactively to July 1, 2011. They agreed that the new agreement would have a duration from July 1, 2011 through June 30, 2014.

Standards

ORS 243.746(4) and (5) provide:

(4) Where there is no agreement between the parties, or where there is an agreement but the parties have begun negotiations or discussions looking to a new agreement or amendment of the existing agreement, unresolved mandatory subjects submitted to the arbitrator in the parties’ last best offer packages shall be decided by the arbitrator. Arbitrators shall base their findings and opinions on these criteria giving first priority to paragraph (a) of this subsection and secondary priority to paragraphs (b) to (h) of this subsection as follows:

(a) The interest and welfare of the public.

(b) The reasonable financial ability of the unit of government to meet the costs of the proposed contract giving due consideration and weight to the other services, provided by, and other priorities of, the unit of government as determined by the governing body. A reasonable operating reserve against future contingencies, which does not include funds in contemplation of settlement of the labor dispute, shall not be considered as available toward a settlement.

(c) The ability of the unit of government to attract and retain qualified personnel at the wage and benefit levels provided.

(d) The overall compensation presently receive by the employees, including direct wage compensation, vacations, holidays and other paid

excused time, pensions, insurance, benefits, and all other direct or indirect monetary benefits received.

(e) Comparison of the overall compensation of other employees performing similar services with the same or other employees in comparable communities. As used in this paragraph, "comparable" is limited to communities of the same or nearest population range within Oregon. Notwithstanding the provisions of this paragraph, the following additional definitions of "comparable" apply in the situations described as follows:

(A) For any city with a population of more than 325,000, "comparable" includes comparison to out-of-state cities of the same or similar size;

(B) For counties with a population of more than 400,000, "comparable" includes comparison to out-of-state counties of the same or similar size;

(C) Except as otherwise provided in subparagraph (D) of this paragraph, for the State of Oregon, "comparable" includes comparison to other states; and

(D) For the Department of State Police troopers, "comparable" includes the base pay for city police officers employed by the five most populous cities in this state.

(f) The CPI-All Cities Index, commonly known as the costs of living.

(g) The stipulations of the parties.

(h) Such other factors, consistent with paragraphs (a) to (g) of this subsection as are traditionally taken into consideration in the determination of wages, hours, and other terms and conditions of employment. However, the arbitrator shall not use such other factors, if in the judgment of the arbitrator, the factors in paragraphs (a) to (g) of this subsection provide sufficient evidence for an award.

(5) Not more than 30 days after the conclusion of the hearings or such further additional periods to which the parties may agree, the arbitrator shall select only one of the last best offer packages submitted by the parties and shall promulgate written findings along with an opinion and order. The opinion and order shall be served on the parties and the board. Service may be personal or by registered or certified mail. The findings, opinions and order shall be based on the criteria prescribed in subsection (4) of this section.

Health Insurance Proposals

For a period of some years, Association members have had their choice of two health plans offered by City-County Insurance Services (CIS). They could select the Blue Cross/Blue Shield Preferred Provider Plan V-A PPP RX 3 (\$100 deductible) (Plan V-A) or the Kaiser

Permanente Plan B with Vision and Drug Plan. In its last five year agreement expiring in 2011, and still in effect pending resolution of this dispute, the parties agreed to divide the health insurance premium costs, with the City paying 91% and the employees 9%. For the Agreement at issue, the parties have agreed to retain the Kaiser Permanente Plan and also to increase the employees' share of premium costs from 9% to 11%.

The Association's proposal is for the change in its raised share of premium costs to be effective for the remaining term of the new Agreement, but that it not be applied retroactively.¹ The Association proposes to change the V-A Plan to the similar, but less costly Blue Cross/Blue Shield Preferred Provider V-B PPP RX4 Plan (\$200 deductible) (Plan V-B). The Association proposes that this change to substitute Plan V-B for Plan V-A become effective the first day of the month following execution of a successor Agreement.

The City in its last best offer, proposes replacing Plan V-A with the Co-Pay Plan B (\$500 deductible) with VSP Vision and Alternative Care Options (Co-Pay Plan B). The City's proposal calls for the 11% employee contribution to apply for the term of the Agreement, i.e., retroactive to July 1, 2011, with the employees' increased share of the premium since that date to be deducted from the reimbursement that employees are to receive for the City's pick-up of the employees' PERS retirement contributions. The City further proposes to add a new Voluntary Employee Benefit Account (VEBA) benefit which employees could utilize to defray their health expenses.

¹ The Association's last best offer, as written, provides that the 89%/11% premium split would apply "[f]or the term of this Agreement." The Association asserted that this should read "[f]or the remaining term of this Agreement," and the City agreed that it understood that that had been the Association's position in bargaining and did not object to this being considered the Association's position in arbitration.

Findings

Description of the Two Plans At Issue and the VEBA

Plan V-B has a \$200 deductible per person, \$600 deductible per family. After a deductible is fully met, additional costs are paid 90% by the insurance and 10% by the employee. Chiropractic care is included in the Plan V-B coverage. The maximum payout by an employee in a given year under Plan V-B is \$1,600. Preventative care is covered at 100%. The currently in effect Plan V-A is similar to Plan V-B, but has a \$100 deductible per person, \$300 deductible per family, with a maximum payout by the employee of \$1,300.

The City's proposed plan, Co-Pay Plan B, has a \$500 deductible per person, and a \$1,500 deductible per family. After a deductible is met, additional costs are paid 80% by the insurance and 20% by the employee, with a maximum payout by an employee in a given year of \$5,500. Chiropractic care is excluded. Preventative care under Co-Pay Plan B is covered at 100%. Office visits to a doctor are not subject to the deductible, but rather are subject to a \$20 co-pay. The first \$400 of outpatient laboratory and radiology services are fully paid under Co-Pay Plan B, with the deductible waived.

CIS is an employee benefits trust which provides the insurance for City employees. Pamela Bowles, a CIS benefits representative, testified that CIS is a non-profit self-insured trust which insures 280 cities and counties. Ms. Bowles testified that CIS contracts with Regence Blue Shield to provide customer service and to act as its claims agent. She testified that Regence Blue Shield pays the claims, and is then reimbursed on a monthly basis by CIS. She testified that premium rates are set based on CIS overall experience with a particular plan. CIS has established the monthly rate for its premiums for all of 2013 as follows:

	Employee	Employee + Child	Employee + Children	Employee + Spouse	Employee + Family
Plan V-A	\$611.54	\$1,141.77	\$1,519.61	\$1,302.96	\$1,749.84
Plan V-B	600.66	1,121.46	1,492.55	1,279.75	1,718.64
Co-Pay Plan B	480.15	896.59	1,193.13	1,022.73	1,373.29

Among the bargaining unit employees, twelve are enrolled in Plan V-A and five are enrolled in the Kaiser Permanente Plan. Of the Plan V-A enrollees, eight have employee and family coverage, two have employee and child coverage, one has employee and spouse coverage, and one has employee only coverage. The Association Plan V-B proposal would cost the City about \$35,628 more than the City proposal. The City's cost for the Plan V-A family coverage has increased about 40% from 2007 through 2012. The premium increase put into effect on January 1, 2013 for Plan V-A was 5.8%.

The VEBA benefit, which is part of the City's offer, involves an annual City contribution to a VEBA trust account on behalf of each employee who elects Co-Pay Plan B coverage. Employees may utilize their VEBA account to file claims with the City's VEBA administrator for reimbursement of medical expenses and insurance premiums for which the employee would be responsible. The City would make annual contributions of \$250 for employee-only participants, \$500 for those with employee and one dependent coverage, and \$750 for those with employee and family coverage. The funds contributed are tax free and unused funds roll over from year to year.

The City argues that its offer of Co-Pay Plan B, coupled with a VEBA, actually creates a financial advantage for the typical employee in addition to saving unnecessary premium costs. It relies on Ms. Bowles' testimony that under Plan V-A, a majority of employees never met their

deductible limit, and very few reached the maximum out of pocket costs designated by the plan. Ms. Bowles noted that even the \$20 co-pay for a doctor visit under Co-Pay Plan B could actually cost the employee nothing when a VEBA account is utilized. The City asserts that the Association's proposal to maintain an insurance benefit that is not being used by typical employees, and at a significantly higher cost to both employees and the City, wastes already strained public resources and is inherently inequitable. The City asserts that "Cadillac" health plans such as Plans V-A and V-B are on the decline among public employers. In this regard, it relies on Ms. Bowles' testimony that CIS has decided to no longer offer Plan V-A, and also her testimony that from 2011 to 2012, CIS plans with a \$100 deductible decreased from 18.9% to 15.6% of those that it administered, and those with a \$200 deductible decreased from 17.1% to 13.2%, while those with a \$500 co-pay increased from 11% to 14%.

The Association argues that the health insurance plan proposed by the City represents a significant diminution in coverage from the excellent plan which has been provided to officers for many years. It presented evidence of several officers who have benefitted from Plan V-A, including an officer who died of leukemia last year, and another officer, David Licht, who had incurred large medical costs. Mr. Licht testified that he and his wife have had multiple back surgeries and other procedures since 2004 and they have depended on their excellent health plan. He testified that both he and his wife utilize a chiropractor, a benefit not offered under Co-Pay Plan B. The Association maintains that the City's proposed change in the status quo would reduce coverage and be destructive of morale and officer sense of well being. The Association submitted several scholarly articles which indicated that the stress endured by police officers tends to adversely affect their health and that affordable health insurance for them is an important benefit.

(a) The Interest and Welfare of the Public

ORS 243.746(4) requires the arbitrator to “select only one of the last best offer packages submitted by the parties,” based on specified criteria. Arbitrators must give “first priority to” “[t]he interest and welfare of the public,” and “secondary priority” to the other listed factors. The “interest and welfare of the public” is not defined and is an inherently vague concept, though its application in certain circumstances may be apparent. Perhaps the public policy expressed in ORS 243.742(1) provides some guidance as to legislative intent when it states that interest arbitration is needed where the right to strike is prohibited by law (as is the case for police officers), in order to maintain “the high morale of such employees and the efficient operation of such departments.” The requirement for efficient operations signifies a need to provide good services at reasonable cost. It is understandable that with the history of escalating health care costs and fiscal challenges that the City has dealt with in recent years, there would be a public interest in restraining expenditures for health care premiums. As suggested in the stated public policy, maintaining morale of employees such as police officers is also important, and, also serves the interest and welfare of the public. A significant reduction in what has been status quo for health care benefits for many years would tend to adversely affect employee morale. Apparently recognizing the legitimate concerns of the City, the Association offer does concede a modest reduction to the employee’s health care benefit. It has agreed to coverage which would double the deductible per person from \$100 to \$200 and would increase the employees’ maximum out of pocket expense from \$1300 to \$1600. Also, it has been mutually agreed that the employees’ share of the premiums would increase from 9% to 11%. The City proposal, overall, and considering its newly offered VEBA, significantly reduces the health care benefit, by raising the per-person deductible to \$500 and the maximum annual out of pocket expense to

\$5500. The City correctly points out that most officers, most of the time, would be better off financially with its proposed Co-Pay Plan B, because routine doctor visits would merely have a \$20 employee co-pay, there would be 100% reimbursement for the first \$400 of out patient laboratory and radiology service, and employees would have reduced premium payments and access to VEBA. However, under the Co-Pay Plan B, employees with large medical expenses and/or chiropractic care in a given year would have much higher out of pocket expenses. CIS is a non-profit self-funded insurer, and the substantially higher premium rate that it charges for Plan V-B over Co-Pay Plan B, reflects the higher pay out it incurs for the medical costs of employees. Presumably, if the health plan was changed as the City proposes, the employees, as a group, would either have to spend substantially more in medical expenses or forego treatment. It is understandable that the employees want to maintain their better coverage for years when they have large medical expenses, even if this costs them more in years when they have less need for medical services.

As the City recognizes in its brief, it is in the public interest to have stability in collective bargaining, and therefore arbitrators generally require a compelling reason for a proposal to take away a benefit which the parties had previously negotiated into their labor agreements. A much respected Oregon arbitrator explained this view:

. . . Inherent in the legislative decision to use a “last best offer package” approach to interest arbitration is a requirement that each party either meet the ‘compelling need’ test or show that a quid pro quo exists to justify taking away a benefit previously obtained through a negotiated settlement.

Bend Firefighters Assoc. and City of Bend, IA-09-95 (Snow, 1996). The City argues that the VEBA which it has offered is a sufficient quid pro quo to change the offered plan. In fact, even with the VEBA, a benefit neither sought, nor agreed to, by the Association, the City’s offer is a

very substantial benefit reduction since officers with high medical costs would pay significantly more out of pocket. The City's argument that its reduction in revenues compels its proposed modification of the status quo shall be discussed further below, in conjunction with its ability to pay, a secondary criteria.

(b) Ability to Pay

A secondary priority that must be considered is the City's "reasonable financial ability . . . to meet the costs of the proposed contract giving due consideration and weight to the other services, . . . and other priorities . . . as determined by the governing body." ORS 243.746(4)(b) further provides that a reasonable operating reserve against future contingencies . . . shall not be considered as available toward a settlement."

Erich Mueller, the City Finance Director, testified that City finances were adversely affected by the 2008 economic crisis. He testified that as a result, the City eliminated eight budgeted positions, which caused several layoffs, and it deferred capital expenditures and maintenance. The Association points out that in Troutdale Mayor Jim Kight's State of the City address made on February 21, 2012, he stated that a number of local planned "multi-million dollar projects will provide thousands of jobs to the economy and help to strengthen our economic base." Mayor Kight further stated that Moody's Investment Service gave the City an Aa2 rating, which is unusual for a city the size of Troutdale, and "noted [its] sound financial operations highlighted by strong reserve levels and low debt levels." The City's General Account Fund Summary indicates that the City's "current operating expenditures from the General Fund rose from \$8,441,382 in 2009-10 to an expected \$9,857,898 in 2012-13, while its "revenue (net of beginning fund balance) rose during the same period from \$8,564,088 to \$8,751,980, and its general fund balance decreased. Mr. Mueller testified that the City was faced

with additional financial challenges as 2012 unfolded. The State advised the City that effective July 1, 2013, its contribution to the PERS retirement system would increase from about 11% of payroll to about 15%. He testified that the City depends on property tax revenue for almost half of its total revenues, and the property tax assessed value took an unexpected decline of 0.88% for the 2012-13 fiscal year. He testified that he expected that this will result in the exhaustion of the City's budgeted contingency fund, a net deficit for the fiscal year of \$432,000, and a reduction in the unappropriated general fund balance to about \$2,000,000. No evidence was presented regarding what level of reserves would be deemed to be reasonable by municipal accounting professionals for a city with a budget the size of Troutdale's. The City pointed out that expenditures for its Police Department have taken an increasing percentage of City funds in recent years.

The evidence presented establishes that the City is stressed financially, which negatively affects its ability to increase expenditures. A consideration of this factor tends to reduce the total compensation that officers could otherwise expect to receive.

(c) Ability to Attract and Retain Qualified Personnel

The City hired two police officers in 2011 from among 176 applicants. Both of these new officers failed to pass their probationary period. No officer left City employment to take a job with another police department in recent years. In 2008, one officer did resign to take a police related position in Iraq.

The evidence presented establishes that the current compensation package enables the City to attract and retain qualified personnel. Whether a diminution in health benefits will negatively affect this is somewhat speculative, though offering a total compensation package

which is competitive with other nearby similar police departments would likely benefit the City's ability to attract and retain qualified personnel.

(d) and (e) Overall Compensation Comparison

ORS 243.746(4)(d) requires consideration of "overall compensation presently received by the employees, including (among other listed benefits) . . . insurance." ORS 243.746(4)(e) provides for consideration of a comparison of the employees' overall compensation with that received by "employees performing similar services . . . in comparable communities, meaning "communities of the same or nearest population range within Oregon."

The City of Troutdale has a population of 16,244 and is situated in the Portland metropolitan area. Mayor Kight observed in his State of the City speech that "66% of [the] community commutes [for employment] to other locations throughout [the] Portland Metro area."

The parties agree that the following cities are comparable to Troutdale:

<u>City</u>	<u>Population</u>
Sherwood	18,255
Canby	15,830

In addition, the City proposes the following cities as comparators:

<u>City</u>	<u>Population</u>
Forest Grove	21,488
Milwaukie	20,518
Wilsonville	19,715
St. Helens	12,905
Cornelius	12,107
Gladstone	11,626

The City argues that it has provided a fair and balanced set of comparators since it includes four with larger populations than Troutdale, and four with smaller populations, and all are situated in

the Portland metropolitan area. The Association disagrees with the City's suggested comparators, other than Sherwood and Canby, and proposes the following additional comparators:

<u>City</u>	<u>Population</u>
Coos Bay	15,903
Lebanon	15,711
Dallas	14,698
The Dalles	13,631
La Grande	13,102

The Association argues that its comparators are proper because they are close to Troutdale in population. It points out that geographic proximity is not a requirement of the statute.

I have chosen the City's suggested comparators as appropriate for comparison with Troutdale, with the exception of Wilsonville. The remaining cities proposed by the City are all reasonably close in population to Troutdale, with three larger and four smaller than Troutdale, and all are situated in the Portland Metropolitan area. The Association provided no explanation as to why all, but one, of its suggested comparators are smaller than Troutdale. While the statute requires selection of comparators "limited to communities of the same or nearest population range within Oregon," it does not prohibit arbitrators from further narrowing the selection based on proximity, when there are more than enough comparators based on population range. Cities of similar population all within the Portland metropolitan area have more in common than cities of similar population that are more distant, and likely more rural, with varying revenue and cost of living. Compensation comparisons for similar work in similarly sized nearby communities are particularly significant because of the effect on recruitment, retention, and morale caused by wide compensation disparities. Therefore, the cities of Coos Bay, Lebanon, Dallas, The Dalles, and

La Grande, none of which are in the Portland metropolitan area, have not been selected as comparators.

Wilsonville has been excluded as a comparator because that city does not employ police officers, but rather contracts with a county to provide police services. ORS 243,746(4)(e) (A) and (B) suggest the legislature intended that cities are to be compared with cities and counties are to be compared with counties. Arbitrator Stiteler aptly explained why Wilsonville should not be used as a comparator employer for another city in City of Milwaukie and Milwaukie Police

Employees Association, IA-08-10 (Stiteler, 2011):

. . . Using a county as a comparator for a city may skew comparisons because of the different budget structures, revenue sources and operational priorities in the different political subdivisions . . . the compensation of employees of the County Sheriff's Department is based on different comparables than that of the City's police.

As Arbitrator Stiteler correctly reasoned, since Wilsonville does not have its employees performing police services, it is not an appropriate comparator for another city.

The City provided spreadsheets showing total compensation of police officers at time of hire, and at 5 years, 10 years, 15 years, and 20 years. Since only three officers will have more than 15 years of experience during the term of the new Agreement, focus will be placed on the total compensation at hire and at 10 years. The spreadsheets provided reflect total compensation as of January 1, 2013, including monthly base pay, basic certification pay for a new hire, advanced certification pay at ten years, longevity pay, vacation pay, holiday pay, PERS pickup, VEBA contribution, and deferred compensation, with the total reduced by the employee insurance contribution. While I believe that a more accurate reflection of total compensation would reflect the amount of the City's contribution for health insurance rather than a reduction for the employee's contribution, my analysis must be limited to the information provided, and the

cost to the comparators for health insurance was not provided. According to the City, the labor agreements for Forest Grove, St. Helens, and Cornelius have all expired, their last wage increases were all in 2011, and they are currently in contract negotiations. The Association submitted evidence proving that Cornelius has recently agreed to a wage increase effective July 1, 2012 of 2%, and another wage increase effective July 1, 2013 based on the CPI increase, with a floor of 2% and a ceiling of 4%. For purposes of a more fair comparison with Troutdale for 2013, I have increased the total compensation figures provided by the City for Cornelius, Forest Grove, and St. Helens, each by 2%.

Jan. 1, 2013 – Adjusted Monthly Total Compensation

<u>City</u>	<u>New Hire</u>	<u>Ten Year Officer</u>
Forest Grove	\$4,634	\$6,621
Milwaukie	4,505	6,516
Sherwood	4,654	6,472
Canby	4,800	6,726
St. Helens	3,992	6,114
Cornelius	4,419	5,973
Gladstone	<u>4,469</u>	6,136
Average	\$4,496	\$6,365
Median	4,505	6,472
Troutdale with/City proposal	\$4,361	\$6,056
Difference from Average	- 3.1% ²	-5.1% ²
Difference from Median	-3.3%	-6.9%
Troutdale w/Assoc. Proposal	\$4,262 ³	\$5,958 ³
Difference from Average	-5.5%	-6.8%
Difference from Median	-5.7%	-8.6%

² The City represented in its exhibits that it was even further behind the average of the comparators, since it includes Wilsonville, which provided compensation that was significantly higher than the average of its other comparators

³ The anomaly of the total compensation being less in the Association proposal than in the City proposal is based on the City representing the value of the health and welfare benefits, not by the cost to the City, but rather as a reduction in compensation based on the premium cost share of the employees.

The total compensation that would be received by Troutdale Police Officers, including the health and welfare proposals of either the City or the Association, is slightly below average at hire, and more below average at ten years, when compared with the comparators, with only one comparator providing lower total compensation.

According to information provided by the Association, the comparators provide the following health insurance benefits:

	<u>Plan</u>	<u>City/ee Split</u>	<u>Annual VEBA</u>
Forest Grove	Co-Pay Plan B	95/5	1% of Salary
Milwaukie	Plan V-B	85/15	Provided – but amt. not disclosed
Sherwood	Plan I-B	87/13	0
Canby	Pacific Source Plan I	90/10	0
St. Helens	Plan V-A	(Not disclosed)	2% of Salary
Cornelius	Plan V-A	95/5 until 7/1/13 90/10 after 7/1/13	0 until 7/1/13 \$1,000 after 7/1/13
Gladstone	Co-Pay Plan B	90/10	\$500-\$1500

The Association proposal of Plan V-B, with employees paying 11% of the premium and no VEBA has not been shown to be significantly out of line with the plans offered by the comparators. The City offer of a Co-Pay Plan B with an 89%/11% split, and an annual VEBA of \$250, \$500, or \$750, depending on family status, appears to be less costly than the plans offered by the majority of the comparators.

(f) The CPI-All Cities Index

According to statistics provided by the Association, the Consumer Price Index (Urban Consumers) for U.S. Cities, commonly referred to as the CPI-U All Cities, rose by 1.6% in 2010, by 3.2% in 2011, and by an average of 2.4% during the first half of 2012. The City submitted evidence that during the five year period from 2006 through 2010, its officers received wage increases totaling 14.6%, while the CPI-U rose 11.2% during that time span.

The parties have already agreed that there would be no cost of living wage increase during any of the three years of the Agreement, and that the City would pick up the entire 6% employee share of the pension contribution. The pick up of the PERS employee contribution is a benefit that is provided by all of the comparators, except for Cornelius.

(g) and (h) Stipulations and Other Factors

The parties offered no stipulations to be considered by the Arbitrator as part of his decision. ORS 243.746(4)(h) provides that the arbitrator may not consider other factors, if those listed in (a) through (g) provide sufficient evidence for an award. The specified factors are sufficient for an award.

Opinion

Based entirely on the factors listed in ORS 243.746(4)(a) through (g), your Arbitrator shall award the Association's last best offer. The public has an interest in the stability in the labor relations of its Police Department and in maintaining high morale among its police officers. The City proposal eliminates the generous health plan that its officers have enjoyed for many years, and replaces it with a plan which would greatly increase employees' out of pocket expense when they need it the most because of hospitalization or other costly medical procedures. The City bears the burden of establishing a convincing justification for such a change in a long-standing benefit. The governing statute directs the arbitrator to consider "[t]he overall compensation received by employees, including direct wage compensation" and other benefits, such as "insurance." Thus, the officers' health insurance benefit cannot be considered in isolation, but rather must be viewed as a slice of their overall compensation package. In the past, through their collective bargaining, the parties agreed to a medical benefit which is particularly favorable to the officers, and which of course they desire to keep to the extent possible. They

also agreed to wage levels and other benefits which kept the officers' overall compensation, including the cost of their health benefits, below the average of the comparators. That has long been the parties' mutual agreement as to how to divide the compensation pie and that tradeoff should be respected. It should be noted here that the cities used for comparison were all suggested by the City. All are similarly sized to Troutdale and are situated in the Portland metropolitan area. Presumably, like Troutdale, they have been affected by the 2008 economic downturn and the slow recovery. No evidence was presented which would establish that Troutdale is unique in its economic condition or circumstances. Based on a comparison of overall compensation with these similar communities, it cannot be said that the cost to the public for its police services is excessive or out of line. In fact, based on the overall compensation comparison, the public is getting a very fair deal. Even with the award of the Association proposal, the City will likely still rank next to last in total compensation provided to its officers when compared with the seven comparators.

It is recognized that in this difficult economy, the City has had to deal with rising insurance premiums, an increase in retirement costs, disappointing revenues and a declining reserve. The Association offer does, to some extent, address these concerns, by calling for a modestly less expensive plan, and an increased percentage share of the insurance premium to be paid by the officers. It has not been sufficiently shown that by incurring the cost of the Association proposal, the City would then be unable to either reasonably meet its need for other services or to maintain reasonable reserves. It is significant that there was essentially no trade off for the significant reduction in the officers' health benefit. The parties did agree to a three year wage freeze, with the City picking up the employees' pension contribution, but that is a benefit which all but one of the comparators already provide. While this is a new benefit for the

Troutdale officers, still their total compensation increase with this Award likely does not exceed the increase in the cost of living during the term of the new Agreement. Given that the total compensation received by the City's police bargaining unit already does not compare favorably with the comparable employers, all of which are situated relatively close to Troutdale, the significant reduction in health benefits which would result from the City's offer, would not be helpful to the recruitment or retention of employees. Weighing the criteria set forth in ORS 243.746(4), I find that they support the Association's last best offer more than the City's last best offer.

ORDER

The Association's last best offer to resolve the parties' impasse regarding their Collective Bargaining Agreement for July 1, 2011 through June 30, 2014 is hereby awarded.

Sammamish, Washington

Dated: January 16, 2013



Alan R. Krebs, Arbitrator

Labor Agreement
Between
The City of Troutdale
and the
Troutdale Police Officers' Association
Effective
July 1, 2011 through June 30, 2014

TABLE OF CONTENTS

PREAMBLE	1
ARTICLE 1 – RECOGNITION	2
• Recognition	
• New Classifications	
• Part-Time Employees	
ARTICLE 2 – EXISTING CONDITIONS	3
ARTICLE 3 – ASSOCIATION SECURITY	4
• Check-Off	
• Payment in Lieu of Dues	
• Religious Objection	
• Indemnification	
ARTICLE 4 – CITY SECURITY	5
ARTICLE 5 – EMPLOYEE RIGHTS	6
• Employee Organizations	
• Non-Discrimination	
• Accommodation	
ARTICLE 6 – MANAGEMENT RIGHTS	7
ARTICLE 7– BULLETIN BOARD	8
ARTICLE 8– GENERAL AND SPECIAL ORDERS	9
ARTICLE 9 – DEPARTMENT MANUAL AND CONDUCT	10
ARTICLE 10 – ASSOCIATION BUSINESS	11
• Association Business	
• Contract Negotiations	
• Special Conferences	
• Critical Incidents	
ARTICLE 11 – OUTSIDE EMPLOYMENT	12

ARTICLE 12 – HOURS OF WORK	13
• Work Week	
• Workday	
• Meal Period	
• Rest Periods	
• Work Schedules	
• Semi-Annual Shift Assignments	
ARTICLE 13 – OVERTIME	16
• Definition	
• Form of Compensation	
• Call Back	
• No Pyramiding	
ARTICLE 14 – SICK LEAVE	18
• Accrual	
• Utilization	
• Verification of Illness or Injury	
• Abuse of Sick Leave	
• Integration with Workers' Compensation	
• Retirement or Death	
ARTICLE 15 – HOLIDAY COMPENSATION	20
ARTICLE 16 – VACATIONS	21
• Accrual	
• Scheduling	
• Separation	
• Vacation Sell-Back	
• Carryover	
• Vacation and Other Paid Leave Donations	
ARTICLE 17 – OTHER LEAVE	24
• Bereavement Leave	
• Military Leave	
• Witness or Jury Duty	
• Family Medical Leave	
• Other Leaves	
ARTICLE 18 – PERSONAL LEAVES OF ABSENCE	25
ARTICLE 19 – MILEAGE AND EXPENSES	26
• Mileage Reimbursement	
• Expenses	

ARTICLE 20 – CLOTHING AND UNIFORMS	27
• Uniform	
• Clothing Allowance	
• Property Reimbursement	
• Cleaning	
ARTICLE 21 – GRIEVANCE PROCEDURE.....	28
• Process	
• Time Limits	
ARTICLE 22 – DISCIPLINE AND DISCHARGE	30
• Definition	
• Process	
• Association Representation	
• Standard for Review	
• Interview and Investigations	
• Due Process Rights	
ARTICLE 23 - PERSONNEL FILES	32
• Material in File	
• Access	
• Removal	
ARTICLE 24 - SENIORITY	33
• Definition	
• Loss of Seniority	
• Application	
• Seniority List	
ARTICLE 25 - LAYOFF AND RECALL	35
ARTICLE 26 – SHIFT AND DAYS OFF BIDDING	36
• Rotation	
• Shift and Days off	
• Overtime Waiver	
• Supervisor Availability	
ARTICLE 27 – PROBATIONARY PERIOD	37
• Definitions	
• Promotional Probation	
ARTICLE 28 – TRAINING	38
• Training	

ARTICLE 29 – INSURANCE BENEFITS39

- Medical and Vision Insurance
- Dental Insurance
- Domestic Partners
- Life and Disability Insurance
- Change of Plans
- Retirement
- Liability
- Criminal Investigation/Charge Reimbursement

ARTICLE 30 – WAGES, SALARY RANGE AND SCHEDULE MOVEMENT42

- Wages
- Schedule Movement
- Demotion
- Salary Range Changes
- Pay Periods

ARTICLE 31 – EDUCATION INCENTIVE/LONGEVITY/PREMIUMS43

- Certification/Education
- Longevity
- Premium Pay

ARTICLE 32 – WRITTEN RECORD OF COMPLAINT45

ARTICLE 33 - SAVINGS CLAUSE46

ARTICLE 34 – TERM OF AGREEMENT47

ADDENDUM A – SALARY SCHEDULE49

ADDENDUM B – INTERVIEWS/INVESTIGATIONS51

ADDENDUM C – DRUG AND ALCOHOL POLICY53

PREAMBLE

This Agreement entered into between the City of Troutdale, Oregon hereinafter referred to as the "City" and the Troutdale Police Officers' Association, hereinafter referred to as the "Association" has as its purpose the promotion of an efficient police department; harmonious relations between the City and the Association; the establishment of an equitable and peaceful procedure for the resolution of differences; and to set forth their entire agreement with regard to rates of pay, hours of work and other conditions of employment.

ARTICLE 1 – RECOGNITION

1.1 Recognition

The City recognizes the Association as the sole and exclusive bargaining agent with respect to wages, hours and other conditions of employment for the full-time and regular part-time employees in the bargaining unit. Regular part-time employees shall be defined as those who are regularly and consistently scheduled to work at least twenty (20), but less than forty (40) hours per week.

The bargaining unit shall consist of all sworn Police Officers, excluding supervisory and confidential employees as defined by the Public Employee Collective Bargaining Act (PECBA).

1.2 New Classifications

New classifications may be developed by the City and a wage scale for those classifications may be assigned by the City. The City shall so notify the Association and provide the Association with a copy of the job description for the new classification and the wage scale assigned to that classification.

In the event the Association and the City agree that the newly created job classification appropriately belongs in the bargaining unit, and if the Association serves written notice of its desire to bargain over the wage rate assigned the classification, the Association and the City shall enter into negotiations for wages and those issues unique only to the newly created classification.

In the event the City disagrees with the Association's contention that the newly created classification appropriately belongs in the bargaining unit, the Association has the option to petition the Employment Relations Board (ERB) for a unit clarification.

1.3 Part-Time Employees

In the event the City employs part-time employees covered by this Agreement, such employees will receive prorated holiday, vacation and sick leave benefits, based on their regularly scheduled hours and insurance benefits in accordance with Article 29. Such employees will also pay prorated dues to the Association in an amount specified by the Association.

ARTICLE 2 – EXISTING CONDITIONS

The City will not make unilateral changes in mandatory subjects of bargaining, or permissive subjects of bargaining with mandatory impacts, without first fulfilling its legal obligations regarding negotiation of such subjects.

ARTICLE 3 – ASSOCIATION SECURITY

3.1 Check-Off

The City will deduct Association dues from the wages of employees when so authorized and directed in writing by the employee on the authorization form provided by the City.

Any authorization for the payroll deductions may be cancelled by any employee upon written notice to the City and Association prior to the 15th day of each month, to be effective on the 1st day of the following month.

The City will not be held liable for check-off errors but will make proper adjustments with the Association for errors, as soon as is practicable. It is also agreed that neither any employee nor the Association shall have any claim against the City for any deductions made or not made, as the case may be, unless a claim of error is made in writing to the City within forty-five (45) calendar days after the date such deductions were or should have been made.

3.2 Payment in Lieu of Dues

Any employee who is a member of the bargaining unit and has not joined the Association within thirty (30) days of becoming an employee, or who has joined within such time and then withdrawn from membership after such thirty (30) days, shall have deducted from his/her pay by the City a monthly service fee in the uniform amount of a payment in lieu of dues to the Association. The payment in lieu of dues shall be segregated by Association and used on a pro-rate basis solely to defray the cost for its services rendered in negotiation and administering this Agreement. Such deduction shall be made only if accrued earnings are sufficient to cover the service fee after all other authorized payroll deductions have been made.

3.3 Religious Objection

Any individual employee objecting to payment in lieu of dues based on a sincerely held religious belief or bona fide religious tenets or teachings of a church or religious body of which such employee is a member, is required to inform the City and the Association of his/her objection. The employee will meet with the representatives of the Association and establish a mutually satisfactory arrangement for distribution of a contribution of an amount of money equivalent to the above mentioned payment in lieu of dues to a charitable organization mutually agreed upon by the employee and the Association. The employee shall furnish written proof to the City that such has been accomplished, per ORS 243.666(1).

3.4 Indemnification

The Association will indemnify, defend and hold the City harmless against any claims made and against any suit instituted against the City as a result of any City action taken pursuant to the provisions of this Article.

ARTICLE 4 – CITY SECURITY

4.1 City Security

The Association agrees that during the term of this Agreement, its membership will not participate in any strike against the City under any circumstances. For the purpose of this Agreement, the meaning of the word “strike” is any concerted stoppage of work, slowdown, speedup, sit-down, absence from work upon any pretext that is not founded in fact, interruption of the operations of the City by the Association, or any similar act. Violation of this section by any bargaining unit member shall be grounds for disciplinary action up to and including immediate discharge. The Association will exert every reasonable effort to ensure compliance with provisions of this Article.

ARTICLE 5 – EMPLOYEE RIGHTS

5.1 Employee Organizations

Employees shall have the right to form, join and participate in the activities of employee organizations of their choosing, for the purpose of representation on matters of employee relations. Employees shall also have the right to refuse to join and participate in the activities of any employee organization. No employee shall be interfered with, intimidated, restrained, coerced or discriminated against by the City or by the Association or any employee because of exercise of these rights.

5.2 Non-Discrimination

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

5.3 Accommodation

While the parties of this Agreement equally support the provisions of this section, it is also agreed that an alleged violation of this section shall not be subject to the final step of the grievance procedure incorporated into the Agreement, where a civil remedy exists at law.

ARTICLE 6 – MANAGEMENT RIGHTS

The City shall exercise the sole responsibility for management of the City and direction of its work force. To fulfill responsibility, the rights of the City include, but are not limited to: establishing and directing activities of the City's departments and its employees; determining services to be rendered, standards and levels of service and methods of operation, including the introduction of new technology and equipment; establishing procedures and standards for employment and promotion; implementing layoffs, transfers and promotions; disciplining or discharging regular employees for just cause or probationary employees at will; determining job descriptions; determining and assigning work schedules; establishing performance standards and work rules, and assign work.

No provision of this Agreement shall be interpreted in such manner as to prevent the City from making such reasonable accommodation as may be required under applicable legislation (i.e., ADA, Title VII, etc.)

ARTICLE 7 – BULLETIN BOARD

The City agrees to furnish space for a suitable bulletin board to be used by the Association. The Association shall limit its posting of notices and bulletins to such bulletin board and shall limit its posting to official Association business.

ARTICLE 8 – GENERAL AND SPECIAL ORDERS

The City will furnish the Association with copies of all general or special orders promulgated during the term of this Agreement pertaining to wages, hours and conditions of employment.

ARTICLE 9 – DEPARTMENT MANUAL AND CONDUCT

The City agrees to furnish each employee of the bargaining unit with a hard or electronic copy of the Department Manual and a copy of this Agreement. The Department Manual, policy and procedures shall be current and updated as changes occur, and copies of such shall be furnished to the employees and it shall be the employee's responsibility to file them in their manuals. The Association may raise legitimate matters concerning officer safety.

ARTICLE 10 – ASSOCIATION BUSINESS

10.1 Association Business

Up to three (3) members of the bargaining unit selected to serve as authorized representatives shall be certified in writing to the Chief of Police. When authorized in advance, one (1) representative shall be granted time off without loss of regular pay for the purpose of meeting with City representatives. Employees may attend quarterly Association meetings within the city limits, on duty, subject to call, when previously authorized by the Chief of Police.

A grievant shall be allowed to attend required grievance hearings without loss of regular pay. Time spent attending such meetings shall not be considered time worked for purposes of computing overtime.

10.2 Contract Negotiations

The Association's negotiation team may be comprised of more than two (2) employees; provided, however, that the City's obligation to allow such individuals to attend negotiations during duty hours without loss of pay shall be limited to two (2) individuals. Hours utilized for this purposes shall not be considered hours worked in determining overtime.

The date, time and place for negotiating sessions shall be established by mutual agreement between the parties. The Association's attorney may participate in negotiating sessions at the Association's discretion.

10.3 Special Conferences

Up to two (2) members of the bargaining unit may be allowed to attend conferences directly related to Association matters, provided the City receives sufficient advance notice of the dates of such conferences and the approval of the Chief of Police is obtained.

10.4 Critical Incidents

When an Association representative is requested by the officer involved in a critical incident to respond to the incident and assist the officer, the time spent by the Association representative, to a maximum of sixteen (16) hours (straight-time and overtime), shall be considered work time. A "critical incident" shall include any incident involving a shooting, death or serious bodily injury.

The Chief of Police shall require any officer who is directly involved in a critical incident involving a fatality or serious injury to undergo a psychological evaluation to ensure fitness to return to duty. In addition, the City reserves the right to require any officer to undergo a psychological evaluation consistent with the ADA. Officers will be placed on paid administrative leave pending the results of such evaluations. The cost of such evaluation which is not covered by the insurance will, upon proper verification, be paid by the City.

ARTICLE 11 – OUTSIDE EMPLOYMENT

In an effort to provide maximum protection to both the City and its employees against claims of conflict of interest or liability suits, any employee wishing to accept outside employment must first obtain the written approval of the Chief of Police prior to accepting such outside employment. Each change in outside employment shall require separate approval. Employees may continue to engage in the same type and level of outside employment, including self-employment that they were engaged in prior to a leave of absence during a leave of absence. However, employees may not engage in new, expanded or additional outside employment, nor may they engage in any outside employment that exceeds the scope of their medical restrictions or delays in their return to work.

ARTICLE 12 – HOURS OF WORK

12.1 Work Week

The work week, consistent with the operating requirements of the City, shall consist of a forty-hour (40-hour) shift schedule during a seven (7) calendar day period commencing midnight Sunday and ending midnight the following Sunday, on a 5-8 or 4-10 or 5-9/4-9 schedule. The only exception to these provisions shall be for part-time employees and employee's assigned to special assignments subject to flexible scheduling as set forth in Section 12.8 below.

- a. A "5-8" work schedule shall consist of five (5) consecutive days of eight (8) work hours each followed by two (2) consecutive days off.
- b. A "4-10" work schedule shall consist of four (4) consecutive days of ten (10) work hours each, followed by three (3) consecutive days off. In the event a 4-10 schedule is implemented, the parties agree to meet to negotiate its implementation and any contract changes as may be necessary.
- c. A "5-9/4-9" work schedule shall consist of five (5) consecutive days of nine (9) work hours each [with the exception of the employee's Friday shift, where the employee will work eight (8) hours, getting off shift one (1) hour earlier than normally scheduled], followed by two (2) consecutive days off, followed by four (4) consecutive days of nine (9) work hours each, followed by three (3) consecutive days off.

The implementation of this 5-9/4-9 work week shall terminate upon the mutual consent of the parties or by thirty (30) days written notification from either party of its desire to terminate. However, it is understood that the City will exercise the thirty (30) day written notification option based only on fiscal and/or operational necessity, as determined by the City. At no time shall either party's exercise of the option to terminate the 5-9/4-9 work week be arbitrary or capricious.

12.2 Workday

A normal work day shall consist of either eight (8), nine (9) or ten (10) hours per day, as specified above.

12.3 Meal Period

Each employee covered by this Agreement will be permitted a thirty (30) minute paid meal period each work day to the extent consistent with operational or duty requirements.

12.4 Rest Periods

Each employee covered by this agreement will be permitted two (2), fifteen (15) minute paid rest periods each work day, to the extent consistent with operational or duty requirements.

12.5 Work Schedules

Each employee shall be assigned a regular work schedule, which may be modified without penalty by mutual agreement between the City and the employee(s) involved. An employee will normally be given seven (7) days advance notice of any change in his/her regular hours of work. Employees whose schedules are changed involuntarily by the City on less than seven (7) days notice will be paid overtime for time worked outside their regular work schedule, except where a change of schedule is due to an emergency. (Act of God, natural disaster, civil unrest, governmental declaration of emergency or other circumstances outside the City's control), when the change in schedule is unknown seven (7) days in advance of the change, for the purpose of the employee's voluntary training and/or by mutual agreement of the City and the employee(s) involved.

The scheduling of compensatory time off shall be done in conformity with the Fair Labor Standards Act (FLSA). The parties agree that the City will not be obligated to schedule compensatory time off, and that such requests are unduly burdensome, if the City does not have at least ten (10) days advance notice.

12.6 Semi-Annual Shift Assignments

On or before November 1 and May 1 of each year, the Department shall post a shift and days off assignment roster on the Association bulletin board without assigning officers by name. Officers shall enter their names on this roster in the order of their seniority. No officer, however, shall continue on the same shift for more than 12 consecutive months. Officers who fail to sign the roster in a timely fashion shall be assigned a shift and days off by the Department. Sign up for the November 1 roster shall be completed by December 1 in order to be implemented on January 1. Sign up for the May 1 roster shall be completed by June 1 in order to be implemented by July 1. Employees who are reassigned in the middle of the semi-annual shift cycle shall not be able to bump other employees upon reassignment.

This section does not apply to probationary employees, who may be assigned to shifts within the discretion of the Department.

12.7

Employees who report for their regular shifts shall be compensated for a minimum of three (3) hours of work or pay unless given advance written notice not to report.

12.8

Employees who are assigned to special assignments, such as School Resource Officer, Traffic Officer, Investigations, etc. may be placed on a flexible schedule, consisting of a forty-hour (40 hour) shift, which varies from day-to-day and week-to-week, as necessary to perform duties of their position. Such employees will notify the supervisor of their shift needs and will obtain approval to work extra hours in a workday with a corresponding reduction in their hours in another workday in the same work week. Flexible work schedules shall be established only upon mutual agreement between the employee and the City. The City reserves the right to discontinue special assignment flexible schedules and return the employee to one of the work schedules specified in Section 12.1.

12.9

Employees who are assigned to light duty or placed on administrative leave may be automatically placed on a 5-8, Monday through Friday work schedule, at the discretion of the City.

ARTICLE 13 - OVERTIME

13.1 Definition

All work under the following conditions shall be compensated at the rate of time-and-one-half:

- a. For employees assigned to a 5-8 schedule, all work in excess of eight (8) hours on any work day.
- b. For employees assigned to a 4-10 schedule, all work in excess of ten (10) hours on any work day.
- c. For employees assigned to a 5-9/4-9 schedule, all work in excess of nine (9) hours on any workday.
- d. All work in excess of forty (40) hours in a workweek for employees assigned to a 5-8 or 4-10 schedule. All work in excess of forty-four (44) hours in a workweek for employees assigned to a 5-9/4-9 work schedule (during the 5-9 shift week). All work in excess of thirty-six (36) hours in a workweek for employees assigned to a 5-9/4-9 work schedule (during the 4-9 shift week).
- e. For employees assigned to a special assignment flexible schedule, all work in excess of forty (40) hours in a work week.

For the purpose of Subsections (a), (b) and (c) above, a "workday" shall be defined as one (1) twenty-four (24) hour period commencing at the start of the employee's scheduled shift.

Notwithstanding Subsection (d) above, if time worked in excess of thirty-six (36) hours, forty (40) hours, or forty-four (44) hours per work week is due to shift changes and the total hours worked do not exceed one hundred seventy-one (171) hours during a work period of twenty-eight (28) consecutive days, it shall not be considered as overtime provided the provisions of Article 12.5 and Article 26.2 are followed.

For the purpose of section 13.1, the only non-worked paid time that will be considered "hours worked" will be vacation hours, holiday hours and jury duty hours. Compensatory time, sick leave, bereavement leave and other non-worked paid time will not be considered "hours worked" for overtime purposes.

All overtime pay shall be computed to the nearest one quarter (1/4) hour.

13.2 Form of Compensation

The employee may elect to be compensated for all overtime in cash, or he/she may elect to accrue compensatory time, to the extent such is allowed by law, to a maximum accrued balance of eighty (80) hours, with the remainder to be paid in cash. In the event any employee elects to be cashed out of any portion of his/her compensatory time, payment will be made on the City's

next payday, provided the employee has submitted a written request for payment to the Payroll Department at least ten (10) days in advance. Compensatory time may also be donated to other employees in accordance with Article 16.6.

13.3 Callback

Authorized court and call-back overtime shall be compensated at the below minimums:

- a. On a Scheduled Workday: Three (3) hours - but this minimum shall not apply if the court or call-back assignment begins one (1) hour or less before the start or after the end of the employee's regular shift.
- b. On a Scheduled Day Off: Three (3) hours - Scheduled days off include scheduled leave days, provided the employee complies with current court notification procedures.

As a condition of receipt of payment for the time involved, all witness fees, mileage allowances, and other remuneration paid for appearances in court proceedings under this Article shall be turned over to the City. An employee who is on court call-back remains on call-back until finally released for the day by the court.

13.4 No Pyramiding

The City shall not be required to pay twice for the same hours.

ARTICLE 14 – SICK LEAVE

14.1 Accrual

Full time employees shall accrue sick leave at a rate of eight (8) hours per calendar month of employment. No employee shall accrue more than twelve hundred (1,200) hours of sick leave.

14.2 Utilization

Accrued sick leave may be used to compensate an employee for absences from regularly scheduled working time for the following purposes:

- a. When the employee is unable to work due to an off-the-job injury or illness.
- b. When the employee is unable to work due to an on-the-job injury or illness as described in Section 14.5 of this Agreement.
- c. To attend doctor or dental appointments, subject to the conditions outlined below.
- d. Employees who are not covered by the Oregon Family Leave Act may use up to one (1) day of sick leave per occurrence in the event of an illness or injury in their immediate family which necessitates making arrangements or caring for the ill or injured immediate family member. Members of the employee's immediate family are defined as relatives, dependents and domestic partners domiciled in the employee's household. "Domestic partner" shall be as defined in Section 29.1 of this Agreement.
- e. Employees who are covered by the Oregon Family Leave Act (OFLA) may use sick leave for other OFLA qualifying purposes.

Employees are encouraged to schedule medical and dental appointments outside their regularly scheduled working hours, whenever possible. In the event that such appointments must be scheduled during an employees scheduled shift, every effort must be made by that employee to give the Department as much notice as possible.

Variances to this policy must be approved by the Chief of Police prior to authorization of sick leave.

14.3 Verification of Illness or Injury

The City may require an employee to submit certification by a physician or health care professional or other acceptable verification of the reason for utilization of sick leave as a precondition to payment of sick leave whenever the employee's absence exceeds three (3) consecutive workdays or whenever the City has an objectively reasonable concern (e.g. questionable patterns of usage, etc.) regarding the employee's usage of sick leave, after providing the employee an opportunity to negate the concern.

14.4 Abuse of Sick Leave

Abuse of sick leave shall constitute just cause for disciplinary action up to and including termination of employment.

14.5 Integration with Workers' Compensation

In the case of on-the-job injuries or illnesses covered by Workers' Compensation, the City will provide to the employee an amount equal to the difference between the payments received for Workers' Compensation time-loss benefits and regular net salary. The difference shall be deducted from the employee's sick leave.

Whenever an employee receives a check for Workers' Compensation time-loss benefits, he/she shall turn said check over to the City.

14.6 Retirement or Death

The City will report the unused sick leave balances of employees who leave the City's employment to the Public Employee's Retirement System (PERS) for crediting toward their retirement, consistent with applicable law.

ARTICLE 15 – HOLIDAY COMPENSATION

In lieu of holidays off, each full-time employee shall earn the equivalent of twelve (12) holidays annually (to equal ninety-six (96) hours annually.) Holiday pay will accrue on a monthly basis at the rate of eight (8) hours credit for each full month worked. Holiday credits will be prorated for newly employed officers, officers who resign, are terminated or otherwise suffer a break in seniority, and partial months of work.

An employee may elect to cash out up to forty eight (48) hours holiday credit on the payday immediately following January 1st and July 1st, provided he/she submits a written request for payment to the Payroll Department at least ten (10) days in advance. Holiday credits may also be donated in accordance with Article 16.6.

ARTICLE 16 – VACATIONS

16.1 Accrual

Vacations shall accrue as follows:

- One week (40 working hours) shall be earned after six (6) months of continuous employment.
- Six and two-thirds hours shall accrue during each month after the first six (6) months for the next thirty (30) months (i.e., 2 weeks each year through the third year of employment.)
- After three (3) years of continuous employment two (2) personal days (16 hours) shall accrue each year in addition to the two (2) regular weeks (80 hours) of vacation (i.e., 2 weeks and 2 days each year during the fourth and fifth years.)
- After five (5) years of employment, vacation shall accrue at three (3) weeks (120 hours) per year (i.e., 3 weeks per year during the sixth year.)
- After ten (10) years of employment, four (4) weeks (160 hours) shall accrue per year (i.e., 4 weeks during the eleventh year.)
- After fifteen (15) years of employment, four (4) weeks and three (3) days (184 hours) shall accrue per year.
- After twenty (20) years of employment, five (5) weeks (200 hours) shall accrue per year (i.e., 5 weeks during the twenty-first year.)

16.2 Scheduling

Vacation periods shall be scheduled at the mutual agreement of the City and the individual employee. Between June 1st and 15th and December 1st and 15th of each year, the City shall post a vacation sign-up roster for the following six (6) month period. Each employee shall be allowed to select one continuous vacation period (vacation, holiday and comp time included) from the portions of the year in which vacation is available on a seniority basis. After the seniority vacation selection, as provided for above, all additional vacation will be scheduled subject to the operational needs of the department on a first-come first-served basis. Once a vacation request has been approved, it shall not be cancelled by the City unless due to circumstances beyond the control of the City.

16.3 Separation

All employees shall be entitled to payment for unused vacation, holiday and compensatory time upon separation from City service. In the event of death, the employee's heirs will be entitled to payment of such accrued time.

16.4 Vacation Sell-Back

Employees, who have used at least forty (40) consecutive hours of vacation time within the fiscal year may, at their option, elect to be paid for up to forty (40) hours of accrued vacation in addition to vacation time taken. Payment requests must be submitted in writing with an employee's time sheet and will be paid on the next payday.

16.5 Carryover

Earned vacation should be used during the following year. An employee with less than five (5) years service may accrue a maximum of one hundred sixty (160) hours vacation. Employees with more than five (5) years service may accrue a maximum of two hundred forty (240) hours.

16.6 Vacation and Other Paid Leave Donations

The donated leave policy is intended to give employees an opportunity to contribute donations of paid leave to other City employees who are absent from work for a prolonged period due to their own serious medical conditions or to care for a family member with a serious medical condition. Employees with a minimum of eighty (80) hours vacation pay may donate their accrued vacation, holiday and compensatory time benefits to other City employees who have exhausted all their paid leave banks (e.g. vacation, holiday, compensatory and sick leave) and who:

- Have applied for Long Term Disability (LTD) insurance and do not have enough paid leave to cover until LTD becomes available; or
- Have applied for and are eligible to receive Family Medical Leave (FMLA and/or OFLA) to care for an ill or injured family member and do not have enough paid leave to cover the expected duration of the FMLA/OFLA leave.

Donations of accrued vacation, holiday and compensatory time benefits are subject to the following conditions:

- a. Any employee seeking to donate benefits must maintain a minimum of eighty (80) hours of accrued vacation.
- b. Paid leave donation requests must be submitted to Human Resources in writing and must specify the amount and type of paid benefits being donated.
- c. Paid leave donations are made voluntarily and anonymously.

- d. Paid leave donations will be converted to a dollar amount based on the hourly wage of the person donating the leave. This amount will then be converted back to hours based on the hourly wage of the employee receiving the leave.
- e. Donations will be removed from the donor's paid leave banks and deposited in a City sponsored leave bank for use by other City employees who are eligible to receive paid leave donations.
- f. Eligible employees may not receive donations of paid leave time beyond the first ninety (90) calendar days following an employee's first day of absence, the start of Short Term Disability, Long Term Disability, Social Security Disability, PERS disability or any other supplemental benefit, whichever date occurs first.
- g. Donations of compensatory, vacation or holiday benefits are irrevocable. Employees who donate such benefits surrender those benefits to the donated leave bank to be used for the benefit of other employees who are qualified to receive donations.
- h. Donations of paid leave time will be granted and used as needed on a "first in-first out" basis.

ARTICLE 17 – OTHER LEAVE

17.1 Bereavement Leave

In the event of death in the immediate family (husband, wife, mother, father, son, daughter, sister, brother, father-in-law, mother-in-law, brother-in-law, sister-in-law, grandparents, grandchildren, foster children, step parents, step siblings, step children, domestic partners and other relatives not listed, but residing in the employee's household) an employee shall be granted a leave of absence up to three (3) calendar days with pay, depending on the employee's necessity to travel and make funeral arrangements. Additional leave of absence may be granted on an individual basis and requests must be approved in advance by the Chief of Police or designee. This leave is non-cumulative. Domestic partner shall be defined in Section 29.4 of the Agreement.

17.2 Military Leave

The City will abide by all applicable laws.

17.3 Witness or Jury Duty

If an employee is called for jury duty or is subpoenaed as a witness under circumstances beyond the employee's control and where such duties are in the public interest, the employee will be continued at full salary and benefits for the period of required service. All monies received as witness fees or pay for jury duty, except for mileage allowance, must be signed over to the City, unless such fees were earned on the employee's days off or during other authorized leave. The employee shall be required to report to work when less than a normal day is required by jury or witness duties. If the employee works night or evening shifts, the employee shall be transferred to day shift during the time the employee is required to serve as juror or witness.

This leave policy does not extend to personal interest court appearances such as, but not limited to, divorces or lawsuits not related to employment.

17.4 Family Medical Leave

The City will comply with the Family Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA). Employees who are absent from work for FMLA or OFLA qualifying reasons, and have depleted sick leave benefits, will be paid accrued compensatory time and/or vacation time for their absences. In the event an employee does not specify whether he/she prefers to utilize compensatory time, holiday or vacation time, compensatory time will be utilized first, then holiday, then vacation pay. In the event these paid leave banks are depleted, the remainder of FMLA and/or OFLA leave will be unpaid. When an absence is covered by both FMLA and OFLA, those leaves will run concurrently consistent with applicable law.

17.5 Other Leaves

The City will grant other paid or unpaid leaves of absence as required by applicable law.

ARTICLE 18 – PERSONAL LEAVES OF ABSENCE

An extended leave of absence without pay, not to exceed three (3) months, may be granted by the City Manager. An additional three (3) months may be granted in the event of hardship and requested in writing at the discretion of the Chief of Police. Employees requesting such leave must do so in writing and must establish reasonable justification for approval.

ARTICLE 19 – MILEAGE AND EXPENSES

19.1 Mileage Reimbursement

Whenever an employee is authorized to use his/her personal vehicle in performance of official City duties, he/she shall be compensated at the IRS rate as of the preceding January 1st.

19.2 Expenses

Reimbursement for subsistence on official trips shall be the amount of actual and reasonable expense incurred during the performance of official duty as a City employee for the City's benefit.

ARTICLE 20 – CLOTHING AND UNIFORMS

20.1 Uniform

If an employee is required by City policy to wear a uniform, such uniform shall be furnished by the City, and the City shall pay for initial tailoring. Any required footwear is specifically excluded from this provision and shall be the responsibility of the employee to provide. Newly hired employees will receive leatherwear (gun-belt, holster and other typical equipment on the gun-belt), as well as a firearm, at no cost. Additionally, employees with at least three (3) years of service will be eligible for replacement of leatherwear (gun-belt, holster and other typical equipment on the gun-belt), by the City at no expense to the employee. Thereafter, employees will be eligible for this replacement every five (5) years. The City will also provide firearms for employees for duty, provided that the Chief of Police shall determine which firearms are acceptable for duty. The employees shall make restitution to the City for loss or damage to any City supplied uniform, unless such loss or damage occurred in the line of duty and was not caused by negligence on the part of the employee.

20.2 Clothing Allowance

The City will provide a clothing allowance for employees while assigned to plain-clothes duty at the rate of \$50.00 per month. The provisions of this section shall apply only to sworn personnel who wear plain clothes seventy-five percent (75%) or more of duty time calculated monthly.

20.3 Property Reimbursement

The City shall reimburse employees for the reasonable costs of personal property reasonably and necessarily worn or carried and which is not furnished by the City when such property is stolen, damaged or destroyed as a direct result of the employee's performance of his/her official duties. Reimbursement shall not be granted if the negligence or wrongful conduct of the employee was a substantial contributing factor to the theft, damage or destruction.

20.4 Cleaning

The City shall provide for cleaning of the uniform specified in 20.1 above in a manner specified by the City.

ARTICLE 21 – GRIEVANCE PROCEDURE

21.1 Process

To promote better relations, the parties agree to settle any disputes as to the meaning, interpretation, or application of the Agreement by the following procedure:

STEP 1: After first attempting to resolve the grievance informally, the Association or any employee with notice to the Association, may claim a breach of this Agreement in writing to the employee's immediate supervisor within ten (10) days from the occurrence thereof, or of the employee's knowledge thereof, or from the time the employee should reasonably have become aware. The notice shall include:

- a. A statement of the grievance and relevant facts;
- b. Specific provision(s) of the contract alleged to have been violated; and
- c. Remedy sought.

The supervisor shall respond to the grievance in writing within seven (7) days of receipt of the grievance, with a copy to the Association.

STEP 2: If after seven (7) days from the date of receipt of the response of the supervisor, the grievance remains unadjusted, the grievance may be submitted to the Chief of Police. The Chief may meet with the aggrieved party, who may request an Association representative at the hearing. The Chief shall respond to the grievance in writing within seven (7) days of the Chief's receipt of the grievance.

STEP 3: If after seven (7) days from the date of receipt of the Chief's response the grievance remains unadjusted, the grievance may be submitted to the City Manager, who shall meet with the aggrieved party and Association representatives and shall respond to the grievance in writing within ten (10) days of the City Manager's receipt of the grievance.

STEP 4: If the grievance is not resolved at Step 3, it may be submitted by the Association, within fourteen (14) days of the Association's receipt of the City Manager's decision, to arbitration. The arbitrator shall be selected by mutual agreement of the parties as follows:

A list of seven (7) Oregon arbitrators shall be requested from the State Mediation and Conciliation Service, and the parties shall alternately strike one (1) name from the list until only one (1) is left. The first strike shall be determined by a coin toss. The one remaining shall be the arbitrator. One (1) day will be allowed for the striking of each name.

The parties shall jointly request that the arbitrator render a decision in writing within thirty (30) days of the close of the hearing and receipt of briefs. The powers of the arbitrator shall be limited to interpreting this Agreement and determining if it has been violated. The arbitrator shall have no authority to add to, subtract from, or modify this Agreement. The decision of the arbitrator shall be binding on both parties.

The parties specifically agree that, in the event issues are submitted to arbitration, the decision shall be strictly limited to those issues disputed by the parties.

The costs of the arbitrator shall be borne by the losing party. Each party shall be responsible for the cost of presenting its own case to arbitration.

21.2 Time Limits

Any time limits specified in this grievance procedure may be waived by mutual consent of the parties. "Day" shall be defined as calendar day. Failure by the Association to submit and advance the grievance in accordance with these time limits without such waiver shall constitute abandonment of the grievance. Failure by the City to submit a reply within the specified time will constitute a denial of the grievance. A grievance may be terminated at any time upon receipt of a signed statement from the Association or the employee that the matter has been resolved.

ARTICLE 22 – DISCIPLINE AND DISCHARGE

22.1 Definition

Disciplinary action or measures for violations of rules or regulations shall include only the following: Oral reprimand, written reprimand, demotion, suspension, reduction in pay, other monetary assessment or discharge. Notice of suspension or discharge will be given in writing. Regular employees are subject to discipline or discharge for just cause. Just cause shall be determined consistent with commonly accepted tenets of arbitral precedent.

22.2 Process

If the City has reason to discipline an employee, it will take all reasonable measures to assure against embarrassment of the employee before other employees or the public.

22.3 Association Representation

Employees shall have the right to be assisted by an Association representative during interviews or hearings that may reasonably lead to disciplinary action, consistent with Addendum B.

22.4 Standard for Review

● Oral reprimands and written reprimands shall not be subject to the grievance procedure contained in this Agreement.

22.5 Interview and Investigations

The interview of employees who are suspected of violating rules or other standards of conduct will be conducted consistent with the terms outlined in Addendum B of this Agreement.

22.6 Due Process Rights

Prior to the imposition of discipline greater than a written reprimand against a regular employee, the employee shall be afforded a pre-disciplinary Loudermill hearing.

At least five (5) calendar days prior to the hearing the employee shall be provided with the written notice with the following:

- a. The investigation report/findings relied upon to support the contemplated disciplinary action;
- b. The policy/policies or work rule(s) potentially violated; and
- c. The disciplinary action(s) being considered.

In addition, other information such as witness statements will be provided, at the employee or Association's request, consistent with PECBA. The employee will be given the opportunity to respond to the preliminary findings relied upon by the City to support the contemplated disciplinary action before a final decision is made. The employee may do so in a personal appearance before the Chief or other individual designated by the City as having the authority to impose the contemplated discipline. The employee may be assisted by an Association representative and/or legal counsel. In lieu of a Loudermill hearing, the employee may elect to present a written rebuttal. In the event the employee elects to submit a written rebuttal, the City must be notified in writing and the written rebuttal must be submitted no later than the time designated for the personal appearance.

ARTICLE 23 – PERSONNEL FILES

23.1 Material in File

No material in any form, which can reasonably be construed, interpreted or acknowledged to be derogatory shall be placed in the employee's personnel file unless she/he has been allowed to read such material.

23.2 Access

Any employee upon his/her request shall have access to his/her personnel file and shall have the right of reproduction of his/her personnel file in full or in part. A charge may be accessed for providing such copies, consistent with the City's policies. No portion of an employee's file shall be transmitted without the explicit consent and request of the employee, other than to those authorized within the Troutdale Police Department, the City Manager or his/her staff or a court of competent jurisdiction. The employee shall be notified of any additions, deletions or release of information to or from any personnel file of that employee.

23.3 Removal

Written reprimands, written confirmation of oral reprimands, removal from assignments and supporting documentation shall be removed from an employee's personnel file at the end of three (3) years from the date the written reprimand or written confirmation was issued, provided there has been no disciplinary action related to similar conduct during that three (3) year time period and provided further that there are no concerns of a similar nature under investigation at the time the request is made. In the event a request is denied due to an investigation that is underway and the employee is not disciplined for such conduct, the written reprimand or written confirmation will be removed at the time the decision not to discipline is made.

Notice of suspensions and demotions from permanent positions shall be removed from an employee's personnel file at the end of five (5) years from the effective date of the suspension or demotion, subject to the same conditions as described above for written reprimands and written confirmation of oral reprimands.

Requests for removal must be submitted in writing to the Chief of Police. Discharge notices, as well as comments made in performance evaluations, shall become a permanent record in the personnel file.

Documents removed from an employee's personnel file will be placed in a confidential file maintained by the Chief of Police. Such documents will not be used against an employee for the purpose of establishing progressive discipline, but may be used in any arbitration, administrative or civil proceeding for the purpose of establishing consistency of disciplinary action, lack of discrimination, the existence of mitigating circumstances and compliance with legal obligations.

ARTICLE 24 – SENIORITY

24.1 Definition

Only full-time employees shall have seniority. Seniority shall be achieved following the completion of the probationary period and shall thereafter be established as the employee's total unbroken service in the bargaining unit. Time spent in the armed forces on military leave of absence, authorized leaves with pay and time lost because of duty-connected disability except as provided below shall be included in the employee's total unbroken length of service. If an employee is on an authorized leave without pay for a period in excess of fifteen (15) calendar days, such time in excess of fifteen (15) days shall not apply to seniority, provided that the employee's seniority will not be considered broken or terminated by authorized leave in excess of fifteen (15) days, except as provided below. In cases where employees were hired on the same date, seniority order shall be determined by lot. Employees who are promoted to a position outside of the bargaining unit shall retain existing seniority, but shall accrue no seniority during the time they work outside the unit.

24.2 Loss of Seniority

Seniority shall be broken and the employment relationship will be terminated if an employee:

- a. Quits;
- b. Is discharged for just cause (regular employees) or at will (probationary employees);
- c. Is laid off and fails to respond to a written notice of recall sent by certified mail, return receipt requested, to the last address provided to the City through personnel records within ten (10) days of mailing or five (5) days of delivery, whichever is greater;
- d. Is laid off from work for any reason for eighteen (18) months;
- e. Fails to report to work at the termination of a leave of absence;
- f. While on a leave of absence accepts employment;
- g. Is retired; or
- h. Is off on workers' compensation for thirty-six (36) months or otherwise loses his/her reinstatement rights in accordance with ORS Chapter 659.

If an employee's seniority is broken and he/she is subsequently hired to work in the Police Department, his seniority shall run from the first day of work within the bargaining unit. In the event two (2) or more employees start working on the same day, the employee who was offered and accepted employment first shall be considered to have higher seniority.

24.3 Application

Seniority shall apply by classification in the matter of layoff and recall and vacation scheduling.

24.4 Seniority List

The City will provide the Association with a seniority list on January 1st of each year and shall post the list in a conspicuous place available to all employees.

ARTICLE 25 – LAYOFF AND RECALL

In the event of layoff for any reason, part-time employees will be laid off first, followed by full-time probationary employees. If further layoffs are deemed necessary, full-time employees shall be laid off in the inverse order of their seniority in their classification. Any employee who is to be laid off shall be offered a position, in a lower classification in the bargaining unit, if such exists, providing the employee has greater seniority than the employee being bumped, and is qualified to perform the requirements of the job. The employee shall have the right to bump the employee in the lower class with the least seniority. Employees must exercise their right to bump within ten (10) days of the date they are personally notified of layoff by the Chief or his designee. Employees shall be recalled from layoff according to seniority in the classification from which the employees were laid off. No new employees shall be hired in any classification until all employees on layoff status in that classification have had an opportunity to return to work. An employee on layoff status shall accept or decline an opening within ten (10) days of notice of termination of layoff.

ARTICLE 26 – SHIFT AND DAYS OFF BIDDING

26.1 Rotation

All shifts shall be rotated in the manner set forth in Article 12.6 of this Agreement.

26.2 Shift and Days off

Between regular shift rotations, the Chief of Police or a designee may, for good cause and based upon a good faith analysis of operational and personnel needs of the Department, reassign employees to a different shift. Such good faith assignments shall not be grievable, but the employees shall receive seven (7) calendar days notice prior to such re-assignments, unless precluded by an emergency, and shall be afforded the opportunity to discuss the matter with the Chief of Police.

26.3 Overtime Waiver

For the purpose of this article, the City shall not be obligated to pay overtime that arises as a result of shift rotation so long as the employee does not work more than eight (8) hours in a fourteen (14) day period or work more than five (5) consecutive days.

26.4 Supervisor Availability

A Department supervisor or Sergeant will be on duty or on call. If no Sergeant is on duty, one will be designated "on call." The "on call" Sergeant will answer a page or call within fifteen (15) minutes.

ARTICLE 27 – PROBATIONARY PERIOD

27.1 Definitions

- a. For individuals who have less than twenty-four (24) months satisfactory previous experience with a state, county or municipal law enforcement agency, the probationary period shall be eighteen (18) months from the employee's first day of work.
- b. For individuals with at least twenty-four (24) months satisfactory previous experience with a state, county or municipal law enforcement agency, the probationary period shall be twelve (12) months from the employee's first day of work.

Prior to completion of the probationary period, employees may be discharge at will and such discharge shall not be subject to the grievance procedure.

27.2 Promotional Probation

All probations shall be subject to a six (6) month promotional probationary period. Any employee who fails to complete the probationary period, for any reason, including any employee who is promoted to a position outside the bargaining unit, shall have the right to be reinstated to the classification he/she held prior to being promoted. In such an event, the employee will return with the seniority he/she had accrued at the time of the promotion restored. The time an employee spends in a position outside the bargaining unit will not, however, count towards his/her seniority under this Agreement.

ARTICLE 28 – TRAINING

28.1 Training

- a. Mandatory Training – An employee may request assignment to a training activity or be so assigned upon the initiative of the Department. When an employee is assigned to attend a training activity, the following shall apply:
 1. All receipted course registration fees, tuition and other out-of-pocket expenses shall be reimbursed by the City. All textbooks and other literature received as a result of taking the training shall be the property of the City.
 2. All mileage and subsistence reimbursement shall be paid in accordance with City policy.
 3. All time required for travel and course attendance shall be paid at the employee's regular or overtime rate, as applicable.
 4. Employees will not be reimbursed for lunch unless so designated by the Chief of Police.

- b. Voluntary Training – Training to which an employee is not specifically assigned pursuant to (a) above, shall be designated as voluntary training. Such training may occur on paid or non-paid time or a combination thereof and may be with full, partial or no reimbursement of expenses. At the time that a training request is approved, the Department shall specify whether the training is considered to be voluntary or assigned and, if voluntary, the specified expenses, if any, that the City will reimburse and the paid time, if any, that the City will grant.

ARTICLE 29 – INSURANCE BENEFITS

29.1 Medical and Vision Insurance

- a. All terms of the Agreement in effect on August 1, 2011, associated with medical, dental and vision coverage, including member contributions toward health insurance premiums, shall be deemed to have remained in full force and effect up through February 28, 2013.
- b. Plan Options - Effective March 1, 2013 the City agrees to make available to full-time Association members (members who are regularly scheduled to work 40 hours per week) and their eligible dependents the CIS Employee Benefits Services Trust Regence BlueCross/BlueShield Plan V-B Preferred Provider Plan with prescription drug coverage, vision and alternative care options, or CIS Employee Benefits Services Trust Kaiser Permanente Medical Plan B with Vision and Drug Plan with alternative care.
- c. Premium Cost Sharing – Effective with the premium due for the plans described in Section (b) above, irrespective of the Plan selected or level of coverage provided, premium costs shall be shared by the City and employees as follows: The City shall pay 89% of the premium, and Association members shall pay 11%.
- d. Part-time Employees - In the event that the City hires part-time employees to perform bargaining unit work, those employees will be eligible to participate in the above described plans, with the following sharing of premium costs: the City will pay the same percentage for employee-only coverage as described in Section 29.1 (c); the City will pay fifty percent (50%) of the premium costs for two-party coverage, with the employee paying the other fifty percent (50%) and the employee will bear any additional costs in excess of the above costs for family coverage.
- e. In Lieu of Coverage Payments - Employees who elect not to take the City's medical and vision insurance will receive a fifty dollar (\$50) per month payment in lieu of such coverage. The right to such payments is limited to a percentage of the overall number of City employees who are eligible for coverage, as restricted by the carrier. This "opt out" provision is further limited to the medical and vision insurance plans. Employees must participate in the group dental plan, as described in Section 29.2, below.

29.2 Dental Insurance

The City agrees to make available to eligible full-time employees and their eligible dependents the current dental insurance plan or a substitute plan of equal to or better than the benefit level with the premium cost paid by the City and the employee in the same percentages as set forth in Section 29.1 (c), above.

29.3 Domestic Partners

For the purpose of Sections 29.1 and 29.2 of this Article, where insurance benefits are extended to “spouses,” a domestic partner shall be considered a spouse. A “domestic partner” is defined as an individual of the same sex who lives with the employee and has fulfilled the requirements contained in an “Affidavit of Domestic Partnership” form available from Human Resources. Employees who have fulfilled the requirements set forth in this form will be eligible for insurance benefits available to spouses, except as limited by insurance carriers. Employees are obligated to promptly notify Human Resources if domestic relations end.

29.4 Life and Disability Insurance

The City agrees to provide a long-term disability insurance plan for all employees. The City agrees to maintain such insurance or a substitute plan of the same service delivery type at substantially the same or a better benefit level at no cost to the employee. The City agrees to provide life insurance at twenty-thousand dollars (\$20,000) for all employees.

29.5 Change of Plans

If the insurance carrier, at its sole discretion, changes a plan or plans during the term of this Agreement, the Association waives all rights to bargain or grieve this change.

If the insurance carrier cancels a plan or plans during the term of this Agreement, the City and Association shall confer over replacement plan(s). The Association waives its right to bargain the decision to cancel, but the City shall enter into impact bargaining. The City may implement the replacement plan(s) as it deems necessary to assure coverage during the pendency of bargaining.

29.6 Retirement

Members shall continue to participate in the Public Employees Retirement Plan (PERS). For the duration of this Agreement, the City shall pay (“pick up”) the 6% wage contribution each member of the Association pays to his/her PERS Individual Account Program (IAP) account. The City shall reimburse members for the amount each has paid to his/her PERS IAP account between July 1, 2011, and the date of execution of this Agreement.

Members shall have no option to receive the IAP amount directly instead of having it paid by the City to PERS. For the limited purpose of Internal Revenue Code Section 414(h)(2) and related tax statutes, the member’s contribution to PERS will be picked up by the City as a pre-tax contribution as the term “picks up” is used in the Internal Revenue Code.

29.7 Liability

The City shall continue liability protection at least equal to the current level.

29.8 Criminal Investigation/Charge Reimbursement

- a. The City agrees to reimburse the officer for all reasonable, usual and customary legal fees charged by an attorney to represent the employee as a direct result of criminal charges or a criminal investigation arising out of the officer's performance of his/her duties as a police officer. The reimbursement shall not be made if:
 1. The officer is convicted by verdict or plea, or pleads no contest to criminal charges arising from the incident, or does not appeal termination from the Department; or
 2. The Department terminates the employee based upon the officer's actions that form the basis for the possible or actual criminal liability, and the Department sustains the discipline through the grievance arbitration process.

- b. Any reimbursement required from the City shall be made only at the conclusion of all criminal and disciplinary proceedings against the Association member arising out of the incident and are subject to the following maximum reimbursement:
 1. Legal fees relating to a grand jury investigation and/or appearance: \$5,000;
 2. Legal fees relating to post-grand jury indictment or other charging instrument: \$10,000.

- c. Before becoming obligated under this Article, the City shall be presented with a sworn affidavit by the attorney listing an hourly breakdown of time spent and describing briefly the purpose of such time. The City may submit the bill to the Oregon State Bar Association for review for compliance with reasonable, usual and customary fees charged for such matters. The Oregon State Bar Association's determination shall be final and binding for the City's obligation under this Article.

ARTICLE 30 - WAGES, SALARY RANGE AND SCHEDULE MOVEMENT

30.1 Wages

Effective July 1, 2011 and for the duration of the Agreement, the salary schedule in effect June 30, 2011 shall remain in effect with no increases. The wage scale is attached as Schedule A.

30.2 Schedule Movement

A new employee or promoted employee is eligible for consideration for advancement to the next step of the salary range for his/her classification at the beginning of the next pay period following completion of the equivalent of six (6) months of service. Advancement of employees to higher pay steps shall not be automatic, but may be made to the next pay step in the employee's classification, effective on the first day of the next pay period following the completion of each twelve (12) months of satisfactory work performance. Such advancement shall be subject to a written employee evaluation by the Chief of Police certifying that the employee had been making normal improvement in the ability to carry out his/her job assignment.

Advancement may be withheld or postponed in the event the employee is not performing his or her job assignment satisfactorily.

30.3 Demotion

Unless a lesser sanction is provided by the Chief of Police, an employee voluntarily demoted or demoted as a result of a disciplinary action shall be paid at the same step of the lower range as he/she occupied before being promoted, with consideration of length of service of the employee in the higher range. A demoted employee shall retain the same salary increase date.

30.4 Salary Range Changes

When a range is changed, the employee's pay is based upon the same step of the new range as in the old. Such changes shall not alter the employee's eligibility for salary increases.

30.5 Pay Periods

The City shall pay employees once every two (2) weeks.

ARTICLE 31 - EDUCATION INCENTIVE/LONGEVITY/PREMIUMS

31.1 Certification/Education

Members of the bargaining unit shall be eligible for certification and educational incentive pay to be applied to the current step of the officer's salary range after meeting each of the following requirements:

- 6% Intermediate or advanced certificate from D.P.S.S.T., or Bachelors degree from an accredited institution, or A.A. degree generally related to law enforcement.
- 8.5% Advanced certificate from D.P.S.S.T. and either a Bachelors degree from an accredited institution or A.A. degree generally related to law enforcement.

The employee shall both request in writing payment for certification and educational pay and provide verifiable documentation to Human Resources of the requirements identified in this Article. In lieu of a certificate from DPSST, a written statement from the DPSST that the employee has met the eligibility requirements signed by an authorized agent of the DPSST shall suffice. Payment shall start with next payroll period.

31.2 Longevity

Longevity merit incentive shall be paid on a percentage of the current step of the officer's pay range in accordance with the following schedule:

- 2% after five (5) years of service;
- 3% after ten (10) years of service;
- 4% after fifteen (15) years of service; and
- 5% after twenty (20) years of service.

31.3 Premium Pay

Officers shall qualify for the following premium pay:

Officers will receive 5% premium pay while providing in-service or field training to regular officers. Premium pay shall be computed based on an officer's base pay at his/her current salary step. All such instructors must be approved by the Chief of Police.

Spanish Language: \$100.00 per month. The City will determine what is an acceptable level of proficiency and the appropriate testing to determine proficiency.

In the event an officer works overtime in a workweek in which he/she receives premium pay for providing in-service instruction, his/her overtime will be computed based on a weighted average rate of pay. Any approved Spanish language premium will, likewise be included in the rate on which overtime is computed.

ARTICLE 32 – WRITTEN RECORD OF COMPLAINT

It is agreed that no member of the bargaining unit will be required to write a report to the City on any complaint against them (by persons in or outside of the Police Department) unless said complaint is signed and dated in written form by either the complainant or the officer taking the complaint. Prior to any written report being required by any employee, they will be furnished a copy of said signed complaint.

ARTICLE 33 – SAVINGS CLAUSE

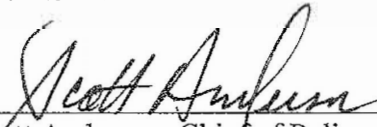
If any Article or Section of this Agreement or any amendment thereto should be held invalid by operation of the law, or by any lawful tribunal having jurisdiction or if compliance with or enforcement of any Article or Section should be restricted by such tribunal, or applicable administrative agency, the remainder of this Agreement and addenda shall not be affected thereby, and the parties shall enter into immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such Article or Section.

ARTICLE 34 - TERM OF AGREEMENT

This Agreement, including the Addendums, shall become effective July 1, 2011 and shall remain in full force and effect through June 30, 2014.

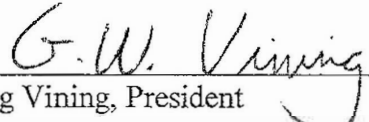
It shall remain in full force from year to year thereafter, unless either party shall serve written notice upon the other of a desire to terminate the Agreement no later than February 1 of the year it would otherwise expire. This Agreement shall remain in full force and effect during the period of negotiations.

**FOR: THE CITY OF TROUTDALE,
OREGON**

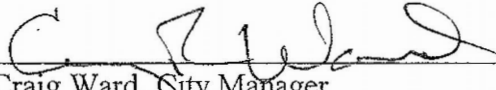
By: 
Scott Anderson, Chief of Police

Date: 1-31-13

**FOR: THE TROUTDALE POLICE
OFFICERS' ASSOCIATION**

By: 
Greg Vining, President

Date: 2-1-13

By: 
Craig Ward, City Manager

Date: 1/31/13

By: 
Daren Taber, Vice President

Date: 2/1/13

THIS PAGE INTENTIONALLY LEFT BLANK

ADDENDUM A
SALARY SCHEDULE

The following wage scale shall be effective July 1, 2011 through June 30, 2014

GRADE 16 – POLICE OFFICER					
	STEP A	STEP B	STEP C	STEP D	STEP E
HOURLY	23.7750	24.9635	26.2096	27.5192	28.8981

THIS PAGE INTENTIONALLY LEFT BLANK

ADDENDUM B

INTERVIEWS/INVESTIGATIONS

In the event an employee is interviewed concerning conduct which would likely result in disciplinary action, other than an oral or written reprimand, the following process shall be followed to the extent circumstances permit:

- a. The employee will be informed in writing of the nature of the allegations and the nature of the investigation, within a reasonable time prior to the interview. The employee will also be notified that he/she has a right to consult with an Association representative and to have an Association representative present at the interview. However, the employee's right to an Association representative shall not unduly delay the interview.
- b. Interviews covered under this section shall, to the extent practical, take place at City facilities.
- c. Either party may tape record the interview and, if either party exercises this right, they will provide a copy of the tape or transcript to the other party upon request. The requesting party shall be responsible for the cost of the transcription or tape.
- d. In any investigation, the employee may be required to answer any questions reasonably related to the subject matter under investigation. The employee may be disciplined for insubordination for refusing to answer such questions. In no circumstances will an employee be compelled to take a polygraph test, nor will a polygraph test be used to infer truth in any matter under investigation.
- e. In situations involving the use of deadly force, the employee shall have the right to consult with an Association representative and/or attorney prior to being required to give an oral or written statement about the use of deadly force, and shall be afforded all other protections of City policies associated with the investigation of the use of deadly force. All employees involved in the use of deadly force shall be provided the opportunity to meet with a psychologist at the City's expense, for the purpose of debriefing. The City and Association will mutually agree to a psychologist for this purpose. In any event, these meetings shall be deemed confidential under the psychotherapist/patient privilege, and information disclosed in these meetings shall not be attainable or useable by the City for any purpose.
- f. In the event a complaint is received from a citizen or other person outside the Department, that complaint will be referred to a sworn police supervisor for follow-up contact and documentation in writing.

- g. In the event the Chief of Police determines that the matter in question justifies an Internal Affairs Investigation, an Internal Affairs investigator, who shall be a sworn police officer, shall be designated by the Chief of Police.
- h. Prior to any interview or special examination, the officer under investigation will receive confidential written notification of the complaint. This notification will include a copy of the original complaint or a summary adequately listing the relevant facts.
- i. Officers under investigation shall not be subjected to offensive language, nor threatened with transfer, dismissal, or disciplinary action during an interview and shall be devoid of coercion and intimidation. No promise or reward shall be made by the Internal Affairs investigator as an inducement to answer any questions.
- j. The accused officers will be given an opportunity to explain their actions to the Chief of Police prior to the imposition of any disciplinary action.
- k. When recommended disciplinary action may result in suspension, demotion or dismissal, employees will be afforded pre-disciplinary Loudermill rights in accordance with General Order 3.03 – F and G.
- l. If an employee is being ordered to appear at an interview and respond to questions regarding conduct which may be criminal in nature, the employee shall be issued a written Garrity notice at the onset of the interview advising him/her that any responses may not be used in a criminal prosecution, consistent with applicable law.
- m. Interviews shall be conducted in a courteous and professional manner. The employee may be granted reasonable breaks as necessary. The employee shall not be subjected to offensive language, nor threatened with any form of disciplinary action during the interview. No promise or reward shall be made by the investigator as an inducement to answer any question.

ADDENDUM C

DRUG AND ALCOHOL POLICY

The City of Troutdale and the Troutdale Police Officers Association recognize a responsibility to the citizens of Troutdale to maintain a safe and productive working environment. Consistent with this commitment, the City and the Association have agreed to this Drug and Alcohol Policy.

A. PROHIBITED CONDUCT

The following conduct is strictly prohibited:

1. Buying, selling, transporting, distributing or possessing drugs or alcohol during working hours, including rest and meal periods, except as necessary in the performance of duties (confiscated evidence, approved undercover operations, etc.)
2. Buying, selling, consuming, distributing or possessing drugs and alcohol during non-working hours in City vehicles or on City property, except alcohol consumed in City parks and buildings at City parks for sanctioned events (weddings, beer garden, etc.)

An employee is considered to be "under the influence of alcohol if his/her alcohol concentration is .02 or greater by weight of alcohol in the blood *or* by volume of breath expressed in terms of grams of alcohol per 210 liters of breath as indicated by an evidential breath test. Alcohol concentration levels measuring less than .02 are considered a negative result. An employee is considered "under the influence" of drugs (excluding lawfully prescribed substances which are being used in a manner consistent with a physician's instructions) if the employee tests positive for having such substances present in his/her body.

3. Failing to promptly report arrests, convictions and/or plea-bargains for an alcohol or drug-related criminal offense. All drug and alcohol-related arrests, convictions and plea bargaining agreements must be promptly reported to Human Resources.
4. Failing to comply with City directives regarding enforcement of this Policy, including but not limited to refusing to promptly submit to required testing; giving false, diluted or altered samples; obstructing the testing process; failing to comply with rehabilitation conditions imposed by rehabilitation counselors or by the City pursuant to Section C of this Policy.

For the purpose of this policy "drugs" refers to the following five substances: opiates, cocaine, marijuana (THC), phencyclidine (PCP) and amphetamines.

Employees who engage in any prohibited conduct will be subject to discipline, including discharge.

B. TESTING

The City may require an employee to immediately submit to blood or breathalyzer testing to detect alcohol or urine testing to detect drugs in the following circumstances:

1. Probable Cause - Where the City has probable cause to believe that an employee has violated the prohibitions of this Policy concerning reporting to work or being at work “under the influence of” alcohol or drugs.

Probable cause shall be defined as cause based on specific and articulated observations concerning the appearance, unusual behavior, speech, breath odor, body symptoms or other reliable indicators that an employee has consumed drugs and/or alcohol in violation of this Policy.

2. Rehabilitation Treatment – Where testing is required pursuant to a Rehabilitation Agreement imposed by the employee’s rehabilitation counselor or by the City, as set forth in Section C of this Policy.

All testing will be conducted at a laboratory certified by the DOT in accordance with the standards disseminated by the NIDA. All drug tests will be conducted through collection of a split sample. All positive drug tests will be confirmed by a second confirming test from the same sample using GCMS testing methodology before the test result is reported as positive.

Drug test results will be reported to the Human Resources and Chief of Police and will be considered medical records and released only on an “as needed” basis.

An employee who tests positive for drugs may request a second test of the remaining portion of the split sample within 72 hours of notification of a positive test result. The cost of the retest shall be borne by the employee, unless the retest shows the original positive result was in error.

The time spent by an employee in traveling to and from the collection site as well as time spent in testing shall be treated as hours worked for pay purposes.

Employees who are required to submit to probable cause or post-accident testing are prohibited from driving themselves to or from the collection site. A management or supervisory employee will be designated for transport.

C. CONSEQUENCES OF VIOLATIONS

1. Employees who Report Dependencies and Seek Assistance before Committing a Policy Violation – Rehabilitation

The City encourages employees who have drug and/or alcohol dependencies or think they may have such dependencies to seek assistance voluntarily. When an employee voluntarily reports a drug or alcohol dependency to Human Resources or Chief of Police and seeks assistance before violating this Policy, that employee will be placed on a leave

of absence or adjusted working hours to allow for in-patient or out-patient rehabilitation treatment as recommended by a Substance Abuse Professional (SAP).

The employee will not be permitted to work until such time as a Substance Abuse Professional agrees he/she:

- Has been evaluated by a Substance Abuse Professional (SAP);
- If recommended by the SAP, has complied with all rehabilitation/after-care prescribed; and
- Has a verified negative drug or alcohol test (as applicable).

Moreover, in order to return to work for the City, an employee seeking assistance must agree to all treatment, rehabilitation, after-care and follow-up testing as set forth in a written Rehabilitation and Return to Work Agreement required by the City. Any employee who violates the terms of the Agreement is subject to immediate termination.

The time an employee is off work undergoing rehabilitation is unpaid. However, employees may draw their unused, accumulated sick leave, vacation pay, holiday and compensatory time. Also, employees who are receiving health insurance coverage will be eligible for continuation of health insurance benefits with standard City contributions as required by the Family Medical Leave Act.

2. Employees who Report Dependencies and Seek Treatment after Committing a Policy Violation.

Employees who claim drug or alcohol dependencies after violating this Policy are subject to discharge, irrespective of such dependencies.

The City may however, at its discretion, allow an employee to undergo evaluation and rehabilitation in lieu of discharge, provided the employee promptly complies with the terms and conditions set forth in Section C.1., above. The City will consider the following factors in exercising its discretion: the employee's length of service; the employee's work record, in particular, whether the employee has committed a previous alcohol or drug policy infraction; the consequences of the violation; any other circumstances offered by the employee that mitigates against discharge.

IT IS UNDERSTOOD AND AGREED THAT THE REFERENCES TO DISCIPLINE AND DISCHARGE SET FORTH IN THIS POLICY AND REHABILITATION AND RETURN TO WORK AGREEMENT ARE NOT INTENDED TO SUPERCEDE "JUST CAUSE" REQUIREMENTS.