

# **AGREEMENT**

**By and Between**

**CITY OF MERCER ISLAND, WASHINGTON**

**and**

**PROFESSIONAL FIREFIGHTERS' ASSOCIATION OF  
MERCER ISLAND  
(INTERNATIONAL ASSOCIATION OF  
FIREFIGHTERS LOCAL 1762)**

**JANUARY 1, 2022  
THROUGH  
DECEMBER 31, 2022**

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This Agreement is by and between the City of Mercer Island, Washington, hereinafter referred to as the "City" and the Professional Firefighters Association of Mercer Island (International Association of Firefighters, Local 1762, AFL-CIO), and hereinafter referred to as the "Union." The term City as used hereafter shall mean the City Council of Mercer Island or its lawfully delegated representatives.

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## **ARTICLE I - RECOGNITION**

**Section 1:** The City recognizes the Union as the sole and exclusive bargaining agent for the purpose of establishing wages, hours and other conditions of employment for all of its full-time Fire Department employees employed in work classifications set forth in **Appendix A**.

**Section 2:** For purposes of this Agreement, a “full-time employee” is defined as an employee in a position that is budgeted by the City as full-time. Notice of full-time appointment status must be given by the City.

**Section 3:** For purposes of this agreement, a “regular” firefighter or “regular” officer is defined as a full-time position authorized by the City, which has been hired or promoted through the Civil Service Process and is governed by the terms of this Agreement. The Union will be given at least 14 days prior notice to any proposed changes to the Civil Service Rules.

**Section 4:** The City recognizes the Union members need for privacy. The Union member has a presumed level of privacy when using an employee owned electronic device, while on duty. All information contained in and or transmitted from an employee owned device is the property of the employee and the City has no claim to ownership of, or anything contained in, under any circumstances. This is regardless of whether the device gains access to the internet through a Union or City supplied connection or wireless access point. Nothing in this article supersedes public disclosure laws regarding official business.

**Section 5:** For the purposes of this agreement, “immediate family member” shall be defined as spouse, son, daughter, mother, father, brother, sister, mother-in-law, father-in-law.

## **ARTICLE II - NONDISCRIMINATION**

**Section 1:** The parties to this Agreement agree to continue their policy of no discrimination against any employee or applicant for employment because of race, creed, religion, color, age, sex, national origin, marital status or legal union activity in regard to employment, advancement, working conditions, rates of pay acceptance into union membership or selection for employment.

**Section 2:** The term “employee” as used in this Agreement includes both male and female employees covered by this Agreement. In addition, wherever in this Agreement the masculine gender is used, it is intended it will apply to the female gender as well.

## **ARTICLE III - DEDUCTION OF UNION DUES**

**Section 1:** A duly elected officer of the Union shall notify the Employer, in writing, of the union dues, representation fees, initiation fees, and assessments charged by the Union. Those employees who voluntarily consent to pay such dues/fees/assessments will provide written authorization for the payroll deduction of such dues/fees/assessments to the Union, and the Union will in turn forward that written authorization to the Employer. Upon receipt of such a written authorization, the Employer will begin to deduct from employees’ pay the amount of such

dues/fees/assessments and forward them to the Union on a monthly basis. The Employer will stop deducting dues/fees/assessments for employees who revoke consent in writing. Such revocation will be communicated to the Union, which will in turn promptly communicate it to the Employer.

**Section 2:** Employees shall have the ability to make regular uniform donations to the IAFF and WSCFF Political Action Committee (PAC) through regular payroll deductions. Requests to begin or end such voluntary donations shall be made in writing by the employees. Such donations shall be forwarded monthly to the Union and will be accompanied by a list of names and employees affected and the amount transmitted with regard to each.

**Section 3:** New-Hire Orientation – The Employer shall notify the Union of all new employees hired into the bargaining unit. The Union shall be afforded 4 hours of the newly-hired employees regular working time for purposes of presenting information about Union membership and bargaining representation.

#### **ARTICLE IV - HOURS OF WORK**

**Section 1:** The hours of duty shall normally be two consecutive twenty-four (24) hours shifts on duty for an average forty-eight (48) hour week. The forty-eight (48) hour week is a three-platoon schedule (A, B, and C platoon). The shift cycle will be 48 hours on duty followed by 96 hours off duty. Kelly days are used to equalize the shift schedule so as not to exceed the assigned work schedule within the FLSA cycle. Daily procedure of the second day of the 48-hour shift should be followed as per department policy.

**Section 2:** Kelly days schedule assignment shall be chosen based on seniority. Provided that each shift will have 2 officers scheduled prior to annual vacation picks. If a member wishes to change Kelly days for the next year, he will need to let it be known prior to annual vacation picks.

**Section 3:** The normal schedule shall be the three-platoon schedule and average two (2) consecutive twenty-four (24) shifts within a seven (7) day cycle. Upon advance notification to the employee, the City may, temporarily assign employees to a forty (40) hour (Monday through Friday) week basis provided that such assignment is the total assignment within the seven (7) day cycle. The City will exercise this option only in the case of light duty assignment as detailed in Article IV, Section 4, or in the case of a probationary firefighter who is not yet duty-ready, as detailed in Article IV, Section 6. Such assignment shall not exceed four (4) weeks out of any calendar year for any probationary firefighter. The relief, D-shift, firefighter is exempt from the normal 48/96 consecutive 24-hour shift requirements.

**Section 4:** Light Duty – Employees unable to perform the full duties of their position due to an injury or illness may, through mutual agreement, be assigned to work light duty. Without mutual agreement light duty is unavailable and will be reported as such. Each light duty assignment will stand on its own and, therefore, shall not set precedent nor shall it establish past practice. An employee working “light duty” may be temporarily assigned (not to exceed six (6) months) to a forty (40) hour work week.

**Section 5:** The purpose of this section is to comply with the Federal Fair Labor Standards Act, 29 U.S.C. 201 *et seq.* (the “Act”).

The parties agree that the work period for firefighters covered by this Agreement will be the 24-day work period authorized under Section 7(k) of the Act.

The parties agree that the firefighters covered by this Agreement shall be paid a fixed salary no matter how many non-overtime hours the firefighter works during the 24-day work period. Every two weeks the firefighter shall be paid an amount equal to one-twenty sixth of the firefighter's annual salary, including any longevity pay.

The parties also agree that the firefighter shall be paid one-and-one-half (1 ½) times this hourly rate of pay for all hours worked in excess of the 182 hours in the 24-day work period.

**Section 6:** A “probationary firefighter” attending the Fire Training Academy for the purpose of “initial” entry level firefighter training, may be considered temporarily assigned to a forty (40) hour work week basis provided that such assignment is the total assignment during the seven (7) day cycle. Such assignment for this purpose shall not exceed the duration of the fire training academy.

**Section 7:** A probationary firefighter who is not duty qualified and attending EMT school, when assigned to a normal three platoon schedule, or when temporarily assigned to a forty (40) hour (Monday through Friday) week, shall be provided compensatory (“comp”) time at the rate of time-and-one-half (1 ½) for the number of hours worked for which the firefighter was not regularly scheduled. The individual shall use the comp time hours earned for such work prior to becoming duty qualified. However, when the timing of the individual becoming duty qualified prevents them from using their comp time hours, the individual shall be permitted to accrue the hours for future use, or at the discretion of the City, be paid his hourly rate for the remaining hours.

**Intent:**

The language in Sections 5 and 6 only apply to non-duty qualified probationary firefighters. The intent is to facilitate training (Fire Academy and Initial EMT School), and reduce overtime costs. This exception does not apply to duty qualified personnel.

**Section 8:** Through a voluntary process, an employee may be selected by the Fire Chief or his designee to work a 40-hour work week for the purpose of being an instructor at the Eastside Metro Training Group (EMTG) Recruit Academy. This assignment will last the duration of the Academy. The forty (40) hour (Monday through Friday) week basis is provided that such assignment is the total assignment within the seven (7) day cycle. The member's hourly rate will be converted (48-hour to 40-hour work week, multiplied by 1.2) and the member will be compensated an additional 6% in recognition of the assignment. Any overtime worked will be paid at 1.5 times the member's 40-hour workweek rate of pay. If multiple qualified members are interested in the assignment, then management and the Union will agree on an acceptable selection process to determine who will fill the position. The assignment shall not be filled provided no members are interested. During the duration of the assignment, members assigned to the EMTG Recruit Academy are not eligible for operational overtime, aside from overtime related to their Academy assignment. Qualifications for assignment to the EMTG Academy may be dependent on the position required to be filled (i.e., Engineer, Company Officer, Drill Master, etc.). This 40-hour work week does not set precedent and is only applicable to the assignment of EMTG Instructor.

**ARTICLE V - OVERTIME AND CALLBACK**

**Section 1:** All off-shift personnel will be paid a minimum of three (3) hours pay at the overtime rate when called back to duty for any reason at the discretion of the Watch Commander.

Personnel attending mandatory meetings, training or department activities where a member's attendance is required will be paid a minimum of three (3) hours pay at the overtime rate. Non-mandatory department related work will be paid time and one half (1 1/2) for each fifteen (15) minutes of overtime or major fraction thereof.

**Section 2:** Any employee covered by this Agreement shall be paid for overtime at the rate of time and one-half (1 1/2) his hourly rate when replacing a regular firefighter for all or part of a shift for which the individual was not regularly scheduled. Any employee covered by this contract will be paid two and one quarter (2 ¼) his hourly rate when working overtime on one of the identified holidays in this agreement. Those identified holidays are: New Year's Day, Thanksgiving and Christmas Day.

**Section 3:** All on-shift personnel held over after the regular duty shift terminates will be paid time and one half (1 1/2) for each fifteen (15) minutes overtime or major fraction thereof.

**Section 4:** Any employee covered by this Agreement working voluntary compensation time shall be paid back by the City at one and one-half (1 1/2) times the hours worked.

Upon leaving employment, the City shall pay all employees for any accumulated and unused compensatory hours at their respective hourly rates of pay in effect at the time of termination.

**Section 5:** Email usage off-duty is a voluntary action by the employee. Employees are neither encouraged nor discouraged from accessing their email from non-City computers. Any off-duty email access/usage will not be required or compensated by the City of Mercer Island. Any access and usage of the City of Mercer Island email will be consistent with the City of Mercer Island E-mail and Internet Policy.

## **ARTICLE VI - PRIORITY LIST**

**Section 1:** Scheduling of overtime and shift exchanges shall be controlled by **Appendix E.** Management and Labor agree to create a set of standards, the purpose of which will be to assure that any member who acts at the next higher rank is qualified to do so. Such standards will be mutually agreed upon and members "acting" will be selected from the current Civil Service promotional list, in order of turn and when no such member is available, or there are no names on the promotional list, members will be selected first from those qualified. In absence of either list, members will be selected by seniority.

**Section 2:** In the event that a firefighter is designated to act as an officer from on-duty personnel, the acting assignment shall be offered by order of placement on the current Civil Service promotional list. If none of the on-duty personnel are on a current Civil Service promotional list, the acting assignment shall be offered on the basis of seniority of the on-duty personnel.

It shall be the responsibility of the City, if practicable, to maintain current eligibility lists.

**Section 3:** Continuous duty shall not exceed seventy-two (72) hours except under emergency circumstances.

## **ARTICLE VII - SHIFT EXCHANGES**

**Section 1:** Each member of the Department, receiving prior written permission from the Fire Chief or his designee, shall have the privilege of exchanging shifts with another firefighter. Such exchange shall not result in any overtime compensation except as specified in **Article V, Section 2**.

**Section 2:** No payback trade: In the case where a "no payback trade" is used, that trade will not result in a negative financial impact to the City. The use of a "no payback trade" will be an exception to the normal trade policy and will occur very infrequently. This type of trade will be used at the discretion of the Union but the Union will notify Fire Department Administration in advance about the Union's intent to utilize a "no payback trade".

## **ARTICLE VIII - OTHER DUTIES**

**Section 1:** Persons working under this Agreement shall not be assigned to perform long term activities not related to firefighting or first aid work, examples of such activities include, but are not limited to, roof tarring, painting, mechanical maintenance (oil changes, lubrication and tune-up of vehicles). Nothing herein shall preclude the reasonable assignment of normal duties at any time during the twenty-four (24) hour shift.

**Section 2:** The sole exception to Section 1 of Article VIII is as follows: The member filling the role of maintaining Fire Department facilities and grounds may work off duty, on a voluntary basis, performing construction and building maintenance tasks. The member will be compensated at his/her regular overtime pay rate. Management retains the right to assign such work to the Union member assigned to managing the associated budget or may contract with an outside party to do such work.

Union members' ongoing participation in the budget process, as assigned by the Fire Chief, will be on an individual, voluntary basis.

## **ARTICLE IX - WAGES**

**Section 1:** Employees covered by this Agreement shall be compensated in accordance with the Wage Schedule attached to this Agreement and marked **Appendix-A**. This Wage Schedule is considered a part of this Agreement.

**Section 2: Duty Out-of-Rank** - An employee specifically assigned to duty of performing duties of a higher-ranking position covered by this Agreement than that which he or she is regularly assigned shall be paid as follows:

- Firefighter acting as Lt. shall receive the hourly difference between Step 1 Lt. and Step 5 FF.
- Lieutenant acting as duty B/C shall receive the hourly difference between Step 1 B/C and Step 1 Lt.

**Section 3:** When it is necessary to use an hourly rate for computing compensation under the provisions of the Agreement, the rate shall be computed on the basis of forty-eight (48) hour week, i.e., the employee's monthly rate multiplied by twelve (12) and divided by 2496.



**Section 4:** Employees shall receive longevity pay in accordance with the following schedule:

<u>Upon completion of:</u>	<u>% of Salary Scale</u> (rounded to the nearest whole dollar)
5 years continuous service	Two percent (2%)
10 years continuous service	Four percent (4%)
15 years continuous service	Six percent (6%)
20 years continuous service	Eight percent (8%)

Longevity compensation shall be due and payable beginning on employee's individual anniversary date and thereafter each consecutive pay period.

**Section 5:** Each member who has completed an Associate Degree (2-year) or 90 college credits will be compensated an additional \$1,200 per year. Each member who has completed a Bachelor's (4-year) degree will be compensated an additional \$2,100 per year. Compensation will be divided and paid equally in each pay period.

**Section 6:** Dive Team Leader will be paid \$500 annually.

### **ARTICLE X - DEFERRED COMPENSATION**

City agrees to make a deferred compensation program available to employees and shall match each employee's contribution up to 6.73% of the employee's annual salary, including longevity.

Employees will have the option to have their deferred compensation match placed in a 401(a) account in the employee's name while the employee's portion of contribution will go into their 457 deferred compensation account.

Members may choose between one of two deferred compensation providers: ICMA-RC or Nationwide.

Employees will also have the option of setting up a Roth IRA to contribute to via payroll.

Each employee will have an HRA VEBA account set up in their name. Contribution will be made through LEOFF I medical savings (identified in Article VII) and additional sources agreed upon by the parties and contained in this CBA.

Upon an Employee's completion of twenty-five (25) years of continuous service with the City, the City's deferred compensation contribution will be converted to salary. Additionally this conversion will happen at the request of the employee when, or after they reach 48 years of age, and also have at least 20 years of service.

### **ARTICLE XI - UNIFORM ALLOWANCE**

**Section 1:** All protective equipment, devices, clothing and uniforms required (by State Law, Federal Law, or the Employer) of the employee in the performance of their duties, shall be furnished by the Employer.

**Section 2:** The Employer will furnish all required uniform items in accordance with the uniform standards. Uniform articles will be replaced due to wear and tear as determined by the Employer.

**Section 3:** The Employer shall replace or repair items damaged or rendered non-serviceable while in the performance of assigned duties.

## **ARTICLE XII - MEDICAL & DENTAL INSURANCE**

**Section 1:** Insurance premiums to provide employees and their dependents medical and dental benefits for the plans currently available shall be paid by the City. The City's contribution shall be based on the LEOFF Health & Welfare Trust Medical Plan 1 and the LEOFF Health & Welfare Trust Dental Plan 2A rates through December 31, 2019. Effective January 1, 2020, the City's contribution shall be based on the LEOFF Health & Welfare Trust Medical Plan F and the LEOFF Health & Welfare Trust Dental Plan 2A rates. Coverage periods shall be based on the plans described above and shall not be reduced during the life of this Agreement.

The City shall pay 100% premium cost for medical and dental insurance for each member, plus 90% of LEOFF Health & Welfare Trust Medical Plan F premium cost and LEOFF Health & Welfare Trust Dental Plan 2A premium cost for dependent coverage, for the period of the contract.

Each employee will have an HRA VEBA account set up in their name. Contributions into each member's HRA VEBA account will be as follows (additional contributions will be made to a member's HRA VEBA account, as identified in Article XXIX):

Effectively January 1, 2020, as a supplement to the medical insurance coverage provided by the City, \$1,200 will be deposited annually into each employee's HRA Veba account on or before January 31, of each year. Employees who opt-out of medical insurance coverage, outlined in Section 2 of this Article will not receive the annual \$1,200 supplement.

The City agrees to insure the LEOFF 1 Firefighter retirees through the LEOFF Health & Welfare Trust. On or before March 1<sup>st</sup> of each year, the City will calculate any savings realized from moving the LEOFF 1 Firefighter retirees from the AWC Regence Blue Shield Plan A to the LEOFF Health Trust Plans. Savings will be calculated using the formula in **Appendix F** and deposited in each member's HRA VEBA Account.

**Section 2:** Opt-out of medical insurance coverage - An employee who waives the right to obtain medical insurance coverage through the City and who provides proof of credible coverage through his/her spouse or another source shall receive a HRA-VEBA contribution equal to 60% of the total premiums that would otherwise be paid by the City. For example, employee plus spouse would receive an amount equal to 60% of the premiums for he/she and his/her spouse, minus the 10% employee contribution for the dependent. Employee with two children and spouse would receive the 60% of the equivalent of those premiums, minus the 10% employee contribution for dependents.

## **ARTICLE XIII - ADDITIONAL BENEFIT PACKAGE**

**Section 1: Long Term Disability** - The City agrees to provide a long-term disability plan for LEOFF II employees. This plan will be the AWC Standard Insurance long-term disability plan,

offering a 67% benefit payment level following a 90-day waiting period. The premiums for this plan will be paid by the City.

**Section 2: Life Insurance** - The City agrees to provide all employees with a supplemental life insurance policy. This plan will be the AWC Standard Insurance Life Insurance program. The benefit is equal to 125% of the employee's annual salary. The premiums for this plan will be paid by the City. This benefit also includes an Accidental Death & Dismemberment rider. All premiums for this option will be paid entirely by the employee.

#### **ARTICLE XIV - BEREAVEMENT LEAVE**

Leave due to death in the immediate family shall be granted by the City. Such leave shall be five (5) calendar days from notification of death. Bereavement leave is not charged to sick leave.

Immediate family shall be defined as spouse, son, daughter, mother, father, brother, sister, mother-in-law or father-in-law. However, the Fire Chief or his designee may construe more broadly this definition to other persons living within the employee's household, to others related to the employee by blood or marriage, or to established relationships having attributes of familial ties.

#### **ARTICLE XV - PENSIONS**

Pensions for employees and contributions to pension funds will be governed by Washington State statute.

#### **ARTICLE XVI - HOLIDAYS**

**Section 1:** Full-time 48-hour work week Fire Department employees, represented by the Union, shall accrue five (5) twenty-four (24) hour duty shifts off with pay per year. Holiday shifts will be blended with vacation and treated as the same form of leave for administrative purposes.

**Section 2:** Beginning on January 1<sup>st</sup> of every year of employment, the employee will be credited with Five (5) holiday shifts, which are accrued one (1) every 2.4 months. The shifts can be used at any time during the year. When an employee resigns or retires, all holidays that were used and not accrued will be paid back to the City by the employee prior to ending their employment with the City.

Circumstances which could preclude the employee from utilizing holiday benefits include, but are not limited to, disability leave or sick leave of said employee or other employees under the control of this Agreement.

**Section 3:** Employees covered by this Agreement who are scheduled to work the holiday time periods described below shall be paid one and one-half (1-1/2) times their hourly rate for each hour worked during the following periods. Commencing 0800 hours on the holiday and ending 0800 the following day.

1. Thanksgiving Day
2. Christmas Day

3. New Year's Day

**Section 4:** Except as otherwise allowed in Section 2 above, upon leaving employment, the City shall pay all employees for any accumulated and unused holidays at their respective hourly rate of pay in effect at the time of termination.

**ARTICLE XVII - VACATION**

**Section 1:** Vacation shall start at the beginning of the first scheduled duty shift in the vacation period taken off as vacation. Vacation shall end at the beginning of the first scheduled duty shift immediately following vacation. This will normally be 8:00 am of that day.

**Section 2:** Annual vacation credits shall be earned from the date of employment as follows:

	<b>Hours per Month</b>	<b>Vacation Accrual Hours per Year</b>	<b>Shifts per Year</b>
Less than 60 months (0 to 4 years)	10 Hours	120 Hours	5
60 to 119 Months (5-9 years)	14 Hours	168 Hours	7
120 to 179 Months (10-14 years)	16.5 Hours	198 Hours	8.25
180 to 239 Months (15-19 years)	18.5 Hours	222 Hours	9.25
240 to 299 Months (20 or more years)	22 Hours	264 Hours	11

**Section 3:** Vacations shall be chosen by the individual firefighter according to his seniority by December 15 of each year and consistent with the procedure set forth in the attached Holiday and Vacation **Appendix B**. After that date, seniority will not prevail on vacation choice. When an employee wants to split his vacation, he may exercise his seniority on preferred dates only once. Vacation periods must have approval of the Fire Chief or his designee and approved vacation time shall be posted by December 15 of each year. Vacations approved as of five business days after December 15 shall not be canceled by the employer, except in the event of an emergency, as determined by the Fire Chief or his designee.

**Section 4:** Vacation accrual shall not exceed 280 hours on December 31 of each year. Beginning January 1 of each year, no additional hours shall be credited to an employee who has accrued the maximum benefit (280 hours) unless there are circumstances beyond the employee's control, which preclude the employee from utilizing vacation benefits.

Circumstances that could preclude the employee from utilizing vacation benefits include, but are not limited to, disability leave or sick leave of said employee or other employees under the control of this Agreement, minimum manning requirements as outlined in **ARTICLE XXVII - PERSONNEL UTILIZATION** and cancellation of vacation as outlined in **Section 3**. (See above).

**Section 5:** Upon leaving employment, the City shall pay all employees for any accumulated and unused vacation hours at their respective hourly rates of pay in effect at the time of termination, not to exceed 280 hours.

**Section 6:** Shift exchanges pursuant to Article VII shall be approved to facilitate vacations.

**Section 7:** Consistent with the attached Holiday and Vacation Schedule - **Appendix B**, The City will make available one (1) shift every day for the purpose of using accrued leave. When a disability, retirement or resignation is known prior to December 15, the City is only required to make available the sum of all vacation and holiday hours to be accrued in the following year, in the form of 24-hour shifts. When scheduling the sum total of vacation and holiday leave, the entire calendar shall be considered “open” when scheduled before December 15. Once these shifts are scheduled, the City will honor those commitments unless there is an emergency as defined in **Article XVII, Section 3**.

**Section 8:** Solely for the purposes of vacation and holiday selection, **Appendix B** or anywhere that specifically refers to this section, an employee is considered disabled when projected to be out for more than three (3) shifts. The disability will end when the employee returns to work.

**Section 9:** When an employee decides to resign or retire, the employee should provide the City with as much notice as possible. This is in an effort to give the City lead-time to prepare and plan for the replacement of the resigned or retired employee.

### **ARTICLE XVIII – HRA-VEBA ACCOUNT**

The City of Mercer Island (“Employer”) has adopted the HRA VEBA Medical Expense Plan (“Plan”). Employer agrees to contribute to the Plan on behalf of all employees in the collective bargaining group (“Group”) defined as eligible to participate in the Plan. Each eligible employee must submit a completed and signed Enrollment Form to become a Plan participant and be eligible for benefits under the Plan. Contributions to a member’s account are defined in Article XII, Article XVIII, Article XXVIII, and Article XXIX.

Section 1: Each employee shall be required to contribute a percentage of his/her base pay + longevity each pay period to a HRA VEBA Account. This amount will be determined by the Union on an annual basis and communicated to the City by December 1st for the following year. If no change is communicated the status quo will be continued.

Section 2: By March 1st the City will provide each member with an individualized report detailing contributions to the members HRA VEBA account for the previous year to include; a breakdown and explanations of the contributions, as well as dates and amounts of each contribution.

### **ARTICLE XIX – JURY DUTY/PAY**

**Section 1:** An employee serving on a jury will be excused from work with pay provided that the City salary paid to the employee for the period of jury service shall be reduced by the amount of money received for that service.

**Section 2:** Any firefighter who, as a result of fire department duties, is required to appear before a court, legislative committee, or a quasi-judicial body as a witness in response to a subpoena or other directive, shall be allowed authorized leave with pay. However, his or her City salary shall be reduced by the amount paid for such appearance.

**Section 3:** Any firefighter required to serve on a jury, assigned to 24-hour platoon duty, will be released from duty by 1900 hours the day prior to reporting for jury duty. A firefighter assigned to jury duty when released from jury duty after 1400 mid-shift will not be available for a return to duty assignment until the next shift they are assigned to.

## **ARTICLE XX - LAYOFF**

**Section 1:** Employees having completed probationary service but having less than thirty (30) months in the department shall be entitled to fifteen (15) days' notice prior to being laid off due to a reduction in force.

**Section 2:** Employees having thirty (30) months or more service in the department shall be entitled to thirty (30) days' notice prior to being laid off due to a reduction in force.

## **ARTICLE XXI - GRIEVANCE PROCEDURE**

In an effort to settle issues prior to filing a grievance, both parties recognize they may use the Labor Management Committee process. To that end, if both parties agree in writing, the timelines specified in the grievance procedure may be delayed if agreed by both parties.

The Union reserves the right to file a grievance on behalf of itself or an individual.

Disputes regarding the interpretation of the Agreement shall be handled in the following manner:

**Step I:** The Union shall formally submit grievances in writing to the Fire Chief or his designee. Such submission shall state the factual basis for the grievance, the provision or provisions of the Agreement allegedly violated, and the remedy requested. Grievances which are not filed within sixty (60) calendar days from the date of the alleged violation shall be deemed waived for all purposes.

The Fire Chief or designee shall convene a Step I meeting within five (5) calendar days of receipt of a grievance. Attendance at such meetings may include appropriate supervisors, Union representative and the individual grievant. The Fire Chief or designee shall render a decision in writing to the Union within seven (7) calendar days after the conclusion of the Step I meeting.

**Step II:** The decision of the Fire Chief or designee may be appealed in writing to the City Manager within five (5) calendar days of its receipt. The City Manager shall review the facts, convene any meeting involving the parties which he deems appropriate, and shall issue in writing the final position of the City within fifteen (15) days of receipt of the Step II appeal.

**Step III:** Disputes remaining unresolved shall be submitted to arbitration within thirty (30) calendar days of the receipt of the Step II answer of the City. The arbitrator shall be selected from a list requested from the American Arbitration Association pursuant to its voluntary labor rules. Only grievances which involve an alleged violation by the City of a specific article or provision of the

Agreement and which are presented to the City in writing during the term of this Agreement and which are processed in the manner and within the time limits herein provided shall be subject to arbitration.

The decision of the arbitrator shall be final and binding upon the parties. Provided, however, no arbitrator shall have the authority to render a decision or award which modifies, adds to, subtracts from, changes or amends any term or condition of this Agreement; further provided, rendition of a decision or award shall be in writing within thirty (30) calendar days of the close of the hearing (or submission date of written briefs) and shall include a statement of the reasoning and grounds upon which such decision or award is based.

The cost of services of the arbitrator shall be shared equally by the parties. All other costs (such as attorney fees, witness time, transcripts, etc.) shall be borne separately by the party incurring the expense. Time described herein may be extended by mutual agreement of the parties.

The City shall have the right to discipline or discharge employees for just cause. Such discipline beyond the level of oral reprimand will come from the Chief or Deputy Chief and the Union will receive written notification, once administered.

#### **ARTICLE XXII - UNION REPRESENTATIVE AND UNION ACTIVITIES**

Duly authorized Union representatives shall be permitted to visit the department during operating hours for purposes consistent with this Agreement, providing that they do not interfere with working employees or violate security policies.

The Union reserves the right to maintain its own internet connection at all stations. The Union will bear all future cost involved with maintaining their own internet connection.

The Union shall bear the costs of release time for all Union activities. The parties agree to continue the practice of utilizing surplus staffing days as a means of facilitating the use of union release time, up to eight (8) shifts annually. Shift exchanges to facilitate such activities shall be automatically approved unless such exchange results in overtime cost to the city, at the time of the trade.

#### **ARTICLE XXIII - BULLETIN BOARDS**

A bulletin board shall be provided by the City and located in a mutually satisfactory place for posting by the Union of Union business, notice of meetings, Union elections and results of Union elections.

#### **ARTICLE XXIV - NO STRIKES**

The Union agrees that there shall be no strikes, slowdowns, stoppages of work, or any interference with the efficient management of the fire department. The City agrees that there shall be no lockout of employees.

#### **ARTICLE XXV - SAVINGS CLAUSE**

Should any provision of this Agreement or the application of such provisions be rendered or declared invalid by any court action or by reason of any existing or subsequently enacted legislation, the remaining parts of this Agreement shall remain in full force and effect.

### **ARTICLE XXVI – PROBATIONARY PERIOD**

The probationary period for newly hired employees shall start on the first day of employment and continue for a period not to exceed eighteen (18) months. Employees discharged during the probationary period may not grieve the discharge.

### **ARTICLE XXVII - PERSONNEL UTILIZATION**

**Section 1:** All assignment of personnel shall be at the discretion of the Fire Chief or his designee. Minimum manning, where regular firefighters are assigned, shall be maintained at all times for safety and efficiency.

- A) One (1) regular B/C, or Lieutenant in charge of Station 91 and 92.
- B) One (1) regular Lieutenant, or Acting Firefighter in role of “Lieutenant” at Station 92.
- C) One (1) regular Lieutenant, or Acting Firefighter in the role of “Lieutenant” at Station 91.
- D) Four (4), two (2) regular Firefighters at Station 91 and two (2) regular Firefighters at Station 92.

**Section 2:** At that time any of these Officers may work in the Lieutenants position at either station and may be assigned to the north or south stations. When there is one Lieutenant and an Acting Lieutenant available to fill the two Lieutenants roles, the Lieutenant will work at Station 92 and the Acting Officer will work at Station 91.

**Section 3:** In January of 2003 the Union and the City agreed to re-title the rank of Company Officer to Lieutenant. As a result, there would be six full Lieutenants on the Fire Division staff. The union does not intend this change in rank structure as an incremental step towards a captain’s position. In contrast the ultimate goal of this change in the rank structure is to reflect the industry standard set forth by the majority of our comparable agencies.

### **ARTICLE XXVIII - SICK LEAVE**

**Section 1:** Sick leave shall be granted in accordance with state and Federal laws. State and Federal laws will provide the minimum basis for sick leave use and will not restrict existing practices or contract language that is currently in place.

**Section 2:** When an employee goes on sick leave, he/she must notify his/her supervisor as soon as reasonably prudent. Failure to do so may result in denial of sick leave pay. The City may, for cause, require a physician’s statement. The City will notify the Union in writing, any time a physician’s statement is requested from a member.

**Section 3:** Employees shall earn sick leave on the basis of twenty (20) hours per month. The maximum sick leave which may be accrued and used in any event shall be 1440 hours.



**Section 4: Disability Leave** - Whenever an employee incurs a duty-related illness or injury, but has not accumulated sufficient sick leave, the City will provide necessary additional leave up to the six (6) month maximum allowed per absence. The leave provided by the City after an employee exhausts accrued sick leave shall be considered disability leave.

Benefits for employees on LEOFF II disability will be coordinated with Worker's Compensation so the employee will receive the equivalent of base salary (including longevity, if applicable). Employees will continue to receive all benefits while on sick leave or disability leave.

**Section 5:** No compensation shall be paid at termination of employment for accrued sick leave.

**Section 6:** For each calendar month that an employee does not use any hours of sick leave the City will deposit \$250 into the employee's HRA VEBA account, this contribution will be made on or before March 1st of each year.

In the event that it becomes clear at any point in time based upon available information that the incentive for not using sick leave during a particular month that has been negotiated by the parties is unlawful, then the incentive will immediately become null and void, and the language that is set forth below will immediately be re-inserted into the parties' CBA and will immediately become effective:

"LEOFF II employees may elect to convert accrued vacation, holiday and/or comp time hours into sick leave hours at a conversion ratio of 1:2. As an example, 24 hours of vacation would convert to 48 hours of sick leave. Once converted, they remain converted. Employees may exercise this provision by written notice to the Fire Chief or his designee on the first day of each month. Conversion must take place prior to injury or illness."

**Section 7:** In the case of a healthy normal childbirth or adoption, the City shall grant the employee/parent the maximum amount of FMLA leave available under the circumstances presented. The amount of leave shall be determined in accordance with the regulations governing the federal FMLA, as the same exists or is hereafter amended. Normally this will be 12 weeks unless the employee has already utilized some of their FMLA leave for another purpose. The leave will be paid leave provided that the employee has sufficient paid leave available to cover his or her entire absence. The employee shall use accrued available sick leave, comp time and vacation concurrently with the FMLA leave to which the employee is entitled. Sick leave will be used for the mother's disability and her care, just prior to and/or following childbirth as declared by her doctor. The remainder of the leave used shall be charged to vacation or comp time, unless the employee exhausts all available paid leave before the end of his or her absence, in which case the end of the leave shall be unpaid. A husband and wife, both City employees, may only use their FMLA leave to the maximum extent allowed by the FMLA under the circumstances presented.

## **ARTICLE XXIX - PHYSICAL FITNESS AND WELLNESS**

**Section 1:** The Union and the City agree that the physical fitness of Union members is important to their health and safety. Physical fitness is the personal responsibility of each Union member. The City and the Union both support and encourage firefighters to be physically active and to be involved in a personal program of regular exercise. Toward that end, Union firefighters shall perform one (1) hour of physical fitness per duty shift and may have a biennial full medical physical

as described in Appendix J, paid for through existing medical coverage and any remaining cost by the City, with the results being confidential to the Union member.

**Sections 2:** The City will provide a \$500 “Healthy Habits” stipend to all employees to encourage off duty fitness, stress reduction and healthy eating habits in connection with training provided by Dr. Maureen Pierce. This stipend will not factor into the Total Cost Compensation (TCC) and will be deposited in the employees HRA VVEBA on or before January 31 of each calendar year.

**ARTICLE XXX - SMOKING**

Smoking is not permitted while on duty.

**ARTICLE XXXI - TERM**

This Agreement becomes effective retroactively to January 1, 2022 and shall remain in full force and effect through December 31, 2022 and thereafter until a new Agreement is negotiated.

ACCEPTED and APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

CITY OF MERCER ISLAND

PROFESSIONAL FIREFIGHTERS  
ASSOCIATION OF MERCER ISLAND  
(IAFF LOCAL 1762)

\_\_\_\_\_  
Jessi Bon  
City Manager

\_\_\_\_\_  
Ray Austin  
President

Attest:

\_\_\_\_\_  
Deborah Estrada  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Bio Park  
City Attorney

**APPENDIX A  
CLASSIFICATION AND WAGE SCALE**

**MERCER ISLAND FIRE  
January 1, 2022 Pay Scale**

COLA for all ranks of 3.3% - 100% First Half 2021 CPI-W Seattle-Tacoma-Bellevue

STEP %	2022 HOURLY	O.T.	BI-WEEKLY	MONTHLY	ANNUAL	A/LT
1 (Starting Wage)	33.00	49.51	3,168.42	6,864.90	82,378.86	3.93
2 (Month 13)	34.88	52.33	3,348.90	7,255.96	87,071.49	3.93
3 (Month 25)	36.70	55.05	3,523.44	7,634.12	91,609.42	3.93
4 (Month 37)	40.09	60.14	3,848.71	8,338.87	100,066.46	3.93
5 (Month 61) 2%	40.89	61.33	3,925.07	8,504.32	102,051.81	3.93
Month 121 w/out longevity	41.45					
6 (Month 121) 4%	43.13	64.69	4,140.26	8,970.57	107,646.86	3.93
Month 181 w/out longevity	42.22					
7 (Month 181) 6%	44.75	67.12	4,295.96	9,307.91	111,694.90	3.93
Month 241 w/out longevity	43.12					
8 (Month 241) 8%	46.57	69.85	4,470.49	9,686.07	116,232.83	3.93
<b>LIEUTENANT</b>						<b>A/BC</b>
1 (Month 37)	44.81	67.22	4,301.91	9,320.80	111,849.60	7.56
2 (Month 61) 2%	45.72	68.58	4,389.18	9,509.88	114,118.57	7.56
Month 121 w/out longevity	46.37					
3 (Month 121) 4%	48.22	72.33	4,629.16	10,029.85	120,358.22	7.56
Month 181 w/out longevity	47.21					
4 (Month 181) 6%	50.04	75.06	4,803.70	10,408.01	124,896.15	7.56
Month 241 w/out longevity	48.22					
5 (Month 241) 8%	52.07	78.11	4,999.06	10,831.29	129,975.53	7.56
<b>BATTALION CHIEF</b>						
1 (Month 37)	52.37	78.56	5,027.82	10,893.60	130,723.26	
2 (Month 61) 2%	53.42	80.12	5,127.98	11,110.62	133,327.41	
Month 121 w/out longevity	54.17					
3 (Month 121) 4%	56.34	84.51	5,408.62	11,718.68	140,624.19	
Month 181 w/out longevity	55.16					
4 (Month 181) 6%	58.48	87.72	5,613.90	12,163.45	145,961.41	
Month 241 w/out longevity	56.34					
5 (Month 241) 8%	60.85	91.28	5,841.99	12,657.64	151,891.66	
<b>FIRE MARSHAL</b>	70.00	104.99	5,599.69	12,132.65	145,591.85	

\* = Red shaded rates are pay rates WITHOUT longevity (don't use)  
The rates below the red shaded rates include longevity (apply these rates)

A/LT = Difference between Step 1 Lt and Step 5 FF (Month 37)

A/BC = Difference between Step 1 B/C and Step 1 Lt

## APPENDIX B

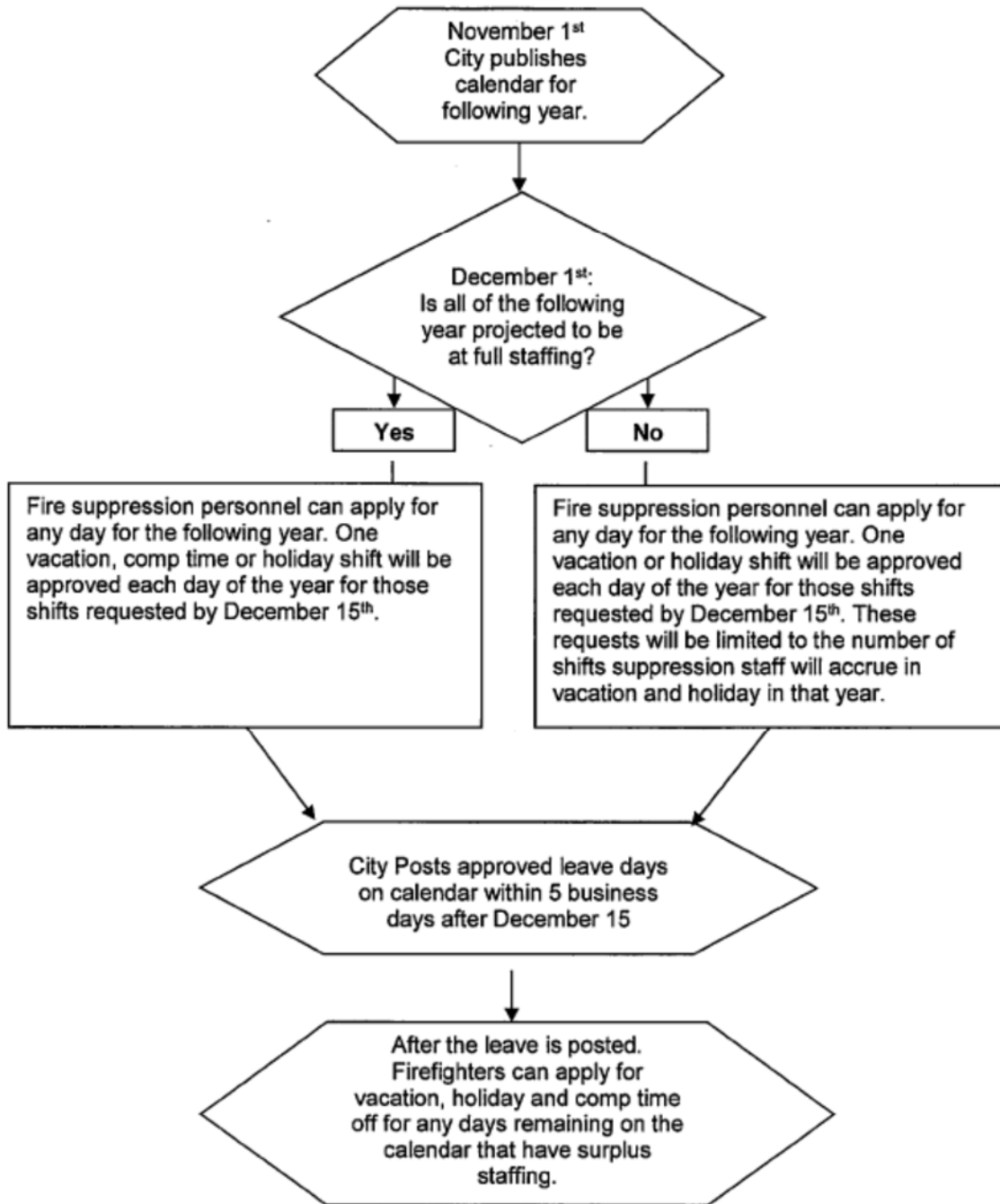
### VACATION & HOLIDAY SELECTION AND APPROVAL PROCESS

The objective of this agreement is to assure that firefighters have the opportunity to take off as much time as they accrue in holiday and vacation time in each year. In addition, the City agrees that at vacation selection time, one (1) shift any day, 365 days of the year will be available for a vacation or holiday day off; provided, however, that in a year that staffing levels are not full due to projected retirements, disability or resignations, the City is only obligated to approve the number of leave shifts equal to the sum of vacation and holiday shifts earned by staff in the year affected.

The following text is to describe the process used for the selection and approval of vacation and holiday leave shifts.

1. On November 1, the City will have the following years shift assignments complete and the calendar published.
2. On December 1, a final determination will be made as to whether the following year is at full staffing or not. It would not be considered full staffing, if on December 1 it is projected that all shifts are not fully staffed with eight (8) firefighters due to projected retirements, disabilities or resignations.
3. On December 15, the employees will have prioritized and submitted their initial requests for vacation and holiday shifts off.
  - (a) If the following year is projected to be at full staffing level (eight (8) firefighters available each day) Fire Suppression Staff can put in for one shift off each day up to 365 days. This leave can be Vacation, Holiday or Comp time. These shifts will be approved.
  - (b) If the following year is projected to be less than fully staffed (less than eight (8) firefighters available each day) due to projected retirements, disabilities or other uncontrollable circumstances, the number of shifts in this initial request will be limited to the number of vacation and holiday shifts earned by the employee group in the year these shifts are being requested. These requested shifts shall be limited to one per day.
4. By December 15, these initial vacation and holiday shifts will be posted on the calendar. These shifts will be approved or denied within five (5) business days after December 15.
5. After this leave is posted, firefighters can request vacation, holiday or comp days off on any day of the calendar with surplus staffing.

**APPENDIX C**  
**LEAVE FLOW CHART**



## APPENDIX D

### BATTALION CHIEF ROLES AND DUTIES

#### Leadership Management Shift

The City of Mercer Island and the Mercer Island Professional Firefighters Association agree to the following transfer and or increase of responsibilities to the Battalion Chief position.

Intent: The intent of this part of the agreement is to recognize the modifications to the role and responsibilities of a Mercer Island Battalion Chief that have made the position more reflective of the roles and responsibilities of Battalion Chiefs in comparable Fire Departments. Roles such as, but not limited to;

- 1 Increased management responsibilities and maximizing 8 - 5 workday
- 2 A shift from company operations to administrative duties
- 3 Removal of some firefighter skills/training and replace with incident management, management, and leadership skills/training
- 4 Reduce company level operations/supervision and function independently as a multi-company shift manager to include more administrative duties.
- 5 Stratify skills for the position of Battalion Chief

The City agrees the pay a stipend, of at least \$35 a month to the Battalion Chiefs, for voluntary cell phone and email use. This will enable them the opportunity to keep the budget process moving smoothly through continued approval of budget requests, even during their absence. The BCs voluntarily participate in this process and are under no obligation to do so (See **Article V, Section 5**). Additionally the member has a presumed level of privacy regarding the data package and the City has no claim to ownership of, or anything contained in said data package, under any circumstances.

#### **Training**

The City of Mercer Island agrees to continue supporting Battalion Chief related training that is consistent with Federal laws, State laws, and that meet the responsibilities and duties that are required

The association agrees to minimize Firefighter 1 training for Battalion Chiefs only to a level to maintain the ability to maintain a limited Firefighter 1 status. The intent is to maintain the ability to act as a standby team in structural firefighting operations and maintain EMT/Defib status.

Intent: The intent of this part of the agreement is to ensure that Battalion Chief's receive training for the responsibilities that they are assigned. Furthermore, dependent on budgetary constraints, the City of Mercer Island is willing to support building the body of knowledge and skills and abilities for the Battalion Chief's by financially supporting training and educational opportunities that will expand the capabilities of the individual in the BC position. Currently this would include the "Chiefs Week" offered by Zone One.

Additionally, the intent of this part of the agreement is to reduce the level of "Firefighter 1" Training required of the Battalion Chief's position. The amount of "Firefighter 1" Training will reflect the roles and responsibilities of the Battalion Chief's position within the organization.

## APPENDIX E

### SHIFT EXCHANGES AND OVERTIME FOR BATTALION CHIEFS

The City of Mercer Island and the Mercer Island Professional Firefighters Association agree to the following change to maintain a shift exchange benefit that has been in effect prior to this agreement.

- 1 The Battalion Chiefs will only complete shift exchanges that will not increase staffing of more than one Battalion Chief per shift.
- 2 Both parties agree that in the event a Battalion Chief is not able to complete a desired shift exchange, he/she may take the shift off and have the position back-filled with overtime.
- 3 If an overtime shift is created by a Battalion Chief shift exchange, the Battalion Chief making the trade agrees, and is obligated to reschedule his/her shift on a day that would reduce the number of overtime hours on a shift equal to that taken off.
- 4 Each Battalion Chief is allowed to accrue no more than two (2) owed shifts of overtime coverage. If upon termination of employment the Battalion Chief still has accrued shifts owed to the City, the City will be compensated for those shifts.
- 5 The firefighters association will continue to monitor and schedule the overtime callback systems. The firefighters association will ensure that minimum staffing requirements are maintained and prevent the scheduling of two Battalion Chief's on duty simultaneously

Intent: The intent of this part of the agreement is to ensure that the Battalion Chiefs suffer no loss in benefit regarding the shift exchange practice, as a result of the changes to the Battalion Chiefs position.

Intent: The intent of this part of the agreement is to stratify Battalion Chief skills and maintain overtime equalization between Battalion Chiefs, Lieutenants, and Firefighters.

## APPENDIX F

### LEOFF 1 FIRE RETIREE HEALTH INSURANCE PREMIUM SAVINGS CALCULATIONS FOR ANNUAL HRA VEBA CONTRIBUTION

On or before March 1<sup>st</sup> of each year, Bargaining Unit members will receive a contribution to an individual HRA VEBA Account.

Contributions are based on 50% of the actual savings realized from moving the LEOFF 1 Fire retirees from Association of Washington Cities (AWC) Regence Blue Shield, Plan to the LEOFF Health and Wellness Trust Plan 1.

Annual savings will be calculated as follows:

Past Year's LEOFF 1 Retirees Premium Cost under the AWC Regence Plan

Subtract

Past Years' LEOFF 1 Retirees Premium Cost under LEOFF Health & Welfare Trust Plan 1

Equals Savings Subtotal

Add back in out-of-pocket expenses paid for uncovered medical expenses (paid by the City) that would otherwise be covered under AWC Regence Plan.

Equals Actual Savings

Divide by 2

This total will then be divided equally among active bargaining unit members and contributed to his/her individual HRA VEBA Accounts.



**APPENDIX G**  
**TRAINING OFFICERS**

**Recognition**

The City recognizes the Local IAFF 1762 as the sole and exclusive bargaining agent for all collective bargaining issues.

Both parties recognize these two positions as special assignment, collective bargaining work of Local 1762.

**Wages**

Training Officers (TOs) shall be compensated at the same overtime (OT) wage rate they earn as a firefighter or fire officer.

**Hours**

The weekly TO work hours will be driven by legal training requirements and the budget allotment approved in the biennial budget. Management shall determine how many hours per week are budgeted, and subsequently authorize training officers to establish a workweek based on the following provisions:

Each of the two TOs will be authorized 250 hours annually in which to conduct their training duties. Any additional TO hours will require authorization from the Fire Chief.

If a TO is temporarily unable to fulfill their duties, their position can be temporarily filled from the eligibility list of the previous TO selection process in the order of their rating.

**Duties**

TOs may be assigned to work outside of their jurisdiction with the EMTG.

**Selection Process for Training Officers**

Individuals filling the role of TOs shall be selected from candidates within the Mercer Island Fire Department and bargaining unit 1762.

The following guidelines shall govern the selection process for training officers:

- The selection process shall be impartial, job-related, and shall assess the candidate's ability to program the requirements of the position.
- A committee shall be comprised of one (1) management representative, one (1) labor representative, and a current training officer or an outside representative.
- Scoring shall be derived from an objective, agreed upon process, and based on a presentation by candidates.
- TO Candidates must meet the following criteria:
  - Fire Instructor 1
  - Incident Safety Officer
  - Minimum of 5 years experience

Candidates past work record, education, knowledge of job duties and ability to perform all requirements of the job.

All bargaining unit members will have the ability to apply for the TO position, with the exception of the current BC of Training.

TOs will receive an annual performance evaluation, based upon their TO position, from the BC of Training.

Priority will be given to those individuals who have not served in the role of TO previously. For those that have served as TOs prior, one rotation would have priority over two previous rotations.

Members will be excluded from two consecutive terms, unless no other candidate is available.

\*All candidates will be considered as having a clean slate for the October 2013 process, with the exception of the current serving TOs.

### **Rotation**

TOs selected to this position shall remain in this position for a period of up to four years, unless removed for cause.

A TO selection process will occur every two years, resulting in an offset of two years for each Training Officer. This will allow for at least one TO in the Training Division to have at least two years' experience when a new TO is selected.

### **Training Officer Selection**

The Selection Committee shall evaluate each training officer candidate through an agreed upon process giving them a numerical score. A seniority credit, calculated as  $\frac{1}{4}$  point multiplied by years of service will be added to the score. (Example: 15.75 years of service times .25 equals 3.93 points). The resulting values will be used to produce a prioritized list of candidates for the training officer position. The list shall remain valid for two (2) years.

The number one candidate shall be selected to fill a 6-month period as a provisional training officer. This 6-month period will be used by the Fire Chief to evaluate the performance of the provisional training officer.

The candidate who successfully meets the performance expectations will be granted regular status, by the Fire Chief, for the remaining three and one-half year period. Performance expectations will be clearly outlined for the candidate.

If a provisional training officer does not meet the performance expectations of the position, the Fire Chief will not grant regular status and he/she will be removed from the position. The Fire Chief will present the candidate and Union with a written explanation stating the reasons and supporting evidence for the candidate's removal. The next highest candidate on the training officer list will then be selected to fill the vacancy, and this process will be repeated. Disagreements about the Chief's decision to remove the candidate will be settled through the grievance process.

The seniority credit will not set a precedent for any other selection process.

## APPENDIX H

### CITY OF MERCER ISLAND FIRE DEPARTMENT Substance Abuse Policy

**These policies and procedures have been agreed to by the parties and shall become a part of the current labor agreement between the City of Mercer Island and the International Association of Firefighters Local 1762. All applicable articles of the contract shall apply to these policies and procedures.**

#### A. PURPOSE

The City of Mercer Island recognizes that employees are our most valued resource. The goal of this policy is to ensure a substance abuse free workplace providing prevention, training and rehabilitation for employees. In order to protect the health, welfare, and safety of its employees, and the citizens whom they serve, the following policy regarding substance abuse in the work place is adopted.

#### B. POLICY

1. It is the policy of the City of Mercer Island to provide an alcohol- and drug-free workplace for its employees.
2. The City's philosophy on substance abuse is to emphasize prevention, training, rehabilitation, and recovery from substance abuse. Counseling and support will be made available through an Employee Assistance Program, and the employees' right to privacy will be respected at all times.
3. It is the responsibility of the City and the Union to preserve and protect public trust, public safety, and fitness for duty.
4. It is the responsibility of all employees to report for duty able to perform their jobs safely and effectively, unimpaired by drugs, alcohol, or any other intoxicating substance.
5. The possession, manufacture, use, distribution, or sale of alcohol, unlawful drugs or drug paraphernalia on City premises or while on duty is prohibited.

#### C. APPLICABILITY

This policy applies to all bargaining unit employees through the rank of Battalion Chief.

#### D. DEFINITIONS

For purposes of this policy, the following terms have the meanings indicated:

1. Alcohol use means the consumption of any beverage, mixture, or preparation, including any medication, containing alcohol.

2. Conviction means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of Federal, State, or City drug laws.
3. Counseling means participation in a substance abuse treatment or rehabilitation program provided through the City of Mercer Island's Employee Assistance Program (EAP).
4. Criminal drug statute means a criminal law involving the manufacture, distribution, dispensing, use, or possession of any controlled substance.
5. Medical Review Officer (MRO) is a licensed physician selected by joint agreement between the parties to receive positive drug test results from the laboratory, analyze and interpret the results, and report to the employer those results as outlined in Sections H and I of this policy.
6. Prohibited Substances are those substances whose dissemination is regulated by law, including, but not limited to narcotics, depressants, stimulants, hallucinogens and alcohol. For the purpose of this policy, substances that require a prescription or other written approval from a licensed health care provider or dentist for their use shall also be included when used other than as prescribed. The drugs and/or their metabolites that are included in these categories are as follows:
  - a. Cocaine
  - b. Opium or opiates
  - c. Phencyclidine (PCP)
  - d. Amphetamines or methamphetamine
7. Reasonable suspicion means facts and circumstances sufficiently strong to lead a reasonable person to suspect that the employee is under the influence of drugs and/or alcohol.
8. Substance abuse means the use of a substance, including medically authorized drugs other than as prescribed for the user, which impairs job performance or poses a hazard to the safety and welfare of the employee, the public or other employees.
9. Substance Abuse Professional (SAP) is a licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol-related disorders.
10. Unreasonable delay means a delay of the testing procedure for a period of time, as defined by the collection site or laboratory personnel, which would render the test useless or inaccurate.

## **E. EDUCATION**

Pursuant to the provisions of the Drug-Free Workplace Act of 1988, the City will establish an education and training program to assist employees to understand and avoid the perils of drug and alcohol abuse. The City will use this program in an ongoing educational effort to prevent and eliminate drug and alcohol abuse that may affect the workplace.

The City's program will inform employees about:

- The dangers of drug and alcohol abuse in the workplace;
- The City's policy of maintaining a drug- and alcohol-free workplace;
- The availability of drug and alcohol treatment, counseling and rehabilitation programs; and
- The penalties that may be imposed upon employees for drug and alcohol abuse violations.

As part of its program, the City shall provide educational materials that explain the City's philosophy regarding drug and alcohol use, requirements of applicable regulations, and the City's Substance Abuse policy and procedures. Employees shall be provided with information concerning:

- The effects of alcohol and drug use on an individual's health, work and personal life;
- Signs and symptoms of an alcohol or drug problem; and
- Available methods of intervening when an alcohol or drug problem is suspected, including confrontation and/or referral to management.

In addition to the training above, the City shall provide training to supervisors who may be asked to determine whether reasonable suspicion exists to require an employee to undergo drug and/or alcohol testing. The supervisory training shall include training on alcohol abuse and drug use. This training shall cover the physical, behavioral, speech, and performance indicators of probable alcohol abuse and drug use. Supervisors who have not received the initial training described above will not be asked to determine whether reasonable suspicion exists to initiate drug/alcohol testing. However, these supervisors may request another supervisor who has undergone this training to make the determination

## **F. EMPLOYEE RIGHTS AND RESPONSIBILITIES**

1. The City shall not require an employee to undergo a drug and/or alcohol test unless there is reasonable suspicion to indicate the employee is under the influence of a substance which causes the employee to pose a hazard to the safety of the employee, the public, or other employees. However, an employee may be required to undergo a re-examination drug and/or alcohol test as provided in Section J.2. of this policy.
2. It is the employee's responsibility to report for duty able to perform his/her job safely and effectively, unimpaired by drugs, alcohol, or any other intoxicating substance.
3. Employees are responsible for:
  - Obtaining from their health care provider adequate information about the effects of prescription medication on job performance; and
  - Promptly notifying his/her supervisor of same; OR
  - Promptly notifying his/her supervisor of the effects on job performance of over-the-counter medication being taken.

4. Employees are prohibited from possessing, manufacturing, using, distributing, or selling alcohol, controlled substances or drug paraphernalia on City premises or while on duty. For purposes of this policy, “on duty” time includes meal and break periods.
5. Employees are encouraged to request assistance with drug use and/or alcohol abuse problem(s), with the understanding that a voluntary request for assistance will not be used as the basis for disciplinary action. However, a request for assistance shall not be used to exempt employees from job performance requirements.
6. In accordance with the Drug-Free Workplace Act of 1988, an employee who is convicted of a violation of a criminal drug statute shall notify the City’s Human Resources Director no later than 5 days after such conviction. For purposes of this policy, a criminal drug statute means a criminal law involving the manufacture, distribution, dispensation, use, or possession of any controlled substance.
7. Employees have the right to challenge the results of any tests and any discipline imposed in accordance with the Grievance procedure of their labor contract. Employees who dispute the results of a drug test may have their split sample tested at their cost at another DHHS-certified laboratory. This request must be made within 72 hours of notification of a positive drug test result by the Medical Review Officer (MRO).
8. Employees having knowledge of another employee's condition/behavior that poses a potential threat to the safety of employees and/or the public are to assist the employee in getting help with the problem. This may be in the form of advising the immediate supervisor, assisting the employee in contacting the City’s EAP, or by encouraging the employee to leave the workplace on sick leave. If the employee refuses intervention, the employee having the knowledge shall immediately inform the supervisor.
9. Employees who are required to undergo a drug and/or alcohol test will be provided transportation to the collection facility and shall also be offered transportation home by a Department representative. If suspected of being impaired, the employee will be advised against driving him/herself home or otherwise operating a motor vehicle.
10. Employees may have a Union representative or legal counsel present at the collection facility. However, the lack of Union representation or legal counsel shall not cause unreasonable delays in the collection process.
11. Employees shall fully cooperate in the collection process.

## **G. DETECTION**

1. Reasonable Suspicion. Once the steps outlined in the attached “Supervisor’s Guidelines” are followed, an employee may be required to undergo a drug and/or alcohol test when reasonable suspicion exists to indicate that the employee is under the influence of a prohibited substance.
2. The decision to conduct a drug and/or alcohol test shall be made by the reporting supervisor and the highest-ranking supervisor on duty. For purposes of this policy, acting officers are considered supervisors. The higher of the two supervisors will make timely notification of the situation to the Fire Chief or the Fire Chief’s management level designee,

and the Human Resources Director or his/her designee. Refusal to submit to a drug and/or alcohol test authorized by this policy shall be grounds for discipline, up to and including discharge.

### 3. Searches

- a. The Department has the right to search, without employee consent, City-owned property to which the employee has no reasonable expectation of privacy. These areas may include office space, desks, file cabinets and the like, that several different individuals may use or access.
  - b. If the employee's consent to search is first obtained, the Department shall have the right to search (1) City-owned property to which the employee has a reasonable expectation of privacy, and (2) private property belonging to the employee, such as a personal equipment bag, brief case, or private vehicle. If such consent is given, the employee shall have the right to Union representation during the search. City-owned areas where the employee has a reasonable expectation of privacy are the employee's personal locker and the employee's food locker.
  - c. If the Department requests the employee's consent to search, the Department shall first inform the employee that:
    - (1) The Department has reasonable suspicion to suspect that evidence exists within the area or item to be searched which could be used in disciplinary and/or legal proceedings against the employee;
    - (2) The employee has the right to Union representation during the search if consent is given; and
    - (3) Refusal to give consent to search will not be considered by the Department to be an admission of guilt or cause for disciplinary or retaliatory action.
    - (4) An employee's refusal to give consent to search shall not preclude the Department from contacting the police authority having jurisdiction to conduct a search according to and in the manner authorized by law.
4. Possession, manufacture, distribution or sale of alcohol, drugs, or drug paraphernalia on City property or during work time is expressly prohibited and may provide a basis for discipline under department rules and regulations, but shall not in and of itself constitute cause for drug and/or alcohol testing under this policy. For purposes of this policy, work time includes meal and break periods or any other time when the employee is on paid status. Alcoholic beverages that are properly stored, unopened, in the trunk of an employee's vehicle will not be considered a violation of this policy. Any illegal drugs and/or drug paraphernalia coming into the City's possession will be turned over to the police authority having jurisdiction.

## H. TESTING PROCEDURES

1. Drug and alcohol testing shall be conducted in a manner designed to protect employees, protect the integrity of the testing process, safeguard the validity of test results, and ensure that those results are attributed to the correct employee. The City and Union agree that if



the security of the urine sample is compromised in any way, any positive test shall be invalid and may not be used for any purpose.

2. Employees who are required to undergo a drug and/or alcohol test will be provided transportation to the collection facility and shall also be offered transportation home by a Department representative.
3. Employees may have a Union representative present at the collection facility. However, the lack of Union representation shall not unreasonably delay the collection process.
4. Employees required to undergo a drug and/or alcohol test shall cooperate fully in the collection process and complete all required forms and documents. These forms may include a Consent/Release form and an Interview form.
5. Urine samples for drug testing shall be collected at a collection site designated by the City and Union using the split sample collection method. The split sample is made available if retesting becomes necessary. Any specimen that tests positive for drugs shall be retained in long-term frozen storage by the laboratory conducting the analysis for a minimum of one year.
6. If medical personnel at the collection site have reason to believe that an adulterated or substituted sample has been provided (or that the employee may alter or substitute the sample), the employee will be required to submit a second sample (or the original sample). This collection shall be under the direct observation of a same gender collection site staff person. The employee will be required to provide the additional or original sample during an observed collection prior to leaving the collection site.
7. An approved chain of custody procedure shall be followed in the administration of all drug tests. Urine samples shall be sealed and initialed by the employee and a witness.
8. Urine samples shall be promptly sent to and tested by a laboratory that is certified to perform drug tests by the Department of Health and Human Services (DHHS). Initial drug screening shall be conducted using an accepted immunoassay method. All positive tests shall be confirmed using the gas chromatography/mass spectrometry (GC/MS) drug testing method. The laboratory shall test for only the substances and within the limits as follows for the initial and confirmation tests, as provided within NIDA standards, unless this section is modified by amended agreements provided for in Section L.3.:

Initial Tests

Alcohol	04 g/210 ml expired air
Cocaine metabolites	300 ng/ml
Opiate metabolites (1)	300 ng/ml
Phencyclidine	25 ng/ml
Amphetamines	1000 ng/ml

- a. If immunoassay is specific for free morphine the initial test level is 25 ng/ml.

Confirmatory Test

Alcohol	.04 g/210 ml expired air
Cocaine metabolites	150 ng/ml

Opiates	
Morphine	300 ng/ml
Codeine	300 ng/ml
Phencyclidine	25 ng/ml
Amphetamines	
Amphetamine	500 ng/ml
Methamphetamine	500 ng/ml

9. Breathalyzer alcohol tests shall be conducted in private at the collection site designated by the City and the Union. Alcohol tests shall be conducted using a National Highway Traffic Safety Administration (NHTSA)-approved evidential breath-testing device operated by a trained breath alcohol technician. If the initial test indicates an alcohol concentration of 0.04 or greater, a second test shall be performed to confirm the results of the initial test.
10. Marijuana Testing-In the State of Washington, marijuana is legal under state law, both as a prescription medication and as a drug used for recreational purposes. Employees shall not be under the psychoactive effects of marijuana causing motor impairment while on duty. Marijuana metabolites can stay in a person’s blood for weeks after the psychoactive effects of the drug have completely subsided. In addition, certain topical medications containing marijuana do not cause any psychoactive effects, but can still result in a positive test for marijuana. A saliva test shall be used to screen for the psychoactive effects of marijuana use, and if positive, shall be confirmed by a blood test performed by a qualified laboratory. This screening test shall be performed by an individual properly qualified to perform the tests utilizing appropriate equipment. An initial positive level shall be 5 nano grams per milliliter of Delta-9-tetrahydrocannabinol. If initial testing results are negative, testing shall be discontinued, all samples destroyed and records of the testing expunged from the employee’s files. Only specimens identified as positive on the initial test shall be confirmed using the blood test. A confirmatory test shall also test for the psychoactive effects of marijuana usage. A positive blood level shall be 5 nano grams per milliliter of Delta-9-tetrahydrocannabinol. If confirmatory testing results are negative, all samples shall be destroyed and records of the testing expunged from the employee’s files.

If the employee tests positive for marijuana, the MRO will make a determination, based on current scientific data and other evidence, if the marijuana more than likely caused the behavior of impairment that resulted in the administration of the drug or alcohol test.

If the MRO determines marijuana was not the likely cause of the behavior or impairment that resulted in the administration of the drug or alcohol test, the MRO will not release any results of the marijuana portion of the drug test to the Employer.

11. Upon written request by the employee, the City shall make one legible copy of the results of his/her drug and/or alcohol tests available to the employee.
12. All information collected in the process of conducting a drug and/or alcohol test shall be treated as confidential information. These files shall be separate from the personnel file and sealed.
13. Employees who refuse or fail to fully cooperate in the collection process may be subject to discipline up to and including discharge. Examples of a failure to fully cooperate include such actions as, refusing to sign the necessary consent/release forms; delaying and/or obstructing the collection process; failing to provide the specimen for testing; and

attempting to substitute or adulterate a specimen. The foregoing list is not intended to be an all-inclusive list. City management shall, in all circumstances, have the final right to determine the appropriate level of discipline depending on the specific circumstances, the employee's performance record, and any other pertinent facts.

## **I. REPORTING OF RESULTS**

1. The MRO shall be chosen and agreed upon between the Union and the Employer and must be a licensed physician with knowledge of substance abuse disorders and familiar with the characteristics of the laboratory tests (sensitivity, specificity, and predictive value). The role of the MRO will be to review and interpret the positive drug test results.
2. Alcohol Test Results. Laboratory or collection site personnel will report the test results to the City's Human Resources Director or his/her designee. The Human Resources Director will promptly advise the appropriate Fire Chief of these test results. If the confirmation test meets or exceeds 0.04 g/210 ml expired air, the laboratory or collection site personnel shall report to the Human Resources Director that the employee tested positive for alcohol. If the test result is below 0.04 g/210 ml expired air, the laboratory or collection site personnel will report to the Human Resources Director that the employee tested negative for alcohol.
3. Drug Test Results. Laboratory personnel will advise the Human Resources Director, or his/her designee directly of all negative drug test results. The Human Resources Director will promptly advise the appropriate Fire Chief of these test results.

The laboratory will advise only the MRO of any positive drug test results. The MRO must examine alternate medical explanations for any positive test results. This process shall include an interview with the affected employee and a review of the incident file, employee's medical history and any other relevant biomedical factors. The MRO must review all medical records made available by the tested employee when a confirmed positive test could have resulted from legally prescribed medication. Employees involved in this step of the examination shall make themselves and any relevant records they wish to present available to the MRO within 48 hours after request.

After reviewing the incident file and interviewing the employee, the MRO shall report to the City's Human Resources Director or his/her designee, the name of the employee, and whether a positive test of a prohibited substance has been verified. The Human Resources Director shall promptly notify the appropriate Fire Chief of the test result.

4. Rehabilitation Program. If the tested employee is referred on to rehabilitation or treatment, the MRO is authorized to communicate specific results to the Substance Abuse Professional (SAP) or counselor overseeing the employee's treatment program.
5. Grievance. The laboratory and/or the MRO will be authorized to release specific test results to the City and the Union in cases of a grievance and/or a legal challenge.

## **J. REHABILITATION AND RETURN TO DUTY**

1. The City recognizes that substance abuse can be successfully treated, enabling an employee to return to satisfactory job performance. Employees who are concerned about

their own drug use and/or alcohol abuse are encouraged to voluntarily seek assistance through the City's EAP. All such voluntary requests for assistance will remain confidential.

2. Any employee who tests positive for a prohibited substance or is otherwise required to submit to a drug and/or alcohol test by this policy shall be medically evaluated, counseled, and treated for rehabilitation as recommended by the SAP. If the employee is required to participate in such a program, his/her reinstatement or continued employment shall be contingent upon:
  - a. Successful completion of the program and remaining drug- and/or alcohol-free for its duration; and
  - b. Passing a return to duty drug and/or alcohol test as recommended by the SAP; and
  - c. Obtaining a final release for duty by the SAP (the final release for duty may be preceded by a temporary release for duty).
3. Employees who successfully complete a rehabilitation program and are released for duty, in addition to being subject to reasonable suspicion testing at any time, will be subject to follow up testing, which involves unannounced drug and/or alcohol testing at least 6 times during the following 12 months. The SAP will determine the dates for these drug and/or alcohol tests. These test dates will be communicated to the Human Resources Director who will inform the employee of those dates. The appointment for the collection will be made in advance and maintained in a confidential manner by the Human Resources Director until the day of the collection. The Human Resources Director shall provide the supervisor with adequate notice of the test dates. The employee will not be notified until just prior to the testing. The employee may request a Union representative to accompany him/her to the collection site, provided the sample is collected within two (2) hours following notification.
4. Upon notification of selection for the follow up tests, the employee must proceed directly to the collection site for testing. At this time, the employee will receive an Employee Notification of Scheduled Drug/Alcohol Test letter from the designated contact. The employee will be required to sign this letter and a Consent/Release form. The employee must present photo identification to collection site personnel. The Human Resources Director or his/her designee will retain a copy of all the forms.
5. Refusing to submit to a return to duty or a follow up test will be considered grounds for discharge. If the selected employee fails to report to the collection site within 2 hours of notification of testing, this will also be considered grounds for disciplinary action up to and including discharge.
6. If an employee voluntarily enters a drug/alcohol rehabilitation program, it shall not be considered an offense under this policy. Such employees are, however, still subject to this policy and may be required to undergo a drug and/or alcohol test if reasonable suspicion exists.
7. All appointments with the SAP may be scheduled as vacation, disability, sick leave, or leave without pay with prior approval of the supervisor, Fire Chief, or management designee. The SAP will contact the Fire Chief or his/her designee to make a recommendation as to the need for further treatment. Once vacation, disability and sick leaves are exhausted, the employee will be placed on leave without pay. The Fire Chief

or his/her management level designee shall maintain confidentiality regarding the reason for the leave.

8. The employee will be responsible for all costs, not covered by insurance, which arise from such treatment.
9. Once an employee has tested positive for substance abuse and the MRO has notified the City, the employee will be placed on leave status (vacation, sick, disability, other accrued leave or leave without pay). The employee will remain on leave until s/he has a release for duty from the SAP and has passed a return to duty drug and/or alcohol test as recommended by the SAP. The release for duty may be a temporary or final release as described below depending on the circumstances.
10. Temporary Release for Duty. The SAP shall sign a temporary release for duty indicating that the employee can satisfactorily return to regular work assignment and continue treatment on an outpatient basis. The temporary release for duty shall indicate the length of time such release is valid not to exceed 4 months. The employee must present a final release for duty on or before the expiration date of the temporary release. A temporary release shall include follow up testing. The employee must present both the temporary and final release for duty to his/her supervisor.
11. Final Release for Duty. A final release for duty shall be signed by the SAP indicating that the employee has:
  - a. Satisfactorily completed treatment and follow up testing; or
  - b. Does not require treatment at this time, and the employee may return to regular work assignment without restrictions. Failure to provide a final release for duty to the supervisor may result in disciplinary action up to and including discharge.
12. Once an employee provides the supervisor with the final release for duty, the employee shall be returned to his/her regular duty assignment. After three years of no further violation of this policy, the employee's personnel file shall be purged of any reference to the incident, including any disciplinary actions taken, provided, however, records may be retained beyond 3 years when retention is required by applicable law. Should applicable law require retention of records past 3 years, and if allowed by such law, such records shall be sealed and may not be opened without consent of the employee.
13. If an employee tests positive during the 24-month period following rehabilitation on a for-cause drug or alcohol test, the employee will be subject to discipline, up to and including discharge.
14. If an employee tests positive during the 24-month period following rehabilitation on a random drug or alcohol test, the employee will be placed on leave without pay during the period the SAP makes a decision on the need for further treatment. The employee will remain on leave without pay during any treatment period and until they have provided the employer with a return to duty form signed by the SAP. If such an employee completes the return to duty process and again tests positive on either for cause or random drug or alcohol test, they shall be subject to discharge.

## **K. RANGE OF CONSEQUENCES**

1. Employees who violate this policy will be subject to a range of disciplinary consequences depending upon the severity of the infraction and/or the employee's past performance record. In all cases, the City reserves the right to determine the appropriate disciplinary measures, which may be more or less severe than those included in this guideline. The following list of actions and the related consequences is intended as a guideline only, and further, is not intended to be an all-inclusive list of possible disciplinary consequences.
2. If an employee has an alcohol concentration of 0.04 or greater in any authorized alcohol test, and/or tests positive for drugs and/or their metabolites in any authorized drug test and it is the employee's first offense, then s/he shall be referred to the EAP for counseling and/or completion of a substance abuse treatment or rehabilitation program. However, if an employee violates a work rule in conjunction with failing a drug and/or alcohol test, then s/he may be subject to disciplinary action. The City shall have the right to take disciplinary action, up to and including discharge, based on the severity of the incident and/or the employee's past record.
3. Employees will be subject to disciplinary action, up to and including discharge, for any of the following infractions:
  - a. Refusal to submit to an authorized drug and/or alcohol test. Refusal to submit to testing means that the employee fails to provide an adequate urine or breath sample for testing without a valid medical explanation after s/he has received notice of the requirement to be tested, or engages in conduct that clearly obstructs the testing process. Refusal to submit to testing includes, but is not limited to, refusal to execute any required consent forms, refusal to cooperate regarding the collection of samples, refusal or failure to provide necessary documentation to the MRO when requested, and/or submission or attempted submission of an adulterated or substituted urine sample.
  - b. Drinking alcoholic beverages or using drugs while on duty, on City property, in City vehicles, or during breaks and/or meal periods.
  - c. Unlawful manufacture, distribution, dispensation, possession, concealment or sale of any controlled substance, including an alcoholic beverage, while on duty, on City property, in City vehicles, or during breaks and/or meal periods.
  - d. Any criminal drug statute conviction and/or failure to notify the City of such conviction within 5 days.
  - e. Failure to complete a counseling, treatment, or rehabilitation program as prescribed by the SAP.
  - f. Testing positive on a return to duty
  - g. Any two failures on follow up drug and/or alcohol testing during the 24 months following rehabilitation.
  - h. Failure to report to a collection site within two (2) hours of notification for return to duty or follow up testing.

- i. Second offense – alcohol concentration of 0.04 or greater in any reasonable suspicion authorized alcohol test, and/or testing positive for drugs and/or their metabolites in any authorized reasonable suspicion drug test.
  - j. Failure to provide temporary and/or final releases for duty in a timely manner.
4. Although the foregoing infractions will ordinarily result in discharge regardless of the employee's position, the City reserves the right to consider extenuating circumstances and to impose lesser discipline when such action is deemed appropriate.

#### **L. OTHER**

1. The City shall pay for all costs of the substance abuse examination including the expenses of the Medical Review Officer.
2. This policy was initiated at the request of the City and the Employer shall assume sole responsibility for the administration of this policy. The City agrees to indemnify and hold the Union and its officers harmless from any and all claims of any nature (except those arising from the negligence of the Union and/or its officers) arising from the Employer's, laboratories', or Medical Review Officer's implementation of this policy.
3. The parties recognize that during the life of this agreement there may be improvements in the technology of testing procedures which provide more accurate testing for on-the-job impairment or which constitute less invasive procedures for the employees. In that event, the parties will bargain in good faith whether to amend this procedure to include such improvements. If the parties are unable to agree, the issue will be submitted to impasse procedures under RCW 41.56.
4. If any provision of this Agreement shall be held invalid by operation of law, or any Tribunal of competent jurisdiction, or if compliance or enforcement of any provision should be restrained by such Tribunal pending final determination as to its validity, the remainder of this Agreement shall not be held to be invalid, and will remain in full force and effect, and the parties, upon request of one to the other shall initiate immediate negotiations for the purpose of arriving at a mutually satisfactory replacement of such provision.
5. The following attachments shall be a part of this Policy: Supervisor's Guidelines, Report Form, Interview Form, Consent/Release Form.

**CITY OF MERCER ISLAND FIRE DEPARTMENT**  
**Substance Abuse Policy**

**SUPERVISOR'S GUIDELINES**

The primary goal of the Substance Abuse Policy is to provide a working and service delivery environment free from the effects of alcohol/drug abuse. The supervisor's role is to identify employees who may be a threat to the safety and welfare of the employee, other employees, and the public by being under the influence of drugs and/or alcohol while on-duty. Such employees *must* be removed from the workplace.

Follow the steps below to ensure that you are proceeding correctly. It is important that proper procedures are followed to preserve the privacy of the individual and to comply with legal and contractual requirements.

1. Contact your supervisor and explain the situation. Place yourself out of service if unable to contact your supervisor in a timely manner.
2. Your supervisor will:
  - ◆ Take appropriate action regarding your response status if you are in charge of an emergency response company, and
  - ◆ Notify the Fire Chief and the Human Resources Director (or their designees), then join you at your location to assist you and corroborate your observations during the interview.
3. Prepare yourself for an interview with the employee by completing the Report Form. Refer to Attachment 1 for descriptions of physical and behavioral signs which may indicate substance abuse.
4. After your supervisor has arrived, advise the employee you wish to interview him/her and provide a private location to conduct the interview.
  - ◆ Be sure to advise the employee that you suspect him/her of being under the influence of a prohibited substance (defined in the policy) and that s/he may have a union representative present during the interview.
  - ◆ Do not argue with a belligerent or threatening employee. Advise him/her that his/her cooperation during the interview and testing procedure (if warranted) are direct orders and that continued disruptive behavior, preventing completion of the interview, shall be the same as refusal to submit to testing and shall be cause for discipline (cooperation **does not** mean that any employee must give facts or evidence which may incriminate himself/herself).
  - ◆ Complete the Interview Form with your supervisor.
4. Review the relevant information with your supervisor. If your supervisor decides that the test is required, relieve the employee of duty, with pay, during the course of the exam and MRO review.
5. Have the employee sign a Consent/Release Form.
  - ◆ Read the form to the employee and direct him/her to sign it. Do not alter the form in any way.
  - ◆ Be sure, if the employee has declined union representation, that s/he understands that s/he may choose to have a Union representative accompany him/her to the testing facility.



- ◆ If the employee refuses to sign the form, advise him/her that this is a direct order and that failure to comply shall be cause for discipline.
  - ◆ Issue a second order for the employee to sign the consent form. If s/he still refuses, relieve the employee of duty, with pay, explain that disciplinary action may follow. Your supervisor will transport the employee home. (No employee suspected of impairment from alcohol/drug abuse shall be allowed to drive.)
6. Your supervisor shall transport the employee to the testing facility, and wait at the testing facility until the testing is completed.
7. When the exam is completed, your supervisor will:
- ◆ Reconfirm with the employee that s/he has been relieved of duty, with pay,
  - ◆ Advise the employee that s/he will be contacted by the MRO to review the results (if positive), and
  - ◆ Advise the employee that s/he will be contacted by the department advising him/her how to return to duty.
  - ◆ Drive or arrange transportation for the employee home. Do not return the employee to a City facility.
8. Once the employee has been sent home, your supervisor will:
- ◆ Gather copies or originals of the Report Form, Interview Form, Consent/Release Form, and any other written notes or reports and forward them to the Fire Chief and Human Resources Director.

**CITY OF MERCER ISLAND FIRE DEPARTMENT  
Substance Abuse Policy**

**CONSENT/RELEASE FORM**

I consent to the collection a urine and/or expired air sample by \_\_\_\_\_  
\_\_\_\_\_ and its analysis by \_\_\_\_\_  
\_\_\_\_\_ for those drugs, alcohol, and/or controlled substances specified in  
the Collective Bargaining Agreement pursuant to the Substance Abuse Policy agreed to between  
the City of Mercer Island and the IAFF Local #1762 (the "Policy").

The laboratory administering the tests may release the results to the Medical Review Officer (MRO), who shall release his/her conclusions to the employer after review and interpretation. If I test positive, I agree to make myself and any requested records available to the MRO within 48 hours of such request. The information provided to the employer from the MRO shall be limited to whether the tests were confirmed positive or negative, and no other test results will be released, except as provided herein, without my written consent. The laboratory will advise the employer's representative whether the initial alcohol screen is positive or negative.

I understand that I have the right to my complete test results and that the laboratory will preserve the sample for at least one year. If I test positive, I have the right to have the split sample tested at my expense at a second DHHS-certified laboratory of my choice. I understand that I must request such test of the split sample within 72 hours of notification of a positive test result by the MRO.

I understand that the Employer is requiring me to submit to this testing as a condition of my employment and that if I tamper with, alter, substitute, or otherwise obstruct or fail to cooperate with the testing process, I will be subject to disciplinary action up to and including termination.

I further understand that a confirmed positive test will result in actions taken by the employer and for the employee which are consistent with the City's policies and procedures for substance abuse testing and treatment.

I understand that the employer will administer the Policy consistent with federal and state constitutional and statutory requirements. Also, by signing this consent form, I am not waiving the right to challenge any confirmed positive test result and any Employer action based thereon. In order to pursue any challenge related to this test, I will, however, be required to authorize the laboratory and MRO to release to my Employer and the Union any information relating to the test or test results. Further, I understand that my employer may require me to participate in a treatment or rehabilitation program. If required to do so, I authorize the laboratory and MRO to release any information relating to the test or test results to the Substance Abuse Professional (SAP) or treatment counselor. My signature below indicates my consent for release of this information.

\_\_\_\_\_  
*Employee Signature*

\_\_\_\_\_  
*Date*

\_\_\_\_\_  
Employee Printed Name

**CITY OF MERCER ISLAND FIRE DEPARTMENT  
Substance Abuse Policy**

**REPORT FORM**

This form must be filled out prior to any drug/alcohol testing. Review Supervisor's Guidelines before completing this form. The information contained on this form is confidential and shall be viewed only by necessary supervisory/managerial employees, the testing facility, MRO, and the employee being interviewed/tested. When this form is completed and signed, make one copy of the form and distribute as follows: Original to Fire Chief, Copy attached to consent form.

Employee Name: \_\_\_\_\_

Speech:  
Dexterity:

Standing:

Walking:

Judgment:

Decision-making:

Appearance (eyes, clothing, etc.):

Odor:

Other:

Location where these were observed:

Time of observation:

Witnesses:

Supervisor's Signature

Date / Time: \_\_\_\_\_

**CITY OF MERCER ISLAND FIRE DEPARTMENT  
Substance Abuse Policy**

**INTERVIEW FORM**

Name of Employee: \_\_\_\_\_

I understand that I am entitled to union representation during this meeting and during any subsequent meetings or at testing facilities. I do or do not (please circle one) want a representative at this time. I understand that I am entitled to union representation at any time whether I choose to have one now or not.

Employee Signature: \_\_\_\_\_

1. I (we) have noticed (describe behavior/evidence) \_\_\_\_\_

2. Do you have any explanation? \_\_\_\_\_

3. Are you currently taking any medication? YES \_\_\_\_\_ NO \_\_\_\_\_  
If YES, what medication are you taking? \_\_\_\_\_  
Do you have a prescription? \_\_\_\_\_  
Were you advised by physician or pharmacist about its side effects? What are they? \_\_\_\_\_

4. Are you using any type of drug or alcohol? YES \_\_\_\_\_ NO \_\_\_\_\_  
If yes, what? \_\_\_\_\_  
When did you take it? \_\_\_\_\_  
Where did you take it? \_\_\_\_\_  
How much did you take? \_\_\_\_\_  
Do you have any drugs/alcohol in your possession at work? YES \_\_\_\_\_ NO \_\_\_\_\_  
(if yes, get agreement to confiscate)

Based on the interview and the completed Report Form, I believe the employee should be tested for drugs and/or alcohol.

*Dated* \_\_\_\_\_

Supervisor (position) \_\_\_\_\_ Agree \_\_\_\_\_ Don't Agree \_\_\_\_\_

Supervisor (position) \_\_\_\_\_ Agree \_\_\_\_\_ Don't Agree \_\_\_\_\_

**CITY OF MERCER ISLAND FIRE DEPARTMENT**  
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**ATTACHMENT 1**

Listed below are some behavioral descriptions which may guide the supervisor in determining whether an employee is “under the influence” of a prohibited substance. There is no one behavior which is unique to drugs/alcohol. Almost every behavior/sign can also be associated with medical or emotional problems such as high blood pressure, diabetes, thyroid disease, psychiatric disorders, epilepsy, head injury, emotional problems, stress, etc. Even so, a supervisor usually knows the employees “normal” behavior and must try and distinguish alcohol and/or drug abuse from other problems.

Supervisors should be aware that the following physical, behavioral, or performance symptoms may indicate drug/alcohol abuse:

- ◆ Either very dilated or constricted pupils
- ◆ Hyperactivity
- ◆ Unsteady gait
- ◆ Irritability
- ◆ Slurred speech
- ◆ Anxiousness
- ◆ Wide mood swings
- ◆ Odor of alcohol
- ◆ Overreaction to criticism
- ◆ Staggering
- ◆ Listlessness
- ◆ Illogical speech and thought process
- ◆ Unusual/abnormal behavior
- ◆ Poor judgment
- ◆ Avoiding others/withdrawal
- ◆ Sudden increase in absenteeism

## **APPENDIX I**

### **Fire Marshal Mercer Island Fire Department**

1. Civil Service. The position of Fire Marshal (FM) shall be a civil service classification subject to all requirements imposed by civil service law, ordinance and the rules of the Commission. The position shall be filled by an open competitive examination from among qualified candidates.
  - a. The open competitive examination shall be offered first to qualified members of IAFF Local 1762. In the event that there are no interested and/or qualified internal applicants, the City reserves the right to open the examination to candidates outside of the bargaining unit.
2. The Fire Marshal is a permanent, non-rotating assignment.
3. The Fire Marshal shall not have the ability to fill vacant shifts within the Operations Division.
4. The probationary period for the Fire Marshal shall be twelve (12) months in duration, beginning from the date of appointment by Personnel Order.
  - a. In the event that an internal candidate who is appointed to the Fire Marshal position does not successfully pass probation, they may be returned to the Operations Division by the Fire Chief as dictated by the MOU as agreed upon by the City of Mercer Island and Local 1762.
5. Management will retain the Code Enforcement Authority.
6. Overflow. The parties agree and acknowledge the establishment of the Fire Marshal position with traditional overflow work assigned to the Assistant Fire Marshal.
7. Compensation. The starting salary for the Fire Marshal is tied to Step 4 (15-year employee) of the pay scale for Battalion Chief. Subsequently, the employee shall move to Step 5 (20-year employee) at five (5) years of employment.
8. Benefits. The Fire Marshal position shall be afforded the following benefits and working conditions, in accordance with the current CBA:
  - a. Hours of Work. The Fire Marshal shall typically work a 40 hour work week, (2,080 hours per year).
  - b. In the event that those work hours exceed 40, the employee shall be compensated for those hours at one and one-half times their normal pay rate. The Employer reserves the right to control approval or denial of overtime authorization. The employee must receive approval for the overtime hours from the Fire Chief, or his/her designee.
  - c. Uniform Allowance. Refer to Section XI of the current CBA – Uniform Allowance.
  - d. Medical and Dental Insurance. Refer to Section XII of the current CBA – Medical and Dental Insurance.
  - e. Additional Benefits. Refer to Section XIII of the current CBA – Additional Benefit Package.

f. Bereavement Leave. Refer to Section XIV of the current CBA – Bereavement Leave.

g. Pension. Refer to Section XV of the current CBA – Pensions.

h. Holiday Leave:

i. New Year’s Day

ii. Martin Luther King, Jr’s Birthday (3<sup>rd</sup> Monday in January)

iii. President’s Day (3<sup>rd</sup> Monday in February)

iv. Memorial Day

v. Independence Day

vi. Labor Day

vii. Veteran’s Day

viii. Thanksgiving Day

ix. Day after Thanksgiving

x. Christmas Day

xi. Floating Holiday (Employee’s Choice)

xii. 3 personnel days

i. Sick Leave. The accrual rate shall be 8 hours per month, with a sick leave cap of 1,040. Employees appointed from the Operations Division shall not have their existing sick leave bank reduced as a result of appointment as Fire Marshal, and shall carry over accrued hours.

j. Vacation Leave. The Fire Marshal shall be subject to the following accrual rate. This shall be based upon the employee’s start date. Vacation accrual shall not exceed 280 on December 31 of each year. In the case of an internal candidate, this will be the start date from their initial employment with the Mercer Island Fire Department:

<b>Employment Period</b>	<b>Hours/Month</b>	<b>Hours/Year</b>	<b>Days/Year</b>
0 - 59 Months	15.6	187	23.4
60+ Months	18.4	220	27.6

k. Jury Duty. Refer to Article XVIII of the current CBA – Jury Duty.

The Fire Marshal shall be subject to the terms of the CBA, unless otherwise noted, including Appendix F and H.

The Fire Marshal will be allotted 30 mins paid time for physical fitness each work day.

- I. The Fire Marshal shall maintain Emergency Medical Technician (EMT) Certification, complete Live Fire Training at least once every three years, and their required SCBA Quarterly training.
9. Phone. The Fire Marshal shall be issued a City phone with which to conduct Fire Marshal Duties, at which time the stipend currently being paid will end. Phone records will be discoverable and time worked shall be submitted in 15 minute increments. Each call while "Off-Duty"(not acting as Fire Marshal) will represent a minimum 15 minute work time.
- o When working from home, the Fire Marshal will need to log on with his VPN during the time he is working, be available for phone conversations, and fill out a daily log stating what he did. That log will be on the share drive and discoverable by both parties.
  - o All Assistant Fire Marshals will be issued the same electronic hardware, and will be issued on an as needed basis (tablet, phone etc.).
  - o All Fire Marshal "hours worked" will be reported through time sheet and/or Telestaff.
  - o All fielding of phone calls and work from home is done totally on a voluntary basis. Any work to be mandated by management will need to be clarified and bargained.
  - o If at any future time the Fire Marshal is required by the City to be available to answer phone calls, a stipend will need to be negotiated.

## APPENDIX J

### Biennial Test-Confidential-Results to employee only

**Use NFPA 1582 as a guideline and include elements listed below**

#### **Basic Cholesterol Panel:**

- LDL
- HDL
- Total Cholesterol
- Triglycerides
- From this info compute ratio of total cholesterol to HDL and ratio of triglycerides to HDL.

#### **NMR Lipid Profile (Advanced Lipid Profile)**

- LDL Particle #
- LDL Particle Size
- Lipoprotein(a) – genetically predetermined abnormal type of cholesterol that has potential to cause much more plaque to grow; much research has connected high levels of Lp(a) to early CVD.
- HDL2 and HDL3 – size and density of HDL determines CVD risk. HDL2 is big and effective at removing garbage in the arteries. HDL3 is smaller and is not effective at cleaning out the arteries. HDL3 increases with alcohol consumption

#### **Markers of Inflammation:**

- Homocysteine



- High Sensitivity C-Reactive Protein (hs-CRP)

**Glucose and Insulin:**

- **Hemoglobin A1C** – measures average blood sugar level over the previous two months
- **Fasting Glucose** – help identify pre-diabetes and excessively high levels of insulin
- **Insulin Tolerance Test** – helps identify prediabetes and excessively high levels of insulin. Many times only blood sugar, not insulin is checked. By the time your blood sugar has gone up, your insulin levels have already been elevated for a while.

**Vitamin D3:** is a hormone that can be easily depleted by lack of sunlight. There are associations between low Vitamin D3 levels and chronic disease, i.e., chronic pain, multiple sclerosis, and cancer.

**Ferritin:** Ferritin is a protein that binds to iron and tells how much iron in the blood. Iron overload can oxidize cells in the arteries and lead to heart disease. More common for men to have excessive iron.

**Carotid Intimal Medial Thickness Test (Carotid IMT):** This is a non-invasive screening tool that identifies future cardiovascular risk. Measures plaque thickness of the artery lining and can predict the average age of your arteries.

**Thyroid Hormones:** Many environmental toxins affect the thyroid gland, especially endocrine disruptors. Be specific and request the full panel: THS, free T4, free T3, T3 and T4 Total, and TPO antibodies.

**ADDITIONAL CONSIDERATIONS:**

*If your healthcare provider does not conduct the following tests, you may consider seeing a naturopathic or functional medicine doctor. Please be advised that insurance companies may not cover this testing. The City will not be responsible for covering the cost of a Naturopathic services that are not covered on your insurance plan.*

**Micronutrient Testing:** Measures over 30 intracellular vitamins, minerals, antioxidants, and amino acids. The purpose of testing is to assess if you are deficient in any of these essential nutrients.

**Heavy Metal Testing:** Heavy metals can impact lipid metabolism and oxidated stress and have been linked to atherosclerosis, especially lead, mercury, and cadmium (Wolfson, 2016).