



**CITY COUNCIL AGENDA**

**JANUARY 7, 2013**

**7:00 P.M. MEETING**

**PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

**Mission Statement**

*The City of Newberg serves its citizens, promotes safety, and maintains a healthy community.*

**Vision Statement**

*Newberg will cultivate a healthy, safe environment where citizens can work, play and grow in a friendly, dynamic and diverse community valuing partnerships and opportunity.*

**I. CALL MEETING TO ORDER**

**II. ADMINISTRATION OF OATH OF OFFICES**

**III. ROLL CALL**

**IV. PLEDGE OF ALLEGIANCE**

**V. CITY MANAGER'S REPORT**

**VI. PUBLIC COMMENTS**

(30 minutes maximum, which may be extended at the Mayor's discretion, with an opportunity to speak for no more than 5 minutes per speaker allowed)

**VII. ELECTION OF COUNCIL PRESIDENT**

Consider a motion electing a Council President from among the City Council. (Pg. 3)

**VIII. CONSENT CALENDAR**

Consider a motion approving the October 22, 2012, November 26, 2012, December 3, 2012, and December 10, 2012, City Council meeting minutes. (Pgs. 5-20)

**IX. PUBLIC HEARINGS**

**X. NEW BUSINESS**

1. Consider a motion adopting **Resolution No. 2013-3028** approving the Public Works Collective Bargaining Agreement. (Pgs. 21-68)

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

2. Waste Management, Inc. and Riverbend presentation. (Pgs. 69-75)

**XI. COUNCIL BUSINESS**

**XII. ADJOURNMENT**

*ACCOMMODATION OF PHYSICAL IMPAIRMENTS: In order to accommodate persons with physical impairments, please notify the City Recorder's Office of any special physical or language accommodations you may need as far in advance of the meeting as possible and no later than 48 business hours prior to the meeting. To request these arrangements, please contact the City Recorder at (503) 537-1283. For TTY services please dial 711.*

**Council accepts comments on agenda items during the meeting. Fill out a form identifying the item you wish to speak on prior to the agenda item beginning and turn it into the City Recorder. The exception is land use hearings, which requires a specific public hearing process. The City Council asks written testimony be submitted to the City Recorder before 4:30 p.m. on the preceding Wednesday. Written testimony submitted after that will be brought before the Council on the night of the meeting for consideration and a vote to accept or not accept it into the record.**

The Mayor reserves the right to change the order of items to be considered by the Council at their meeting. No new items will be heard after 11:00 p.m., unless approved by the Council.

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: January 7, 2013

Order \_\_\_      Ordinance \_\_\_      Resolution \_\_\_      Motion XX      Information \_\_\_  
No.              No.                      No.                                                                No.

SUBJECT: Election of Council President

Contact Person (Preparer) for this  
Motion: Norma Alley, City Recorder  
Dept.: Administration

## RECOMMENDATION:

Elect a member of the city council to serve as council president.

## EXECUTIVE SUMMARY:

The City Charter states that, at its first meeting each year, the council must elect a president from its membership. The president presides in the absence of the mayor and acts as mayor when the mayor is unable to perform his or her duties.

The position of council president is currently held by **Councilor Bacon**.

## FISCAL IMPACT:

None.

## STRATEGIC ASSESSMENT:

The position of council president needs to be filled to ensure that the duties and authority of the office of mayor can be legally exercised in the event that the mayor is absent or unable to fulfill his or her duties.

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# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: January 7, 2013

Order \_\_\_ Ordinance \_\_\_ Resolution \_\_\_ Motion XX Information \_\_\_  
No. No. No.

**SUBJECT:** Approve the October 22, 2012,  
November 26, 2012, December 3, 2012, and  
December 10, 2012, City Council Meeting minutes.

Contact Person (Preparer) for this  
Motion: Norma Alley, City Recorder  
Dept.: Administration

## RECOMMENDATION:

Approve City Council minutes for preservation and permanent retention in the City's historical records.

## EXECUTIVE SUMMARY:

The City of Newberg City Council held a public meeting and minutes were recorded in text. In accordance to Oregon State Records Management law, the City of Newberg must preserve these minutes in hard copy form for permanent retention.

## FISCAL IMPACT:

None.

## STRATEGIC ASSESSMENT:

None.

**CITY OF NEWBERG COUNCIL WORK SESSION MINUTES  
MONDAY, OCTOBER 22, 2012, 6:00 P.M.  
NEWBERG PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 6:02 PM.

**II. ROLL CALL**

Members Present: Mayor Bob Andrews Denise Bacon Ryan Howard  
Stephen McKinney Marc Shelton

Staff Present: Daniel Danicic, City Manager Terrence Mahr, City Attorney (arrived at 7:00)  
Norma Alley, City Recorder Mandy Dillman, Minutes Recorder

Members Absent: Bart Rierson (Unexcused) Wade Witherspoon (Unexcused)

**III. GENERAL DISCUSSION**

Mr. Daniel Danicic, city manager, reported a bargaining session was held on Oct 15, 2012, with AFSCME; however, no economic request was present, so it is not yet known how it will affect the budget. Two more meetings will be held with AFSME on October 29, 2012, and November 8, 2012, to hold a benefits discussion with them. On December 1, 2012, the City will receive the property tax revenue and will then have a good idea of what this fiscal year budget will entail. Mr. Danicic reviewed the Council goals (see official meeting packet for full staff report).

Councilor Marc Shelton asked which of the master plans need to be revised in the near future. Mr. Danicic answered the Stormwater Master Plan needs to be undertaken soon as public works master plans are revised every ten years, which for stormwater was last done in 2004. He projected in the next five years they should all be updated.

Councilor Shelton suggested the most urgent would be the Storm Drainage Master Plan and Water Distribution Master Plan.

Mayor Andrews stated as the city starts the Newberg-Dundee Bypass they will need to look at the Riverfront Master Plan. Mr. Danicic agreed and suggested the city revisit the elements of the Riverfront Master Plan once the Bypass is complete.

Mr. Danicic continued with his staff report saying the status of city goals include some that are completed, a few underway, and a number on hold because of lack of funding or staff resources to push forward. Staff suggests updating the Urban Growth Boundary (UGB) should wait to be discussed after the SE industrial plans are looked over. The Crestview Drive extension is waiting for funding, which staff has been working to find grant money or another way to fund it. No one can take on the four to five million dollar project and we have been relying on the Jobs & Transportation Act (JTA) money to fund this project. Increasing library hours is probably still a few years away because there is no funding in the budget to allow for the library to be open an additional day.

Councilor Shelton mentioned there has been discussion at previous Council meetings regarding branding and marketing and the consensus was to use cable fund money to move that forward. Councilor Shelton added he is concerned the revenue received from the Transient Lodging Tax (TLT) is being evaluated as the only reason

Newberg is receiving visitors, whereas there are many factors that bring visitors to the city. Mr. Danicic agreed with Councilor Shelton's observation and responded the city and the chamber are not the only entities marketing Newberg; businesses such as The Allison are doing a large amount of advertising as well and the city benefits from it.

Mayor Andrews asked if Mr. Danicic had discussed reinstating a citizen's law enforcement academy. Mr. Danicic replied he had not. Creating a citizen's academy has not been possible due to lack of staffing. The Chamber has discussed holding a candidate fair, but Mr. Danicic would like to see an academy type operation where citizens can take a series of classes to learn about the city's operations and then be eligible to volunteer, eventually becoming council members. Mayor Andrews suggested speaking with Chief Casey in regards to creating a combined academy that involved both general administration as well as public safety. Mr. Danicic said he would look into it.

Councilor Ryan Howard expressed concern for holding off on identifying road maintenance funding as it would cause it to become a bigger issue in the future.

Mr. Danicic continued with his report by asking the council to look at the June, 2012, financial report showing that the general fund last fiscal year showed more in property tax revenue than they had estimated. He reported the estimation is an extremely conservative number. Every year it increases by 5% with 3% being the base permitted and 2% in growth. They then collect 95% in a given year. The estimate a few years ago was very conservative in assuming they would not have any growth and only collect 92%. This year numbers were down to 1% growth and 91% collection. They try to be more and more conservative so as not to be caught with lack of revenue. However, this year it is projected that the increase will not be 1%, instead it will be 3.3%. This is due to the assessed market values of properties dropping, but not dropping below their assessed value, and from new houses being built. Last fiscal year there was \$400,000.00 more in general fund revenue from property taxes.

Councilor McKinney asked if the 3.3% was due to growth. Mr. Danicic answered that it was and clarified that even though assessed values of houses have decreased, new properties have a much higher value.

Mayor Andrews inquired how much revenue is related to delinquency of payments versus increased value of properties. Mr. Danicic said there was a large influx of additional revenue due to late payments last year; however, it has not been accounted for in this year's estimates. Mayor Andrews wanted to know what they have in arrears of property taxes that have not been collected. Mr. Danicic said he did not know, but would ask the county assessor for more information. The 2011-2012 revenue from taxes was estimated to be \$5.8 million; instead \$6 million was collected. It is assumed the extra money came from people who delayed payments until the end of the year. For this year's fiscal budget they did not include that extra revenue, instead they based it off the projected \$5.8 million. Nevertheless, they are projecting the number to increase by 3.3% from delinquent payments.

Mr. Danicic continued with his staff report stating the building division looked as though it would need additional funds to keep running; however, towards the end of the fiscal year development picked up so they ended up doing fine. This fiscal year there is the apartment complex, housing authority project, and twenty houses in Lafayette that will be additional revenue to the division. It does not look like they will be able to add more staff; however, they will not have to make any further cuts. The street fund is receiving funds from the JTA; however, there is a steady erosion of revenues. Now the JTA money is going to be used for hard improvements until the Newberg-Dundee Bypass project starts and then the JTA money will be split between the two projects sometime in 2016. They are hoping to catch up on maintenance activities over the next three years before there is a reduction in the JTA money. Wastewater and stormwater funds are doing well overall. In water, there is a 120% debt ratio that has dropped to 97% this year due to a reduction in water usage. This decrease will need to be made up by increasing revenue or decreasing costs. The council adopted a two year utility rate increase of 0% in 2013 and 3% in 2014; however, additional increases will need to be made to make up the loss. Council will need to consider increasing rates if another option is not found. Administrative support services have decreased their line items. The city will need to

update the servers and computer systems, which will more than likely need to come from borrowed funds.

Councilor Shelton asked if last year they had put \$20,000.00 into reserve for computers. Mr. Danicic answered yes, money was set aside for server replacement but they will need additional money for new computers and more toward a server that runs like a cloud system, making it more efficient for staff and the budget.

Mr. Danicic reported basic operating costs of the city are going up mostly due to increase in personnel costs and revenue has flattened or declined. The beginning fund has been helping close the gap, but it is decreasing each year.

To help close the gap, we need to be less conservative about estimates on property taxes and increase franchise fees slightly such as transportation fees, stormwater fees, or public safety fees. With these adjustments we could potentially avoid a levy in the next fiscal year. Furthermore, we could reduce costs by more staff layoffs, not giving raises, or changing health premiums. Line items themselves have been reduced as much as possible in regards to supply costs, travel costs, training costs, and others. He noted if a position becomes vacant staff leaves the position vacant until they have funds in the future to fill it.

Mayor Andrews asked how much of gross payroll is covered under the Public Employee Retirement System (PERS) program. Mr. Danicic replied all of public safety and management are on PERS, estimating it is around two thirds of staff, but does not have exact numbers of how much of the payroll that accounts for.

Mayor Andrews asked if privatization of services was an option. Mr. Danicic replied it is an option to consider and as opportunities arise staff will look into contracting them out individually.

#### **IV. ADJOURNMENT**

The meeting adjourned at 7:05 PM.

**ADOPTED** by the Newberg City Council this 7<sup>th</sup> day of January, 2013.

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Daniel Danicic, City Recorder

**ATTEST** by the Mayor this 10<sup>th</sup> day of January, 2013.

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Bob Andrews, Mayor

**YAMHILL COUNTY COMMISSIONERS & NEWBERG CITY COUNCIL  
JOINT MEETING MINUTES  
NOVEMBER 26, 2012, 6:00 P.M.  
NEWBERG PUBLIC SAFETY BUILDING (401 E. THIRD STREET)**

**I. CALL MEETING TO ORDER**

Meeting called to order by County Commissioner Leslie Lewis, County Commissioner Kathy George, and Mayor Bob Andrews at 6:04 PM.

**II. ROLL CALL**

County Commissioners:	Kathy George	Leslie Lewis	Mary Stern (absent)
City Council:	Mayor Bob Andrews Stephen McKinney Wade Witherspoon	Denise Bacon Bart Rierson	Ryan Howard Marc Shelton
Staff:	Rick Sanai, County Counsel Daniel Danicic, City Manager Norma Alley, City Recorder	Ken Friday, County Planning Division Manager Terrence Mahr, City Attorney Barton Brierley, City Planning and Building Director Mandy Dillman, Minutes Recorder	

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**III. GENERAL DISCUSSION**

Commissioner Lewis announced this meeting is a discussion between Yamhill county commissioners and Newberg city councilors concerning the Newberg South Industrial Urban Growth Boundary (UGB) application. The county commissioners met last week to discuss the issue; resulting in Commissioner Lewis scheduling tonight's meeting to discuss questions and concerns directly with the council.

Newberg Planning and Building Director Barton Brierley presented the staff rebuttal accompanied by a PowerPoint presentation (see official meeting packet for full report).

Commissioner Lewis asked what the difference is in total acreage between what the Newberg Urban Area Management Commission (NUAMC) approved several years ago versus the current request. Mr. Brierley replied the new plan is one acre larger.

Commissioner Lewis noted a large section of the UGB acreage is not buildable and asked if that amount is the same as the plan submitted to NUAMC several years ago. Mr. Brierley replied it is.

Commissioner Lewis questioned why the Bell Road area was excluded. Mr. Brierley answered there is a site which could be designated industrial, but is not desirable enough for anyone to want to build on. Commissioner Lewis mentioned the site is near A-dec and other industrial companies. Mr. Brierley explained the site is located on Zimri Drive, which becomes steep to the point where it does not meet topographical standards and industrial trucks would have to drive through residential areas. Commissioner Lewis replied the area has access to Mountainview Drive and

asked if Mountainview Drive was still classified as an arterial. Mr. Brierley said it was, but Zimri Drive is not built to arterial standards. Mr. Brierley repeated he did not think any company would want the site for industrial uses since access, topography, and road conditions are not desirable. Commissioner Lewis replied the site has access to Mountainview Drive, which is an arterial, and there are a number of industrial businesses just to the south of Zimri Drive. She also mentioned that Zimri Drive does go uphill, but not right next to Mountainview Drive. Mr. Brierley explained the area on Mountainview Drive is part of the current UGB and the Springbrook Master Plan. This includes The Allison hotel and a future residential area that industrial users would have to drive through to get to the hilly industrial site.

Commissioner Kathy George asked if industrial users on Mountainview Drive mainly use Springbrook Road or Villa Road. She mentioned both have residential areas. Mr. Brierley replied most industrial users currently go up Springbrook Road, which has a mixture of industrial and residential areas. The businesses in this area are compatible with residential areas and Springbrook Road is a flat and wide road, which allows for better industrial usage.

Commissioner Lewis agreed with Mr. Brierley's description and concluded she does not think they should choose a particular site, but wanted to point out there are other sites that meet the requirements of the law. She mentioned Urban Reserve Area (URA) land and exception land should be considered before agricultural land.

Councilor Bart Rierson mentioned the Springbrook Master Plan includes residential and commercial properties in the Zimri Drive area. He assumed industrial business would not be interested in the Zimri Drive property because the topography is not conducive to manufacturing. Mr. Rierson explained someday Climax Portable Machines may look for a larger campus and this spot would be inadequate for their company. He supports the city's idea of one large industrial site versus many smaller industrial sites.

Commissioner George wondered if spreading industrial sites around the city would help avoid major traffic problems in just one area. Mr. Brierley replied it is more cost effective to have one large industrial site instead of several small ones. Roads must be bigger and sewer lines are different in industrial areas. Therefore, having small sites around the city would mean upgrading many roads and sewer lines. Additionally, small sites around the city would require each company to deal with compatibility issues with residential areas.

Councilor Marc Shelton stated the Mountainview Drive area is not ideal because there are heavy traffic issues. Filling in spots around the city with small industrial sites is not ideal because most areas already have high traffic issues or poor site characteristics. This idea does not produce the necessary square footage, complicates traffic problems, and is more difficult than planning one larger site with regard to infrastructure needs. He asked Mr. Brierley his opinion of the Hayes Street area. Mr. Brierley answered that Hayes Street would be a great location to meet the growing needs of commercial companies and office buildings; however, it would need much more than just infrastructure changes to be usable for industrial purposes.

Councilor Stephen McKinney addressed the issue of Mountainview Drive being too narrow for industrial traffic. Although Springbrook Road is wider with the traffic circle, there are children frequently on the street. Councilor McKinney expressed concern about having industrial sites scattered in residential areas, breaking up neighborhoods and causing patchwork residential sites. He wants to create neighborhoods that are livable communities and that should be the city's goal. Commissioner Lewis agreed with Councilor McKinney.

Commissioner Lewis clarified the city wants the requested acreage for the industrial UGB expansion to be in one location to avoid patchwork infill with smaller acreage and to avoid residential conflicts. Mr. Brierley confirmed it is because of those reasons as well as the fact industrial companies want to be located in a large industrial site. The

city did a study on industrial sites, which found 95% of the sites were in industrial parks rather than spread throughout cities.

Councilor Denise Bacon mentioned she and Mr. Brierley attended a presentation by HARCO Manufacturing who explained they moved to Newberg because they had become surrounded by residential uses in their previous city, which created conflicts. This is an example of why residential uses should not surround industrial uses.

City Manager Daniel Danicic stated Newberg needs to look to the future and plan for companies currently in the city needing larger sites for expansion and to attract outside companies looking for larger sites. A company recently bypassed Newberg because there were no large industrial sites. Both Climax Portable Machine Tools and Harris Thermal Transfer Products will need larger sites in the coming years.

Commissioner Lewis appreciated how council members did not use only one tool when looking at each site and agreed decisions should not be made based on whether or not the decision will be appealed; however, compromising to avoid litigation would be a good idea. Commissioner Lewis suggested the council use the recent Portland State University (PSU) population study to bring population numbers up to date for their plan. Traditionally 0.38 jobs should be created for each new resident, but the safe harbor number the council presented was 0.6, which is much higher. She stated the city's number would be 0.46 using PSU's study, which would be closer to the historical number. She asked how the city can move forward using the current safe harbor numbers. Mr. Brierley explained the employment projection is based on historic and regional employment projections not directly proportional to population. The coordinated population projection law allows the city to use the safe harbor numbers.

Commissioner Lewis asked if the city would consider using the coordinated population forecast done by PSU for the UGB amendment. It would be one less thing to risk if the city were appealed since the population numbers will not be appealable after the commission's adoption on Thursday. Mr. Brierley replied they will ask city council to consider this; however, not until after Friday when council can review the study themselves.

Commissioner George asked if the local planning commission reviewed the UGB proposal. Mr. Brierley replied the Newberg planning commission reviewed the Economic Opportunities Analysis. The UGB proposal was reviewed by NUAMC. Commissioner George asked what NUAMC's vote was. Councilor Marc Shelton replied the NUAMC vote was on June 15, 2010, and it was 6 yes, 0 no, and 1 absent.

Commissioner Lewis expressed concern because the city is asking for the same amount of buildable acres as the original proposal to NUAMC, but the population numbers have decreased. Mr. Brierley agreed the population numbers have gone down; however, the future year has been pushed out.

Councilor Bart Rierson asked if the goal was to have more industrial and commercial areas to provide more employment opportunities, which in turn would increase their job estimates to the higher number. Mr. Brierley replied that was correct.

Councilor Bacon mentioned Council discussed how it was not necessary to use population when determining need for jobs. Mr. Brierley stated state law specifies you do not need to base employment numbers on population growth.

Commissioner Lewis asked Mr. Brierley to consider a compromise removing 85 acres from the proposal. This would leave 47 buildable acres, which would be a seven year supply instead of a twenty year supply.

Councilor Wade Witherspoon added he thinks the concept of future planning will help Newberg become a better community and will create growth in the city. Councilor Witherspoon feels UGB plan will do that for Newberg, and

will create an industrial area that is functional as well as aesthetically pleasing.

Councilor Bacon mentioned she sees this step as a pathway to phase two of the bypass, which is more of a reason to make a decision soon.

Councilor Ryan Howard feels the plan will more than likely be appealed and money could be spent more efficiently in other ways. A compromise for a short term plan could immediately be put into action while legislative issues are worked out for a bigger plan in the future. He suggested using current commercial properties to fulfill industrial needs.

Commissioner George asked what currently available potential infill properties are zoned as industrial. Mr. Brierley replied an inventory of potential industrial infill land inside the UGB is included in the calculations. Commissioner George asked which infill land, suggested by 1000 Friends of Oregon, is zoned industrial. Mr. Brierley answered none of those properties are zoned industrial.

Commissioner George asked about the process for changing zoning to industrial. Mr. Brierley explained it is a public hearing process where you show a need for the change and whether the change is appropriate for the area.

Councilor McKinney added the infill suggestion does not create the comprehensive industrial area that Newberg needs. McMinnville is taking action to remedy their lack of industrial land and so should Newberg.

Commissioner Lewis noted McMinnville's UGB plan includes all land, not just industrial. However, the Department of Land Conservation and Development (DLCD) encouraged Newberg and Yamhill County to move forward on an industrial UGB amendment because of the pressing need for industrial land.

#### **IV. SUMMARY OR CLOSING COMMENTS**

Mayor Bob Andrews said he has heard insightful discussion from council and although they did not vote unanimously to approve the UGB, they are in agreement on the city's goals. He agrees with staff's recommendation and asks the commissioners approve the UGB application.

Commissioner Lewis closed by stating they would not make a vote tonight, but will vote at their December 6, 2012, meeting once Commissioner Mary Stern has listened to tonight's recording.

#### **V. ADJOURNMENT**

The meeting adjourned at 7:44 PM.

**ADOPTED** by the Newberg City Council this 7<sup>th</sup> day of January, 2013.

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Daniel Danicic, City Recorder

**ATTEST** by the Mayor this 10<sup>th</sup> day of January, 2013.

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Bob Andrews, Mayor

**CITY COUNCIL MINUTES  
DECEMBER 3, 2012  
7:00 P.M. MEETING  
PUBLIC SAFETY BUILDING TRAINING ROOM (401 EAST THIRD STREET)**

Executive Session was held with all councilors, the mayor, city manager, and city attorney present; Bart Rierson arrived at 6:05PM; no action was taken and no decisions were made.

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 7:37 PM.

**II. ROLL CALL**

Members Present: Mayor Bob Andrews Denise Bacon Ryan Howard  
Stephen McKinney Bart Rierson Marc Shelton  
Wade Witherspoon Stephen McKinney (excused for work session)

Staff Present: Daniel Danicic, City Manager Terrence Mahr, City Attorney  
Norma Alley, City Recorder Barton Brierley, Planning and Building Director  
Janelle Nordyke, Finance Director Mandy Dillman, Minutes Recorder  
David Beam, Economic Development Planner

Others Present: Sheryl Kelsh, Chehalem Valley Chamber of Commerce

**III. PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was performed.

**IV. CITY MANAGER'S REPORT**

Mr. Daniel Danicic, city manager, reported applications for the new human resources manager position are being reviewed and interviews will be scheduled after the holidays. Several citizens near the 11<sup>th</sup> Street and College Street area are interested in attending ODOT's meeting on December 12, 2012, about sound wall aesthetics and engineering.

**V. PUBLIC COMMENTS**

Mayor Andrews opened and closed the public testimony as there was no one to testify.

**VI. COMMITTEE APPOINTMENTS**

1. Consider appointing Deanna Moore, Patrick Johnson, and Salvatore Bianco to the Budget Committee serving terms expiring December 31, 2015.

**MOTION: Shelton/Rierson** appointing Deanna Moore, Patrick Johnson, and Salvatore Bianco to the Budget Committee serving terms expiring December 31, 2015. Motion carried (7 Yes/ 0 No)

2. Consider appointing Tony Rourke and Rick Rogers to the Citizens' Rate Review Committee serving terms expiring December 31, 2015.

**MOTION: McKinney/Witherspoon** appointing Tony Rourke and Rick Rogers to the Citizens' Rate Review Committee serving terms expiring December 31, 2015. Motion carried (7 Yes/0 No).

Mayor Andrews introduced the new budget committee members. Rick Rogers introduced himself to Council.

## VII. CONSENT CALENDAR

1. Consider a motion adopting **Resolution No. 2012-3023** supporting a grant application for Villa Road bike and pedestrian improvements.

**Resolution No. 2012-3023** was pulled from consent calendar and discussed under new business.

2. Consider a motion approving the October 15, 2012, City Council meeting minutes.

**MOTION: Rierson/Witherspoon** approving the October 15, 2012, City Council meeting minutes, as amended. Motion carried (7 Yes/0 No).

## VII. PUBLIC HEARINGS

Consider a motion adopting **Resolution No. 2012-3024** approving Supplemental Budget #2 for fiscal year 2012-2013.

**(Administrative Hearing)**

Ms. Janelle Nordyke, Finance Director, presented a request to modify the city of Newberg's fiscal year 2012-2013 adopted budget (see official meeting packet for full report). Staff recommends adoption of Resolution No. 2012-3024.

Councilor Ryan Howard asked why the animal shelter needed the additional \$20,000.00. Mr. Danicic replied they need the extra funds to finish bathrooms, install electric garage door openers for ventilation, buy kennel gates, and to epoxy the front lobby floor. The shelter will then receive a certificate of occupancy and move in once these items are taken care of.

Mayor Bob Andrews asked if the surplus fire and EMS apparatuses have been sold. Ms. Nordyke replied they have not yet been sold. Mayor Andrews asked why they needed to move the funds now. Ms. Nordyke explained when the vehicles are sold money from two of the vehicles will go into fund five and one into fund thirty-three. To spend the money on new vehicles it must all be transferred to fund thirty-three, which is the fire and EMS equipment fund.

Councilor Stephen McKinney asked what will be the anticipated figure for the system development charge (SDC) fund. Ms. Nordyke replied that an estimated \$450,000.00 is projected to come in by the end of the fiscal year, but so far they have only received \$10,000.00. Mr. Danicic explained the SDC is paid by new development and money comes in each month. Their best forecast says they will receive all of the money by the end of the fiscal year.

Councilor Howard expressed concern the Animal Shelter Friends may not be doing enough to help fund the animal shelter project. He is worried the shelter needs a lot of capital to be completed and the council will be called upon to provide this money. Councilor Marc Shelton replied having the shelter fully functioning will

allow the Animal Shelter Friends to resume fundraising. However, without the additional funds from the council the shelter cannot open. Councilor McKinney agreed with Councilor Howard, and also does not see the shelter ever fully supporting itself.

**MOTION: Shelton/Bacon** adopting **Resolution No. 2012-3024** approving Supplemental Budget #2 for fiscal year 2012-2013. Motion carried (7 Yes/0 No)

## VIII. NEW BUSINESS

1. Consider the Chehalem Valley Chamber of Commerce's 2012-2013 First Quarter Report.

TIME – 7:58 PM

Ms. Sheryl Kelsh, Chehalem Valley Chamber of Commerce CEO, reported on the Chamber's first quarter report, which reflects the addition of funds from the transient lodging tax (TLT) collection for the 2011-2012 fiscal year (see official meeting packet for full report). Ms. Kelsh reported the Oregon destination research project, which consists of 40 travel professionals, is currently having a conference at the Allison hotel. She will have more information for Council regarding funding for other visitor centers after the conference. Other data from the conference shows that Oregon had a 2% increase in lodging demand in the Willamette Valley, and Newberg is on the positive end of the graph. Dean Runyan, a nationwide travel expert, is doing research on how Oregon can better promote itself. Ms. Kelsh stated she is learning of potential ways to get Newberg's message out without much cost, such as a mobile application for cell phones and web based research. Ms. Kelsh noted the Oregon Truffle Festival is slated to move to Newberg in January, 2014, when the Cultural Center ballroom is finished.

Councilor Denise Bacon mentioned she heard an employee at a local business saying horrible things about Newberg to a New York Times reporter recently and suggested the Chamber train those who work with tourists how to speak positively about the city. Ms. Kelsh spoke about the city of Coos Bay program of training employees and then bringing in secret shoppers to rate them. It was all done in a positive way by spending time evaluating what employees did right instead of pointing out what employees had done wrong.

Councilor Wade Witherspoon asked how development of the educational display was going. Ms. Kelsh responded the mural was done and it was down to hanging pictures and putting the television screen back up.

2. Consider a motion requesting a fee credit for the George Fox University football stadium design review application.

TIME – 7:44 PM

Mr. Barton Brierley, planning and building director, gave a staff report requesting a fee credit for the George Fox University (GFU) football stadium (see official meeting packet for full report).

GFU paid approximately 70% of the application fee to build the stadium on the Villa road site; however, they have decided to place the new stadium on the college campus and are hoping to transfer the fees already paid to the new application. Mr. Brierley feels crediting fees within the same fiscal year would not be an issue, but since this request will be changing the fee from one fiscal year to another, he feels council should give input.

Councilor Howard asked if there is any significance of limiting it to the same fiscal year. Mr. Brierley replied each year revenues and expenses are estimated; therefore, changing to a new fiscal year means it was budgeted for the previous year and not the current one. Councilor Howard asked if there would be any additional work or money spent to change the fee to the next fiscal year. Mr. Brierley replied there would not be.

Ted Allen, George Fox University CEO, mentioned he is happy to be moving forward on the new location and feels it will be better for the city and the university to have the stadium located on campus.

Councilor Howard asked what is the plan for the Villa Road site. Mr. Allen replied grass seed will be grown on the site until they renovate it for athletic purposes, but they don't know for sure when that will be.

Mayor Andrews asked if they will be partnering with Chehalem Parks and Recreation Department (CPRD) when they renovate the Villa Road site. Mr. Allen replied they have had discussions with CPRD but have no specific plans.

Councilor Shelton abstained from the vote because he is an employee of GFU and his vote could be seen as a conflict of interest.

**MOTION: Rierson/McKinney** requesting a fee credit for the George Fox University football stadium design review application. Motion carried (6 Yes/0 No/1 Abstained [Shelton]).

3. Discussion of the city's role in economic development.

TIME – 8:25 PM

David Beam, economic development planner, presented the staff report accompanied by a PowerPoint presentation (see official meeting packet for full report).

No comments were made.

4. Consider a motion adopting **Resolution No. 2012-3023** supporting a grant application for Villa Road bike and pedestrian improvements.

Mayor Andrews expressed concern about the city manager signing the contract and favored council approving the contract before it was signed. Mayor Andrews suggested removing Resolves #3 from the Resolution. The council concurred.

Councilor Bart Rierson clarified CPRD wants to be involved in the grant application process. Mr. Brierley replied CPRD wants to put in a heritage trail and interpretive site at the creek crossing located on Villa Road. Councilor Rierson asked if the CPRD board doesn't approve the grant application or if the application is denied, would the CPRD portion of the project be funded by the city. Mr. Brierley replied it would most likely be eliminated or possibly scaled down in that case as it would cost \$50,000.00 to \$70,000.00. However, he feels having the interpretive site and heritage trail makes the grant application more attractive.

Councilor Witherspoon asked if the plan also included fixing the dangerous intersection at Villa Road and Mountainview Drive. Mr. Brierley replied the grant doesn't go that far up Villa Road. That intersection will be fixed when the rest of Mountainview Drive is developed.

Council further discussed the plan for Villa Road and how it will increase the visibility and safety of cars, pedestrians, and bicyclists.

**MOTION: Andrews/McKinney** adopting **Resolution No. 2012-3023** supporting a grant application for Villa Road bike and pedestrian improvements, as amended. Motion carried (7 Yes/0 No)

**IX. COUNCIL BUSINESS**

TIME – 9:09 PM

Staff discussed adopting the coordinated population figures as suggested to them by the county commissioners at their joint meeting. It was concluded these figures should be adopted in order to continue with the process, even though the city's growth estimates are based on employment and not on population.

Mayor Andrews asked about the status of negotiations with the Lockwoods about their system development charges (SDC). Mr. Brierley replied the Lockwoods had previously asked council to defer SDC payment until time of occupancy; however, they are now asking for an additional extension and indefinite postponement of payment. The council did not offer them a further extension but the city has a policy to finance SDC's with a 4% interest rate for ten years. He met with the Lockwood's and explained the financing option, which they are considering.

Councilor Rierson mentioned Robert Soppe's testimony discussing accuracy around wording in motions and noted council needs to clarify motions from recorders in order to maintain accuracy.

Councilor Shelton was concerned the 25% Transient Lodging Tax (TLT) the city committed to the visitor's center has increased dramatically in the last few years.

Councilor McKinney suggested they continue to allow the 25% to go to the visitor's center to help them get over the hump, and then dropping the number after they are more comfortable.

Councilor Howard added possibly putting a dollar cap amount on the 25% might be a good solution.

Councilor Witherspoon said he would not be in favor of the motion; he felt the 25% was a good decision before and removing funds from the visitor's center would make the problem worse instead of better. He feels the visitor's center needs to be spending more money on advertising to help the city grow. Councilor Rierson agreed with Councilor Witherspoon, saying it is a great return on investment and the money the chamber and visitor's center have spent has probably resulted in more economic growth for the city than they would have seen without the investment. Part of the reason they are collecting more TLT is because of the good job the visitor center and chamber are doing at marketing the city.

Mayor Andrews clarified they would not be making a decision, just asking for more information, and they are under a five year contract so renegotiations cannot be made until the contract is over.

<p><b>MOTION: Shelton/Andrews</b> request city staff to come back with a recommendation for the transient lodging tax for the remainder of the contract we have with the chamber regarding the visitor center. Motion carried (4 Yes/3 No)</p>
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## **X. ADJOURNMENT**

The meeting adjourned at 9:42 PM.

**ADOPTED** by the Newberg City Council this 7<sup>th</sup> day of January, 2013.

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Daniel Danicic, City Recorder

**ATTEST** by the Mayor this 10<sup>th</sup> day of January, 2013.

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Bob Andrews, Mayor

**CITY OF NEWBERG  
CITY COUNCIL WORK SESSION  
DECEMBER 10, 2012  
6:00 P.M.  
Newberg Public Safety Building  
401 E. 3<sup>rd</sup> St.**

**I. CALL MEETING TO ORDER**

Mayor Bob Andrews called the meeting to order at 6:05 PM

**II. ROLL CALL**

Members

Present:	Mayor Bob Andrews	Denise Bacon	Ryan Howard
	Bart Rierson	Marc Shelton	Wade Witherspoon
	Stephen McKinney (Arrived 6:57 PM)		

Staff

Present:	Daniel Danicic, City Manager	Terrence Mahr, City Attorney
	Norma Alley, City Recorder	Nicole Tannler, Minutes Recorder

Others

Present: None

**III. GENERAL DISCUSSION**

Mr. Daniel Danicic, City Manager, presented the staff report (see official meeting packet for full report).

Mr. Danicic stated he will be focusing on general fund and utility fund and he would like to provide council the opportunity to present input. The estimated beginning budget for the general fund was \$1,975,145.00, and the actual budget is \$2,674,367.00. Sources are from revenues, which were \$369,000.00 higher, and expenses, which were \$320,000.00 lower, than estimated. Revenues were primarily from property tax, Franchise fees, and planning fees.

Councilor Marc Shelton asked if the expense savings came from a reduction in personnel cost. Mr. Danicic replied yes.

Councilor Ryan Howard questioned whether Frontier intended to continue their service. Mr. Danicic responded yes he believes they do intend to continue to provide their service.

Mayor Andrews asked if the increase in the public safety fee by \$1.00 is the equivalent of just one person's salary. Mr. Danicic replied yes.

Mr. Danicic stated he is in the process of trying to meet with the assessor to verify his numbers to make sure he is being conservative enough.

Mayor Andrews stated the five year public safety operating levy may be under the cap on ballot measure 5. Mr. Danicic said he believes we are \$2.00 below the cap.

Councilor Bart Rierson asked at the next Council meeting there is an action item to add staff to the animal shelter, do you plan on reducing staff or shifting existing staff. Mr. Danicic responded it would be a new contract employee that can run the shelter as well as fundraise enough to self-sustain staff and operations of the shelter.

Councilor Howard asked how much of the general fund revenues are from property tax. Mr. Danicic replied 50%. Councilor Howard stated he was concerned if 50% of our revenue is growing at approximately 3%, and the other half is not growing. Councilor Witherspoon stated the other 50% would have to come in at 6.5% to offset.

Mr. Danicic asked which of these “Actions” identified in the presentation the council liked, or if they have any other thoughts or concerns. Councilor Howard said they all seem fine except for the last, which is to be less conservative with the revenue increase. He feels it seems like a band-aid for the time being and we need to look at increasing revenue and decreasing spending.

Councilor Shelton acknowledged the issue is going to be the operating levy and we need to successfully pass that.

Mr. Danicic stated he would like the council to consider some of these changes now for the following year so we can pass income onto future years.

Councilor Rierson stated he is concerned with the operating levy because we are not seeing a lot of support for it. The problem with the levy is it is temporary and only for 5 years. It is more likely to pass if we do more of an outreach to explain the purpose. It’s a good thing if the people support it.

Mayor Andrews said an increase in the Transient Lodging Tax (TLT) is not a burden on our local citizens, but an increase in franchise fees is a burden on our citizens. With the 5% stormwater franchise fee increase we are not gaining anything there and I do not see that as true revenue. As far as the increase in public safety fee of \$1.00, can we do it without a vote. Mr. Terry Mahr, City Attorney, said it could be subject to a referral of the people.

Councilor Shelton asked is there consideration of not filling the human resources position when it becomes vacant in order to save \$100,000.00 in personnel costs and shifting the duties to the assistant city manager. Mr. Danicic answered this position is considered crucial to the organization and does not see shifting duties to other staff. Councilor Shelton asked have considerations been made to reduce personnel. Mr. Danicic responded no.

Mr. Danicic moved on to the utility funds and said each fund has reserves for capital improvements and a dedicated fund, but there is a contingency for operating maintenance. Water accounts are increasing, but consumption is not. People are conserving, which flattens our revenue. Mr. Danicic does not know the gap in the utility funds yet.

Councilor Howard said the utility funds are not a large concern for me, but the transportation system is one of my main concerns. We can’t show that trade-off to people like we can with utilities. Another state imposed a tax on traffic citations that went to the transportation fund. Mr. Mahr responded we used to put assessments on citations for court. The state legislature stopped the ability to do that.

Mayor Andrews shared the idea of a construction impact fee. Councilor Shelton said we need to look at business tax and business permits again. Councilor Witherspoon stated perhaps a tax on certain commodities sold in the city. Mr. Mahr replied Ashland imposes a restaurant tax, but he is not sure we can do a local sales tax.

Mayor Andrews stated please put any ideas on the table that you think of, and that we need to explore. Councilor Howard said we are so constrained in collection of property tax. We need to demonstrate to the citizens that we have explored all other possibilities.

**IV. ADJOURNMENT**

The meeting adjourned at 7:22 PM.

**ADOPTED** by the Newberg City Council this 7<sup>th</sup> day of January, 2012.

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Daniel Danicic, City Recorder

**ATTEST** by the Mayor this 10th day of January, 2012.

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Bob Andrews, Mayor

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: January 7, 2013

Order ___ No.	Ordinance ___ No.	Resolution <u>XX</u> No. 2013-3028	Motion ___	Information ___
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**SUBJECT: Ratify Public Works Collective Bargaining Agreement effective retroactively to January 1, 2013, through December 31, 2014.**

Contact Person (Preparer) for this Motion: Dawn Wilson  
Dept.: City Attorney's Office

**HEARING TYPE:** No public hearing is required.

## RECOMMENDATION:

Adopt Resolution No. 2013-3028 to ratify the Collective Bargaining Agreement between the City and the Public Works Union who is represented by American Federation of State, County and Municipal Employees ("AFSCME").

## EXECUTIVE SUMMARY:

The City management team has been negotiating with the Public Works Union and AFSCME representatives (the "Union") for initial unionization and thus for a new contract. That contract period (January 1, 2013, through January 31, 2014) has been negotiated to be offset with that of the collective bargaining contracts with police and fire. The City was notified that Union members ratified the tentative Collective Bargaining Agreement ("Agreement") on December 19, 2012. The duration of the agreement is for two (2) years.

The areas of economic impact in the contract are wages (COLA, merit, and wage-driven benefits) and an increase to on-call pay, which are summarized as follows:

- Wages: Cost of living (COLA), merit increases, and wage-driven benefits have been estimated under Fiscal Impact.
  - **2.5% COLA first year; 2% COLA second year + \$275.00 one-time "signing bonus"** (signing bonus to be paid on November 30, 2013).
- On-call pay: Changed from \$15.00/day to \$25.00/day.

Note: A maximum 3% increase for each year was used in Fiscal Impact calculations.

**FISCAL IMPACT:**

<b>Estimate of Union Increased costs</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	
Fund 2	12,947	17,180	13,697	
Fund 6	62,924	73,233	58,420	
Fund 7	46,674	52,522	42,349	
Fund 17	19,752	23,831	18,865	
Fund 31	12,471	14,615	11,458	
<b>Total Union</b>	<b>154,769</b>	<b>181,381</b>	<b>144,788</b>	
2013-14 is a higher increase due to NERPS rate increase from 20% in 2012-13 to 22%				
2013-14 also experiences a significant increase in the OPERS rate				
	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>
Wages Union	1,504,531	1,566,005	1,630,091	1,696,902
Wage Driven Benefits	503,343	553,229	623,263	649,229
Health Insurance-Union	443,165	487,482	536,230	589,853
Total	2,451,039	2,606,716	2,789,584	2,935,983
Change**		<b>155,677</b>	<b>182,868</b>	<b>146,399</b>
		<b>2013</b>	<b>2014</b>	<b>2015</b>
Change in Base Pay		<b>61,474</b>	<b>64,087</b>	<b>66,810</b>
Change in Wage Driven Benefits		<b>49,886</b>	<b>70,033</b>	<b>25,966</b>
Change in health		<b>44,317</b>	<b>48,748</b>	<b>53,623</b>
** Difference is some of the smaller categories like longevity/keeper pay				

**STRATEGIC ASSESSMENT:**

The contract ensures that valuable and long-term employees are retained. By the City guaranteeing certain fiscal benefits, experienced employees will receive fair compensation for their public works services.



## RESOLUTION No. 2013-3028

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**A RESOLUTION APPROVING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY AND THE PUBLIC WORKS UNION (AFSCME), EFFECTIVE RETROACTIVELY TO JANUARY 1, 2013, THROUGH DECEMBER 31, 2014, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AS WELL AS DELEGATING THE AUTHORITY TO MAKE MINOR AMENDMENTS AND INTERPRET THE AGREEMENT ON BEHALF OF THE CITY**

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### RECITALS:

1. City staff has been negotiating with the Public Works Union through their stewards and Oregon American Federation of State, County and Municipal Employees Council 75 (“AFSCME”) representatives (the “Union”) for the new contract period January 1, 2013, through December 31, 2014.
2. The City was notified that Union members ratified the Collective Bargaining Agreement (“Agreement”) on December 19, 2012.
3. City staff recommends City Council accept the Agreement.

### THE CITY OF NEWBERG RESOLVES AS FOLLOWS:

1. The City approves the Agreement between the City and the Union, which is attached hereto as Exhibit “A” and by this reference incorporated.
2. The city manager is authorized to execute the Agreement with the Union on behalf of the City.
3. The city manager is further delegated the authority to approve minor amendments to the Agreement, interpret language of the Agreement on behalf of the City, enter into memorandums of understandings concerning the interpretations and disputes arising under the Agreement, and negotiate settlements of disputes.
4. The city attorney will review and approve the Agreement as to legal sufficiency.

➤ **EFFECTIVE DATE** of this resolution is the day after the adoption date, which is: January 8, 2013.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 7<sup>th</sup> day of January, 2013.

\_\_\_\_\_  
Daniel Danicic, City Recorder

**ATTEST** by the Mayor this 10<sup>th</sup> day of January, 2013.

\_\_\_\_\_  
Bob Andrews, Mayor

# **COLLECTIVE BARGAINING AGREEMENT**

**BETWEEN**

**THE CITY OF NEWBERG**

**AND**

**THE AFSCME NEWBERG  
PUBLIC WORKS UNION**

**January 1 2013- December 31 2014**

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**ARTICLE 1: UNION RECOGNITION**

**1.1 Definition of the Bargaining Unit**

1.1.1 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 Public Works employees employed by the City of Newberg, excluding employees of the Engineering Department, as well as supervisory and confidential employees, as certified by the Oregon Employment Relations Board, case number CC-09-12.

**1.2 Disputes Concerning Newly Created and Existing Classifications or Clarifications**

1.2.1 Except for the special provision for reviewing newly created, modified or existing classifications or positions, any challenges regarding the inclusion, exclusion, or clarification of classifications or positions shall be referred to the Oregon Employment Relations Board for determination. To minimize the possibility of such disputes, when a new Public Works non-bargaining unit classification is created, or when a new position is exempted from a classification otherwise represented by the Union, written notice will be sent to the Union to include the reason for exemption. Both parties will make a good faith effort to resolve the dispute before filing the case with OERB.

1.2.2 New classes may be developed within the bargaining unit by the City and a wage scale assigned thereto. The City will forward notice of the new class and wage scale to the Union by certified mail. The wage scale so assigned may be negotiated upon request by the Union within fourteen (14) days after receipt of notice from the City. If the Union fails to request bargaining with the City within fourteen (14) days of receipt of notice of the new class, the interim wage scale will become final.

**1.3 Certification of Union Officers**

1.3.1 The Union shall, on an annual or as changes dictate, basis, provide the City with a written list of the current Union officers and Stewards responsible for contract administration.

**ARTICLE 2: MANAGEMENT RIGHTS**

**2.1** It is recognized that an area of responsibility must be reserved to the employer if the City is to effectively serve the public. Except to the extent expressly abridged by a specific provision of this Agreement, it is recognized that the responsibilities of management are exclusively functions to be exercised by the City. By way of illustration and not of limitation, the following are listed as such management functions:

2.1.1 The determination of the services to be rendered to the citizens served by the City.

2.1.2 The determination of the employer's financial, budgetary, accounting and organization policies and procedures.

2.1.3 The continuous overseeing of personnel policies, procedures, and programs promulgated under any ordinance or administrative order of the City, including the establishment of personnel rules and regulations not inconsistent with any other term of this Agreement.

2.1.4 The management and direction of the work force including, but not limited to, the right to determine the methods, processes and manner of performing work; the determination of the duties and qualifications of job classifications; the right to hire, promote, train, demote, assign duties, transfer and retain employees; the right to discipline or discharge for just cause; the right to lay off for lack of work or funds; the right to abolish positions or reorganize the departments or divisions; the right to determine schedules of work; the right to purchase, dispose and assign equipment or supplies; and the decision to contract or sub-contract any work (within the limits set by MOA in Appendix C of this agreement), or other rights as provided by ORS 243.750(7)(g).

2.1.5 Both parties acknowledge that certain discretionary practices exist within the employer/employee relationship, which do not have a material effect on the conditions of employment, such as the providing of picnic lunches, holiday hams, etc. The parties agree that such practices shall continue to exist at the sole discretion of the City.

**To Resolution 2013-3028 (Total pages: 45)****ARTICLE 3: UNION SECURITY AND RIGHTS OF BARGAINING UNIT EMPLOYEES**

**3.1** Employees shall have the right to self-organize, to form, join or assist labor organizations or to refrain therefrom, to bargain collectively through representatives of their own choosing, and there shall be no discrimination exercised against any employee covered by this Agreement because of his or her membership or Union activities.

**3.2 Union Security and Check-off Service Fees, Authorization and certification of dues and Fair Share**

**3.2.1 Amount deducted each payroll period**

3.2.1.a The City agrees to deduct each payroll period from the pay of employees covered by this Agreement as applicable:

**3.2.2 Union dues**

3.2.2.a Monthly Union membership dues of those Union members who individually request such deductions in writing on the form provided by the Union.

**3.2.3 Fair share service fee**

3.2.3.a Monthly Fair Share Service Fee, payable in lieu of dues by any employee who has not joined the Union within thirty (30) days of initial regular appointment to a bargaining unit position.

**3.2.4 Administration and use of Fair Share Service Fees**

3.2.4.a The Fair Share Service Fee shall be applied solely to defraying the cost of negotiations and contract administration. The process for determining the amount of the Fair Share Service Fee deduction, accountancy requirements for funds collected, limitations on the use of such funds, and any requirements for refund, shall all be in accordance with the requirements of state and federal laws.

3.2.4.b Deduction of membership dues must be authorized in writing on the form provided by the Union. The amount to be deducted for dues and Fair Share Service Fees shall be certified in writing to the City by the Union President or their designee. The aggregate of all deductions shall be remitted, together with an itemized statement, to the Treasurer of the Union at an address certified to the City in writing by the Union President or their designee, within five (5) working days after it is withheld or by such time as the parties mutually agree in writing.

**3.2.5 Religious objections to payment of dues and Fair Share Service Fees**

3.2.5.a The Union expressly agrees that it will safeguard the rights of non-association of employees, based upon bona fide religious tenets or teachings of a church or religious body of which such employee is a member. Any such employee shall pay an amount equal to regular union dues through the Union to a non-religious charitable organization exempt from taxation under 501(c)(3) of the Internal Revenue Code, or other charitable organization mutually agreed upon by the employee making such payment and the Union. The employee will make payment through the Union on a monthly basis. The Union will forward the payment to the agreed upon charity, and provide the employee with a copy of the forwarding letter.

**3.2.6 Appointment to excluded positions**

3.2.6.a Deductions for Fair Share Service Fees and Union dues shall cease beginning with the pay period following an employee's regular appointment to a position which is excluded from the bargaining unit.

**3.2.7 Notice of new and terminated employees**

3.2.7.a The City agrees to furnish the Union, in electronic form if possible, the names of any new employees or terminated employees.

**3.2.8 AFSCME PEOPLE Deductions**

3.2.8.a To the extent allowable by law, employees may authorize payroll deductions for the voluntary AFSCME PEOPLE (Public Employees Organized to Promote Legislative Equality) by submitting the form provided by the Union to Central Payroll. The City agrees to provide the Union by the tenth (10th) of each of month a listing of employees that are making PEOPLE contributions and amount deducted per employee. This report can be included in the same report as dues, provided a separate line item clearly shows this deduction.

**3.2.9 Defense and Indemnification of the City**

3.2.9.a The Union agrees that it will indemnify, defend and hold the City harmless from all suits, actions, proceedings or claims against the City or persons acting on behalf of the City, whether for damages, compensation, reinstatement, or any combination thereof, arising out of application of this Article. In the event any decision is rendered by the highest court having jurisdiction that any portion of this Article is invalid and/or that reimbursements must be made to any employees affected, the Union shall be solely responsible for such reimbursements.

**3.3 Union Representation and Contract Negotiations**

3.3.1 The Union's Negotiating Team shall consist of not more than four (4) members, three (3) of whom may be employees. City employees participating in such negotiations will be allowed to do so without loss of pay. The Union and City may mutually agree to a different number of negotiating team members, appointing an equal number of representatives from labor and management.

3.3.2 Prior to negotiations, representatives of the City's and the Union's Negotiating Teams will jointly discuss general negotiating ground rules, such as the number of observers, resource people, meeting times, etc.

3.3.3 The City shall print enough copies of this Agreement for all employees in the bargaining unit. The City shall provide an electronic copy of the Agreement to the Union and post it to the City intranet and internet websites.

**3.3 Grievances and Contract Administration**

3.3.1 The Union is the exclusive representative of bargaining unit employees with respect to conditions of employment governed by this Agreement under the State of Oregon Public Employees Collective Bargaining Act.

**3.4. Site Access**

3.4.1 Union representatives will have access to work sites, provided notification is provided to supervisors before arrival on site and there is no interruption of the work force.

**3.5 Communication with Bargaining Unit Members****3.5.1 Bulletin boards**

3.5.1.a The City agrees to furnish and maintain suitable bulletin boards in convenient places in each work area to be used by the Union. The Union shall limit its postings of notices and bulletins to such bulletin boards. All postings of notices and bulletins by the Union shall be factual in nature and should be signed and dated by the individual doing the posting.

**3.5.2 Use of city computers for E-Mail and internet connections related to Union business**

3.5.2.a City communication systems may be used for Union business involving electronic communications or Internet connections in the following circumstances, but only when such use is also in conformance with the other requirements of this Agreement, specifically Agreement sections which require that Stewards make every effort to avoid disruptions and interruptions of work.

3.5.2.b When such use is de minimis and incidental, such as arranging a meeting with a fellow shop Steward or the Staff Representative, or for accessing an electronic copy of the union contract.

3.5.2.c For the purpose of conducting an investigation of a grievance, such as individual inquiries to co-workers.

3.5.2.d For the purpose of interacting with the City's representatives concerning Union-City business, such as setting dates for City-Union meetings, making inquiries regarding grievances, etc.

3.5.2.e On the employee's own time, for the purposes of utilizing the internet to reach a Union internet site. Any use of such sites will comply with City Personnel Rules and shall exclude blogging, use of chat rooms, instant messaging or other live person to person electronic communication, and political activities as prohibited by law.

3.5.2.f For authorized Union officials only, and on such employee's own time, for the purpose of posting messages on the internet site provided for in (4) above.

3.5.2.g The Local 1569 President or designee may use the City's electronic communication systems for the purpose of communicating with Local 1569 members. All such communications shall comply with City Personnel Rules. Communications that are sent to employees within a single Department shall be approved by the Department Director or designee prior to distribution. Communications that are distributed to employees in more than one Department shall be approved by the director of Human Resources prior to distribution. Examples of such communications may include, but are not limited to: meeting announcements; Union elections and ratification votes; Union appointments; bargaining updates prior to impasse; seniority lists; and miscellaneous surveys.

**To Resolution 2013-3028 (Total pages: 45)**

3.5.2.h The uses cited above may continue only to the extent that they are at no additional cost to the City, and are contingent on the continued use of the cited computers, internet connection, intranet connection, etc. for other City purposes. The content of any and all communications using the City computer system is not privileged and may be subject to City review and public records requests.

**3.6 Maintenance of Membership**

3.6.1 Employees who are current members of the Union at the signing of this agreement or who sign a Union membership card subsequent to the signing of this agreement shall maintain their Union membership for the duration of the collective bargaining agreement. Maintenance of membership shall be a condition of employment.

**To Resolution 2013-3028 (Total pages: 45)**  
**ARTICLE 4: NON-DISCRIMINATION**

**4.1** The City and the Union agree that each will fully comply with all applicable laws and regulations regarding discrimination against any employee or applicant for employment because of such person's race, religion, color, natural origin, gender identity, mental or physical disability, sex, age, union affiliation or other status protected by state or federal law. Any references to gender in the Agreement include both genders. The parties agree that nothing in this agreement will interfere with or restrict the City in its obligation to accommodate individuals with disabilities under federal and state law. Any disputes regarding this article may be resolved through the grievance procedure, but will not be subject to the arbitration process.

**To Resolution 2013-3028 (Total pages: 45)****ARTICLE 5: HOURS OF WORK****5.1 Regular Hours**

5.1.1 The regular hours of each workday shall typically be consecutive with interruptions for lunch periods.

**5.2 Work Week**

5.2.1 Work week shall consist of a seven (7) day work schedule with five (5) consecutive eight (8) hour days with two (2) consecutive days off or four (4) consecutive ten (10) hour days with three (3) consecutive days off or any other type of alternative work schedule agreed to in writing by the Union, the employee(s) and the City. However, the City may agree to a change in the work schedule where necessary to accommodate an employee as required by federal or state law.

**5.3 Schedule Changes**

5.3.1 Notice of change in an employee's work schedule shall be given to the affected employees not less than 5 (five) calendar days prior to the effective date of the change. The City may also grant a reasonable request for a temporary change to the work schedule of an employee on a case-by-case basis.

5.3.2 By mutual agreement, at any time, the work schedule can be flexed, meaning different start and stop time or different days during the week without the payment of overtime unless the request exceeds 40 (forty) hours in a work week.

**5.4 Rest Periods**

5.4.1 Rest periods will be provided for in accordance with federal and state law. All employees shall have a fifteen (15) minute rest period during each one-half (1/2) shift which shall be scheduled as near the middle of each one-half (1/2) shift as is feasible. Rest periods may not be accumulated, nor shall rest periods have any monetary value

5.4.2 Employees working in extreme weather conditions such as temperature over 90 degrees and under 35 degrees may be given extra breaks at the discretion of a division manager.

**5.5 Meal Periods**

5.5.1 Meal periods will be provided for in accordance with federal and state law. All employees will be granted a thirty (30) minute or a sixty (60) minute unpaid meal period during each work shift, which shall be scheduled as near the middle of each shift as is feasible. The current length of meal periods may be changed by mutual agreement between the employee and supervisor. Employees shall not be permitted to work through a meal period unless approval from a supervisor is obtained before the scheduled break period.

**5.6 Call Back Time**

5.6.1 Any employee called to work outside of his or her regularly scheduled shift shall be paid for a minimum of two (2) hours at the rate of time and one-half. Call backs within the same two hour period will be considered one call back for the purposes of this Section. If the call back time work assignment and the employee's regular shift overlap, the employee shall be paid the call back time rate of time and one-half until the employee completes two (2) hours work. The employee shall then be paid for the balance of the regular work shift at the appropriate rate. This section does not apply to scheduled overtime at the beginning of the work shift or workday or at the end of the work shift or workday provided forty-eight (48) hour notice has been given and the overtime is consecutive with the shift hours or work.

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5.6.2 An employee who receives a call and is able to resolve the issue by phone or by computer without having to come to work shall be paid one (1) hour of overtime if the employee can resolve the problem within thirty (30) minutes. If the issue requires more than thirty (30) minutes or the employee must leave his or her home, the employee shall receive a minimum of two (2) hours of overtime.

5.6.3 For call backs, the first thirty (30) minutes of travel time is considered part of paid time. Employees who live further than thirty (30) minutes from the work site, have made a choice to do so and the City shall not compensate them for the additional travel time (i.e. if an employee lives forty-five (45) minutes from the City and a call back requires one hour to complete, the employee shall only receive the two (2) hour minimum at time and a half).

**5.7 Overtime**

5.7.1 When employees are required to work overtime, the employee may, at his or her discretion choose either compensatory time off or pay at the rate of one and one-half (1 ½) times the employee's regular rate of compensation. Overtime is defined as any hours worked in excess of forty (40) hours in one workweek. The division supervisor must approve any overtime hours in advance. Unauthorized overtime shall be paid in accordance with FLSA. However, employees working unauthorized overtime may be subject to discipline.

5.7.2 Compensatory time accumulation shall not generally exceed forty (40) hours. Employees may request to take compensatory time off and shall be permitted by the City to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the City.

**5.8 Stand-by Pay.**

5.8.1 When the City officially places an employee on stand-by and requires an employee to carry an emergency communication device and to respond to emergency calls generally within 30 minutes, the City shall pay the employee twenty-five dollars (25) per calendar day.

5.8.2 On the enumerated holidays below, employees on stand-by shall receive fifty (50) dollars per day:

5.8.3 Christmas Eve, Christmas Day, Thanksgiving Day, Day after Thanksgiving, New Year's Day and Fourth of July.

**5.9 Reporting Time.**

5.9.1 An employee who is scheduled to report for work and who presents him or herself for work as scheduled shall be assigned to at least three (3) hours of work.

5.9.2 If work within the bargaining unit is not available; the employee shall be excused from duty and paid, for (3) hours work at the appropriate rate, straight time or overtime, whichever is applicable.

5.9.3 If an employee reports for and starts to work as scheduled, and is excused from duty before completing three (3) hours work, the employee shall be paid, for three (3) hours work at the appropriate rate, straight time or overtime, whichever is applicable.

**To Resolution 2013-3028 (Total pages: 45)****ARTICLE 6: WAGES****6.1. Rate of Pay. Each employee shall be compensated in accordance with the wage scheduled attached to this agreement in Appendix A.**

6.1.1 Effective upon ratification by both parties the COLA will be 2.5%.

6.1.2 Effective the final paycheck of November 2013 each employee will be provided with a onetime bonus in the amount of \$275.00.

6.1.3 Effective January 1, 2014, the COLA will be 2.0%.

**6.2. Salary Step Increases. Employees shall be eligible for salary step increase consideration following:**

6.2.1 Completion of the initial probation period, typically following twelve (12) months of service.

6.2.2 Completion of twelve (12) months of service following a promotion.

6.2.3 Annual periods after I or II above until the employee reaches the top of the range.

6.2.4 The City may withhold a step increase if the employee receives an unsatisfactory evaluation and has discipline from the evaluation period that includes a written warning. The supervisor shall give the employee written notice of the withholding prior to the eligibility date, including a statement as to why the City is withholding the increase. If the parties have not previously implemented a work plan for the employee during the preceding year, the City and the employee shall discuss a work plan designed to improve the employee's performance. If the employee satisfactorily completes the work plan within six (6) months, the City shall provide a delayed step increase in lieu of the withheld step increase. If the employee does not satisfactorily complete the work plan, the City will not grant the increase. Final decisions shall be at the sole discretion of the City; however, the employee may request review of a final decision by the Human Resources Manager and/or the City Manager.

**6.3. Salary on Promotion.**

6.3.1 Upon promotion, an employee shall be paid at least the minimum of the salary for the new job and shall receive roughly a 5% increase (occasionally step distance may vary slightly).

**6.4. Salary on Demotion.**

6.4.1 Whenever an employee is demoted as a result of disciplinary action, the employee's salary shall be maintained at the same step number/letter as previously held, but in the lower pay scale resulting in roughly a 5% pay reduction.

6.4.2 Whenever the City demotes an employee to a new job for a reason other than discipline, the employee's salary shall move to the new pay range at the step most closely aligned to the employee's current rate of pay. If the employee's current rate of pay is below the maximum rate of pay for the new position, the employee shall continue to receive market adjustments and to be eligible for step increases. If the employee's current rate of pay is above the maximum rate of pay for the new position, the employee shall be frozen (red circled) at the existing rate of pay until such time as future market adjustments have brought the pay range for the job above that of the employee's frozen pay rate.

**To Resolution 2013-3028 (Total pages: 45)****6.5. Salary on Return from Layoff.**

6.5.1 When the City recalls an employee previously laid off, he or she shall be placed at the step most closely aligned to the employee's rate of pay at the time of the layoff. Future step increase eligibility shall be the prior date, adjusted for the time away, just as if the employee had taken a leave of absence.

**6.6 Pay Day. Employees are paid monthly.**

6.6.1 Paydays are generally the last day of each month. If the payday falls on either a Saturday or a Sunday, paychecks will be distributed on the Friday prior to the established payday. If a City of Newberg Holiday falls on payday, you will receive your check on the last workday prior to the holiday. Employees may request direct deposit.

**6.7. Out of Class Pay.**

6.7.1 Employees assigned by a supervisor in writing to perform the duties of a higher paid position for more than a total of five (5) consecutive working days shall be paid for all such work, retroactively to the first day of the assignment, 5% of the employee's base salary.

**6.8. Beginning Salary.**

6.8.1 Normally an employee will be appointed or reinstated at the first step of the range established for his/her classification. The City may make an appointment or reinstatement above the first step at the sole discretion of the City.

**ARTICLE 7: RETIREMENT****7.1 Retirement Plan.**

7.1.1 The City provides a City Retirement Plan for all regular full-time employees. The employees contribute to their retirement by paying the "pick up," six percent (6%) employee contribution, directly out of their paychecks into the retirement plan.

**7.2 Deferred Compensation Plan.**

7.2.1 The City agrees to provide opportunities for employees to participate in Internal Revenue Code Section 457 Deferred Compensation Plans. Contributions may be made by employees in any amount up to the annual limit set forth by the IRS.

**7.3 The Longevity Deferred Compensation Program.**

7.3.1 Deferred compensation will be paid at the following rates:

7.3.1.a After 10 years of employment, \$40 a month

7.3.1.b After 15 years of employment, \$60 a month

7.3.1.c After 20 years of employment, \$100 a month

**7.4 Retirement Medical Insurance.**

7.4.1 Retiring employees may qualify to purchase, through the City, Retirement Medical Insurance, pursuant to the provision of Oregon Revised Statutes 243.303.

**7.5 Changes to Retirement Plan.**

7.5.1 Both parties must mutually agree to any changes in the City Retirement Plan.

7.5.2 The City will provide employees annual statements on Retirement Plans. Plan books are available through Human Resources.

**7.6 Retirement and Recall.**

7.6.1 Fifty percent (50%) of an employee's accrued sick leave goes into the employee's retirement calculation when he or she separates from services voluntarily or is laid off. If City recalls an employee from layoff status within the specified time period the City will reinstate the remaining fifty percent (50%) of the employee's previously accrued sick leave, per Article 15 Section 4(c) which shall be the amount recorded at the time of the layoff. However, for the purposes of the accrued sick leave retirement calculation, the employee's accrual must start over from the time of recall.

7.6.2 For example, if the City lays off an employee with 200 hours of accrued sick leave, the employee will receive 100 hours (50%) in his or her retirement calculation. If the City then recalls the employee within the specified time, the employee will return and regain the remaining 100 hours of accrued sick leave. However, for future retirement calculation purposes, the employee will start with 0 accrued hours when he or she is recalled. Therefore, if that same employee voluntarily leaves City employment twenty-four (24) months later having used no sick leave, he or she will have added one hundred ninety-two (192) hours of the sick leave bank for a total of two hundred ninety-two hours (292) hours. However, only 50% of the newly accrued one hundred ninety-two hours (192) are eligible for being rolled into retirement

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ARTICLE 8: HEALTH & WELFARE****8.1 Carrier and Coverage Changes.**

8.1.2 The City retains the exclusive right to select the plans and carriers (or to develop and implement a self-insurance plan) for medical, dental, vision, life and other insurance plans provided that the successor plan(s) provide substantially comparable coverage to the existing plans.

**8.2 Plans Offered.**

8.2.1 The City currently provides full family medical through CIS' Copay Plan A; Vision through VSP and Dental Plan III with orthodontic coverage provided through CIS' ODS plan to eligible full time (40 hour a week) employees. Payroll deduction of the employee contribution toward the monthly health care premium shall continue following the ratification of this agreement.

**8.3 Premium Contribution.**

8.3.1 The City will contribute ninety percent (90%) of the cost of the eligible employee's monthly health care premium and the employee will contribute ten percent (10%).

8.3.2 Eligible employees may enroll dependents in the medical, dental and vision plans, but must pay ten (10%) toward dependent coverage. This cost shall be deducted from the employee's paycheck.

**8.4** Effective January 1, 2014, should insurance premium rates increase more than 10% from the previous year, the employer and the employees will share the premium increases above 10% equally, to a maximum employee contribution of no more than 15% of the total medical, dental and vision premiums.

**8.5** The City shall provide Long Term Disability, Long Term Care, Accidental Death and Dismemberment, and Life Insurance to eligible full time employees without cost to the employees.

**8.6** Eligible employees are all regular full time employees who have completed thirty (30) days of employment. Insurance plan coverage begins on the first day of the month following completion of the thirty (30) day waiting period. If an eligible employee does not enroll during the eligibility period the eligible employee is required to wait for an "open enrollment" period to be insured.

**8.7 Continued eligibility coverage.**

8.7.1 The City will pay its contribution for the insurance premium for employees who work or use authorized leave for at least the first forty (40) working hours of the month.

**8.8 Qualified Family Status Changes (Qualifying Event).**

8.8.1 The addition or deletion of dependents as a result of a qualifying event will be provided in accordance with federal or state laws and City Policy. Enrollment changes must be received by the City HR Manager with applicable documentation within 31 calendar days [31 calendar days for newborns or children placed with the employee for adoption, or a new spouse] of the qualifying event. Changes shall be effective the first of the month following the date of the qualifying event; except in the case of newborns, adoptions or marriage, coverage is effective on the date of the birth, placement in the home or date of marriage. For newly eligible dependents not enrolled within 31 calendar days, coverage cannot be obtained until the next open enrollment with coverage effective January 1 of the following year.

**To Resolution 2013-3028 (Total pages: 45)****8.9. Flexible Spending Accounts (FSA).**

8.9.1 The City shall make available the FSA Section 125 plan for health care expense reimbursement and dependent care expense reimbursement. The employee signs up for this plan at the time of open enrollment each year. The amount specified by the employee is deducted from their monthly paycheck.

**8.10. Employee Assistance Program.**

8.10.1 The City agrees to make available an employee assistance program providing confidential counseling services to employees and their eligible dependents. For information regarding this plan please contact the Human Resources Manager.

**To Resolution 2013-3028 (Total pages: 45)****ARTICLE 9: HOLIDAYS****9.1 Regular Holidays**

9.1.1 The following days (each a 24-hour period from midnight to midnight) shall be recognized and observed as holidays on the days specified:

**9.2 Paid Holiday Benefit**

9.2.1 The City of Newberg observes the following holidays each year, and offices are officially closed on these days:

New Year's Day	Labor Day
Martin Luther King Jr.'s Day	Veteran's Day
Presidents' Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Fourth of July	Christmas Eve
Christmas Day	

9.2.2 In addition, employees will receive one floating holiday. The Floating holiday shall be granted by calendar year and must be used by December 31. Employees hired after March 1 shall not be eligible for the floating holiday until January 1 of the following year. An employee shall not be eligible for a floating holiday after submitting a resignation.

9.2.3 Holidays are paid based on the number of hours in a typical workday for regular full-time employees. If employees work a 5/8 schedule, then 8 hours of holiday pay will be paid. If an employee works a 4/10 schedule requested by that employee, they shall be paid 8 hours holiday and will have the option of using a total of 2 hours of compensatory time and/or vacation time, or flexing their hours within the same week.

9.2.4 If any holiday falls on a Saturday, the preceding Friday will be observed, unless that Friday is also a holiday, in which case the following Monday will be observed. If any of the above holidays falls on a Sunday, the following Monday will be observed, unless that Monday is also a holiday, in which case the preceding Friday will be observed.

9.2.5 Departments with other schedules and other regular part-time employees who might not work on the actual holiday the following applies. Holidays may occur on the days regular full-time or regular part-time staff members are not scheduled to work. If a holiday falls on a day off for a staff member, they may take the holiday within the pay period (with approval from their supervisor or Department Head) or receive straight compensatory time to be used later. The dates observed for the above holidays will be those authorized by the Oregon Legislature. Employees will receive a schedule each year showing the date each of these holidays will be observed.

**9.3 Eligibility**

9.3.1 Employees regularly scheduled to work 40 hours or more per week will be paid for the above holidays. Regular part-time employees will receive a pro-rated amount of paid time based on their regularly scheduled time. For instance, a regular part-time employee working 20 hours per week would receive 4 hours of holiday pay because he/she is working 50% of full-time. Upon submitting a resignation notice the City requires an employee to work on the day before or after the holiday in

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order to receive holiday pay. Temporary workers and contract employees are not eligible for paid holidays.

**To Resolution 2013-3028 (Total pages: 45)****ARTICLE 10: VACATION**

**10.1** All full-time and regular part-time employees are eligible for vacation based on the schedule below. All accruals are pro-rated the first month of employment.

**10.2** Eligibility. New employees shall not be eligible for vacation leave during their first six (6) months of employment, unless specific arrangements have been made at the time of hire. Vacation leave shall accrue from the beginning of employment, but no vacation time may be taken or paid during the first six months. One (1) week of vacation may be taken after satisfactory completion of six (6) months of employment.

**10.3** You will earn vacation benefits for each full calendar month worked according to the following schedule:

<b>Length of Service as of Anniversary Date</b>	<b>Vacation Award</b>	<b>Maximum Vacation Accrual Allowed</b>
<b>Up to 5 years</b>	<b>12 days (8 hrs. each)/Month (96 hrs./year)</b>	<b>192</b>
<b>5 years, less than 10 years</b>	<b>15 days (8 hrs. each)/Month (120 hrs./year)</b>	<b>240</b>
<b>10 years, less than 15 years</b>	<b>18 days (8 hrs. each)/Month (144 hrs./year)</b>	<b>288</b>
<b>15 years, less than 20 years</b>	<b>20 days (8 hrs. each)/Month (160 hrs./year)</b>	<b>320</b>
<b>20 years or more</b>	<b>22 days (8 hrs. each)/Month (176 hrs./year)</b>	<b>352</b>

**10.4** Accrual for regular part-time employees is on a pro-rated basis calculated on the established budgeted FTE. Continuous service will be calculated from the first of the month nearest your date of hire.

**10.5** Vacation is provided so that employees can enjoy periods of time away from work. Vacation is intended for rest and recreation. Vacation accruals are not to be cashed out. Vacation accrual will be paid out at separation in accordance with applicable laws.

**10.6** Accruals cannot exceed two times an employee's annual accrual rate. Vacation benefits will stop accruing when the maximum allowed has been reached. The benefit will begin accruing again when you reduce the total to less than the allowed maximum.

**10.7** Employees who want to use vacation time should request time off as early as possible so that arrangements for coverage can be made. Requests for vacation time are to be made in writing and submitted to the immediate supervisor. Generally, employees will not be allowed more than two weeks off at a time. The City will try to grant each request, but cannot guarantee requests will be approved. In the event of competing requests for times submitted concurrently, consideration will be given to the employee with the longest tenure, or seniority as defined in Article 15. Approval of special requests may be done at the discretion of the Department Head in accordance with departmental rules.

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**ARTICLE 11: SICKNESS AND INJURY LEAVE****11.1 Sick Leave Accrual for Full and Part-Time Career Employees**

11.1.1 Full-time career employees shall accrue paid sick leave at the rate of 8 hours per month.

11.1.2 Sick leave will accrue to a maximum of 1000 hours for full-time employees and at the prorated equivalent based on budgeted FTE for part-time regular employees.

11.1.3 Part-time regular employees will accrue paid sick leave hours on the first day of each month in the same proportion equivalent based on budgeted FTE.

**11.2 Transfer of Sick Leave**

11.2.1 When an employee is transferred or appointed to another department, an employee sick leave balance shall be assumed by the new department.

**11.3 Use of Sick Leave**

11.3.1 Employees may use their allowance of sick leave when unable to perform their work duties by reason of illness or injury, parental and family leave as specified by Oregon or Federal law, necessity for medical or dental care, exposure to contagious disease under circumstances by which the health of the employees with whom associated, or member of the public necessarily dealt with would be endangered by the attendance of the employee, or by serious health condition in their immediate families, requiring the presence of the employee, in compliance with FMLA/OFLA.

11.3.2 Employees may also use sick leave to cover time lost for non-emergency medical appointments for themselves, providing the proper authorization has been granted by management prior to the time being taken off. In order to ensure employees are fully able to safely return to work, all absences of five (5) days or more will require the employee to submit to the Human Resources Manager a release to return to work signed by licensed medical professional, unless otherwise agreed to as part of a FMLA/OFLA approved leave or other mutual agreement.

11.3.3 Emergency situations will be evaluated on a case-by-case basis.

11.3.4 Sick leave is to be used for the purposes outlined in this Article and will not be granted to cover other leave requests made by employees.

11.3.5 The City agrees to abide by all State and Federal laws and regulations regarding FMLA, OFLA, Parental Leave Act(s), ADA, or similar laws providing rights to employees in their use of sick leave, and other accrued leave banks.

11.3.6 Employees are not eligible for sick leave if continuing to work at another job during the time period for which sick leave is requested.

11.3.7 Sick Leave hours cannot be used until after the completion of the pay period in which they are accrued to the employee accrued leave bank.

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11.4.1 In the case of a serious health condition of a member of the employee's immediate family, FLMA/OFLA eligible employee, upon proper notice and approval, may use sick leave to cover time lost.

11.4.2 Immediate family for the purpose of this section will be defined as spouse, mother, mother-in-law, father, father-in-law, sister, brother, child or ward, stepmother, stepfather, step-children, grandparents, or grandchildren, same sex partner, or others as provided for by FMLA and/or OFLA.

11.4.3 Family sick leave will be deducted from the existing sick leave balance of the employee.

11.4.4 Sick leave is also available to care for a sick child who does not have a serious health condition but requires home care (sick child leave). Note: Employees who use up their original twelve (12) weeks for parental leave are entitled to an additional twelve (12) weeks of sick child leave consistent with FMLA/OFLA.

**11.5 Catastrophic Leave-sick leave transfers**

11.5.1 An employee may request, through their Department Head, that some of the employee's paid sick leave be transferred to another employee who is absent from work for an extended period of time because of an injury, unexpected illness, or other reason for which the use of paid sick leave would normally be allowed. The Department Head will pass the request, with the Department Head's recommendation to the City Manager for consideration of approval. The employee receiving a donation of paid sick leave must be non-probationary and must first have used all available paid leave and vacation time.

11.5.2 The maximum donation shall continue to be sixteen (16) hours per incident and no more than forty-eight (48) hours per year. Employees transferring paid sick leave must have accrued a minimum of two hundred (200) hours of sick leave or for part-time a prorated amount commensurate with the budgeted full-time equivalent of the position. All donated leave will be used in the order received by the Payroll Department.

11.5.3 Any paid sick leave not used by the employee receiving the paid sick leave will be returned to the donor employee, if the total paid sick leave is under the allowable maximum.

**11.6 Sick Leave Incentive**

11.6.1 The parties acknowledge that the sick leave incentive program referenced in the City Policy Manual is waived by the bargaining unit until or unless the parties mutually agree otherwise.

**ARTICLE 12: OTHER LEAVES****12.1 Union Leave**

12.1.1 Union officers, stewards and other employee representatives of the Union who are designated by the Union to represent it in activities such as conventions, seminars, etc., which may take them away from their City employment, may be granted up to ten (10) days leave without pay and without loss of status, seniority or other benefits. Such leave may be granted upon the written request of the Union President, made to the City's Human Resources Manager not less than ten (10) City business days in advance of the commencement of the requested leave. The number of Union representatives absent on Union leave from any one division shall not exceed two (2) at any one time.

**12.2 Jury Duty**

12.2.1 In the event an employee is duly summoned to any court for the purposes of performing jury duty, they shall receive their regular compensation for any regularly scheduled working hours spent in the performance of such service, provided that any compensation that may have been received for jury duty is turned over to the City. If jury duty does not take the entire work day, employees shall be afforded reasonable paid time in order to travel to work or the employee may choose to use appropriate leave for the remainder of the shift if pre-approved.

**12.3 Bereavement Leave**

12.3.1 Each career employee covered by this contract will be entitled to up to three (3) consecutive working days of bereavement leave with pay per qualifying occurrence. Additional leave, of up to two (2) additional consecutive working days may be granted by the Department Head, or designee for the purpose of out of state travel or if an employee plays an integral part in a funeral or memorial service. The additional two (2) day will be supplemented from the employee's other approved leave time, vacation or compensatory time. The City reserves the right to require verification for the use of this leave.

12.3.2 Such bereavement leave will apply to a death in the immediate family as defined under family sick leave.

12.3.3 Bereavement leave will not be accruable from year-to-year nor will it have any monetary value if unused, and is not available for cash-out.

12.3.4 Employees wishing to take time for the loss of a family friend, pet, or other loss not specifically declared in this article, may request to take time off but will need to utilize accrued vacation or compensatory time. Management will consider such requests and in the interest of supporting the employee at their time of loss, approve when staffing levels permit.

**12.4 Educational Leave With or Without Pay**

12.4.1 Special consideration may be granted employees wishing leave for purposes of pursuing educational training at any accredited school, when the course of study is directly related to the requesting employee's work. Such leave will be without compensation.

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12.4.2 The City will pay for the maintaining of all current Public Works related certifications obtained while in the employ of the City, as well as all training, fees and materials for employer-required certifications within the Public Works department. The City may also at the Department Head's discretion, pay for training, fees and materials for certifications required for advancement to the next certification level within the same division (i.e. Operator I to Operator II).

12.4.3 The City may pay for other classes and seminars that in its sole determination benefit the City.

**12.5 Authorized Leave without Pay**

12.5.1 It is the expectation of the City that employees will be judicious in their use of paid leave and that the need for an authorized leave without pay will be a rare occurrence. In the event of the exhaustion of vacation, holiday and compensatory leave time, the employee may be assigned by the Department Head to leave without pay due to unavoidable absence from work.

12.5.2 In instances where the work will not be seriously handicapped by the temporary absence of an employee, a Department Head may grant a leave of absence without pay not to exceed thirty (30) calendar days. Leaves of absence without pay for periods in excess of thirty (30) days will be made at the discretion of the City Manager. Requests for such leave must be in writing and must establish reasonable justification for approval of the request. Such leave will not be approved for an employee who is accepting employment outside the City service.

**12.6 Government Leave**

12.6.1 The City will provide leaves for Military Service and other public service areas as required by state and federal law. Grievance action taken under this section will not include binding arbitration unless mutually agreed to by the parties.

**12.7 Family Medical Leaves**

12.7.1 Employees shall be eligible to take Family Medical Leave(s) in accordance with relevant Federal and/or Oregon Law. Necessary requests and documentation will be filed with the Human Resources Department.

**ARTICLE 14: PROBATION****14.1 Probationary Period.**

14.1.1 All original appointments shall be tentative and subject to a probationary period of twelve (12) months of service. Evaluation of the employee's adjustment to work tasks, conduct and other work rules, attendance, and job responsibilities will be conducted during the probationary period. Upon agreement by the City and the Union, probation may be extended up to four (4) additional months. Time spent on extended leave (leave greater than two (2) consecutive weeks) does not count towards the months of service required to complete the probationary period. Probation shall end only upon receipt of a satisfactory performance evaluation which shall not be delayed unreasonably.

14.1.2 Upon satisfactory completion of the probationary period as judged by the City in a written performance evaluation, the employee shall be considered as having demonstrated qualifications for the position, shall gain regular status, and shall be so informed through the supervisor. Upon attaining regular status, the employee shall be informed concerning eligibility for a merit increase.

14.1.3 During the initial probationary period, a probationary employee may be terminated at any time without appeal or recourse to the grievance procedure of this Agreement. Probationary employees may not use the grievance procedure.

14.1.4 Upon promotion within the bargaining unit, an employee will undergo a promotional probationary period of six (6) months. If more time is necessary to evaluate a promoted employee, the City may extend the promotional probationary period up to three (3) months. During the promotional probationary period, an employee may be returned to the employee's former position for any reason without appeal or recourse to the grievance procedure of this Agreement.

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**ARTICLE 15: LAYOFF/SENIORITY****15.1 Seniority**

15.1.1 For purposes of this contract, "seniority" means length of continuous service in a bargaining unit position, computed from the date of the employee's original hire. Such date shall be known as the employee's "continuous service date." Where two employees have the same continuous service date, the employee whose application was first filed shall be deemed the senior employee. Where continuous service dates and application dates are the same, seniority shall be determined by lot.

15.1.2 As used in this section, "continuous service" includes all authorized paid leaves of absence and unpaid leaves of absence for less than thirty (30) consecutive calendar days, but does not include any period between an employee's layoff and recall nor unpaid leaves of absence for more than thirty (30) consecutive calendar days. In the event of layoff and recall, the employee's continuous service date shall be adjusted to reflect a total length of continuous service.

**15.2 Order of Layoff**

15.2.1 In the event of a reduction in force in a department or division, the city will first ask for volunteers in that job. If there are no volunteers or the number of volunteers is insufficient, layoffs will be made in the inverse order of seniority. The city will provide sixty (60) days written notice in person to the affected employees and by mail to the union. Affected employees shall be informed of the layoff as soon as practicable. The laid off employee may, at their discretion, bump a less senior regular full time employee in a lower job description, if the laid off employee is qualified for that position. Qualified shall be defined as meeting the posted minimum qualification in the job description at the time of bumping, including required certifications. Exceptions to certification may be made in jobs where the law does not require certification for the position and the employee has the necessary skills and can obtain the certification within ninety (90) days.

15.2.2 While on layoff status, regular employees may apply for seasonal work. If an employee is laid off from a regular job and later accepts a seasonal position, this would not change any of the provisions in this Article. Employees who bump to a seasonal position will be subject to recall under Articles 15.3 and 15.4.

15.2.3 Employees who bump to a seasonal position will be paid at the existing hourly rate as paid to other seasonal positions.

**15.3 Layoff Status**

15.3.1 For a period of twelve (12) months following the date of layoff, an employee shall be classified as on "layoff status," and the employee's name maintained on a recall eligible list. The order of names on the recall list shall be in inverse order of layoff, by job description. At the end of the twelve (12) month period, or sooner if the employee so requests, the employee's name shall be removed from the list.

15.3.2 An employee on layoff status shall not be entitled to any pay, status, benefits, or employment rights other than those specifically provided herein.

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15.3.3 An employee on layoff status shall promptly inform the Human Resources Manager of any change of address, and shall be deemed terminated if a letter mailed to the last address recorded with the City is returned unclaimed.

15.3.4 An employee being laid off shall be paid for the total accrued vacation, holiday (if any) and compensatory time existing at the time of the layoff date.

**15.4 Order of Recall**

15.4.1 An employee on the recall list shall be offered a seasonal position, if available, if the employee is qualified for the position.

15.4.2 Recall of employees to active employment shall be made in order of their names on the recall list for job descriptions from which they were laid off.

15.4.3 Regular employees who are on a recall list (as defined by Article 15.3) will be eligible for employment in a vacant seasonal position. Regular employees who accept seasonal work shall be retained on the recall list. Failure to accept seasonal work will not affect the employee's standing on the recall list.

15.4.4 An employee shall be deemed terminated if the employee does not report for work within ten (10) City business days of written notice of recall via registered mail for a regular position. Except as provided in this section, no person shall be hired to fill any position from which an employee was laid off as long as there is an employee within that job description on the layoff eligible list.

15.4.5 Upon recall, the employee shall have restored for authorized use all accrued sick leave hours as recorded by the City at the time of the layoff (this shall be the adjusted amount after 50% is provided for retirement per Article 7 section G). This does apply to cases where the laid off employee returns to City work by being hired as a replacement as provided in Article 15.5(b) below. Time served in a seasonal appointment will not be credited towards the recalled employee's continuous service date for the regular position.

15.4.6 If an employee accepts a position in a regular position, that employee will not be placed on the recall list and shall have no rights to recall, with the exception of 15.5(b).

**15.5 Replacement Employment**

15.5.1 An employee on layoff status may apply for a position with the City in a job other than the one from which the employee was laid off.

15.5.2 Acceptance of employment in a lower level job with a lower pay scale other than the employee's former job shall not be cause to remove the employee's name from the layoff eligible list. Rejection of replacement employment shall not be grounds for removal.

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**ARTICLE 16: PROMOTION AND TRANSFER**

**16.1** Promotion is the change of position for an employee from a position in one class designation to a position in a class assigned to a higher salary range.

16.1.1 Any job vacancy may be filled by promoting qualified employees within the City service or by hiring an external candidate. The City will fill employment vacancies with the most qualified applicant, whether it is from an internal or external source. Any current employee that applies for a union represented vacant posted position, that meets the minimum qualifications as defined in the posting, will be given an interview for that position.

16.1.2 External recruiting may be initiated concurrently with the internal posting process, but no hiring commitment or decision will be made until the position has been posted internally for a minimum of five working days. In order to be eligible to promote to a different job, employees must have completed probation and shall not be in the process of any disciplinary action, during the recruitment process. New probationary periods will begin at the time of an approved transfer to a new classification and/or a promotion.

16.1.3 The appointment to fill a vacancy shall be made on a competitive basis utilizing criteria established by the City.

**16.2** Transfer is a change of an employee from one position to another in the same class or to a position in a comparable class within the City service.

16.2.1 Requests from employees for transfers from one department to another shall be made in writing and shall be directed to the employee's present department head and referred to the appropriate department head and the appointing power.

16.2.2 Requests for transfer shall be given consideration when a suitable vacancy occurs; however, no employee shall be transferred to a position for which he/she does not possess the minimum qualifications. In order to be eligible for transfer to a different job, employees must have completed probation and shall not be in the process of any disciplinary action.

16.2.3 Final decisions regarding transfers will be made at the discretion of the City Manager.

**16.3 Probationary Periods**

16.3.1 New Hire employee

16.3.1.a All original appointments shall be tentative and subject to a probationary period of twelve (12) months of service. Evaluation of the employee's adjustment to work tasks, conduct and other work rules, attendance, and job responsibilities will be conducted during the probationary period. Upon agreement by the City and the Union, probation may be extended up to four (4) additional months. Time spent on extended leave (leave greater than two (2) consecutive weeks) does not count towards the months of service required to complete the probationary period. Probation shall end only upon receipt of a satisfactory performance evaluation which shall not be delayed unreasonably.

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16.3.1.b Upon satisfactory completion of the probationary period as judged by the City in a written performance evaluation, the employee shall be considered as having demonstrated qualifications for the position, shall gain regular status, and shall be so informed through the supervisor. Upon attaining regular status, the employee shall be informed concerning eligibility for a step increase.

16.3.1.c During the initial probationary period, a probationary employee may be terminated at any time without appeal or recourse to the grievance procedure of this Agreement. Probationary employees may not use the grievance procedure.

16.3.1.d AFSCME will be allowed to send a representative to New Employee Orientation to familiarize the new employee about the Union.

**16.3.2 Promotional Hire**

16.3.2.a Employees who are promoted or transferred to a different classification shall serve a six (6) month probationary period in that different position. They shall be covered by all terms and conditions of this contract except that the City's standards for successful completion of the probationary period and its application to the employee may not be grieved.

16.3.2.b The City may extend the six (6) month promotional probationary period for up to three (3) additional consecutive months.

**16.4 Right of Return.**

16.4.1 Any career status employee who is promoted shall have a two (2) week period of time from the date of appointment during which the employee shall be allowed to return to the employee's former position. This two-week period of time may be extended by the City if it has not made an offer of employment for the career employee's former position. In the event that an employee fails to pass the employee's six (6) month promotional probationary period due to an inability to meet performance standards, the employee will be returned to his/her previous position.

**16.5 Written Offers/Explanations**

16.5.1 Offers of promotion and transfer and notice of an increase shall be given to the employee in writing. Absent such written offer and acceptance and absent such notice of an increase, no promotion, transfer or increase shall exist. Any employee, upon written request, shall receive in writing an explanation as to why that employee was not appointed. The denial of a promotion/transfer shall not be grievable, so long as the decision was based upon lawful grounds.

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**ARTICLE 17: PERSONNEL RECORDS****17.1 Files**

17.1.1 Employees may inspect the contents of their personnel file, in the presence of an authorized City representative. Files will be kept with the Human Resources Manager. Any duplicate or subsequent notes or records kept by a supervisor shall not contain altered copies nor documents not included in the official personnel file at Human Resources. A supervisor's file documents shall clearly state "copy."

**17.2. Signature Requirement**

17.2.1 No information reflecting critically upon employees will be placed in their personnel files without the employees being given the opportunity to review and sign the information. Employees will be required to sign such material to be placed in their personnel file with the understanding that their signature does not indicate agreement. If the employee refuses to sign the document, the supervisor will make a note that the employee has refused to sign and will place the information in the file. Signature sections shall not be on a separate page from the document. They shall be on a front to back or two-sided document in order to show that the signature was placed on the original document and not on a document later amended post-signature. Original signed documents shall be kept in the official personnel file at Human Resources.

**17.3 File Purging**

17.3.1 Documentation of an oral reprimand will be removed from the employee's personnel files after eighteen (18) months. Upon written request of the employee, written reprimands may be removed from their personnel files after eighteen (18) months at the discretion of the Division Manager and as long as no discipline occurred within that time period. Upon written request, written reprimands shall be removed from the employee's personnel files after thirty-six (36) months as long as no discipline has occurred during that time period. This shall include copies in any subsequent "supervisory" files kept outside of Human Resources.

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**ARTICLE 19: EMPLOYEE EVALUATIONS**

**19.1** As part of the City's personnel system each employee shall be evaluated upon completion of the probationary period and at least once a year in proximity to his or her anniversary date.

**19.2** An employee shall receive a copy of any employee evaluation report.

**19.3** An employee may request a meeting with his or her department head to appeal an evaluation.

**19.3.1** If the evaluation results in economic loss then the employee shall, upon request, meet with the supervisor and the City to review the evaluation. The parties may evaluate the appropriateness of a work plan in consideration of the employee's performance and may consider a delayed step increase in lieu of a withheld step increase as a potential solution.

**19.4** An employee may write a supplemental letter and have it put in his or her personnel file along with the evaluation.

**19.5** Performance evaluations are not considered disciplinary action, and are not subject to the grievance procedure.

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**ARTICLE 20: DISCIPLINE AND DISCHARGE****20.1 Disciplinary Action**

20.1.1 Disciplinary action may be imposed upon a non-probationary employee only for just cause. Disciplinary action imposed on any non-probationary employee may be processed as a grievance through the regular grievance procedure in this agreement, except that a grievance of an employee discharge shall be filed at Step 2 and comply with all the requirements of Step 1. Oral reprimands shall not be grievable to arbitration, Step 3.

20.1.2 Disciplinary action shall be timely. The City will use progressive discipline unless the misconduct is of a serious nature that merits a higher level of discipline. Examples of serious misconduct may include, but are not limited to, violence or threats in the workplace, being intoxicated or otherwise impaired while working, and sexual harassment. Except in cases of serious misconduct, discipline shall be corrective and not punitive. Discipline may include but is not limited to oral reprimand, written reprimand, suspension without pay, demotion, reduction in pay and discharge.

20.1.3 Serious violations, as determined by the City, may be dealt with by any of the above measures on the first offense or subsequent offenses.

20.1.4 If the City has reason to reprimand an employee, it shall be done in a manner that will not embarrass the employee before other employees or the public.

20.1.5 A steward shall have the right to discuss any disciplinary action imposed or recommended by a supervisor with that supervisor at the affected employee's request, with or without the employee's presence.

20.1.6 In addition to the provisions of (d) above, an employee has the right to have a steward present at an interview with a supervisor when the employee has a reasonable belief that the interview is part of an investigation which could result in disciplinary action. The interview may not be unduly delayed to await a particular unavailable steward when other stewards may be available.

20.1.7 Due Process procedures which normally will be followed when an employee may be subject to discipline greater than a written reprimand are:

20.1.8 The employee will be notified of the charges or allegations which may subject them to discipline;

20.1.9 The employee will be notified of the disciplinary sanctions being considered;

20.1.10 The employee will be given an opportunity to refute the charges or allegations either in writing or orally in an informal hearing;

20.1.11 At their request, the employee will be entitled to be accompanied by a fellow employee or a representative of the Union at the informal hearing.

**20.2 Right to Grieve Discipline**

20.2.1 Any discipline imposed on a non-probationary employee may be grieved through relevant articles in this agreement. If an arbitrator determines that an employee has been issued discipline that does not comply with the just cause or other provisions of this Article, the arbitrator will have the authority to fashion an appropriate remedy that may include reinstatement with full restoration of rights and conditions of employment, compensation for lost wages or other benefits, or a reduction of the level of discipline issued.

**20.3 Initial Hire Probationary Employees**

20.3.1 Newly hired career employees shall be on probation for twelve (12) months from their date of hire. During this initial hire probationary period, probationary employees are not covered by the provisions of 20.1 and 20.2, above. Initial hire probationary employees may be discharged by the City at any time with no showing of cause. Any discipline or discharge of an initial hire probationary employee is neither grievable nor taken to arbitration; such matters are not covered by the provisions of this Agreement. Initial hire probationary employees do not have any property rights in the job.

20.3.2 Employees who have been promoted to another position within the bargaining unit may be returned to their former position without cause during the promotional probationary period. The return of an employee to a former position during the promotional probationary period is not considered discipline subject to the provisions of this Article or the grievance process.

**20.4 Plans of correction and improvement**

20.4.1 Management may counsel employees about areas in which improvement can be attained, when in the supervisor's assessment the employee could benefit from the additional coaching. The City may also provide counseling during the employee's performance evaluation and when appropriate the City and employee may develop a plan of action for improving performance. The goal of this counseling is to help the employee understand the supervisor's expectations and provide a time frame during which the employee and the supervisor will work closely together to reach the required performance or behavioral improvements contained within the plan. So called "teachable moments" are not disciplinary in nature. These plans are not an extended probation, nor are they intended to be discipline. The purpose behind these policies is to provide a tool which allows for the documentation of improvements that must be made by an employee in meeting either the performance or behavioral expectations of the supervisor.

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**ARTICLE 21: DISPUTE SETTLEMENT****21.1 Grievance Definition**

21.1.1 As used in this contract, the term "grievance" means any claim by or on behalf of a particular employee or party to this contract that such claimant's rights, benefits, privileges, or interests under this contract have been violated or that this contract has been misapplied to such claimant in a particular case.

**21.2 Exclusive Remedy**

21.2.1 Grievances shall be initiated and processed in the manner provided for herein, which procedure the parties mutually acknowledge to be the exclusive and binding process for the resolution of disputes constituting grievances.

**21.3 Time Limits and Procedures**

21.3.1 Any or all time limits specified in the grievance procedure may be waived by mutual consent of the parties. Any such waiver must be reduced to writing by the party requesting it and agreed to in writing by the other party (exchanged e-mails shall be sufficient to meet this requirement). Failure of the aggrieved party to submit or prosecute a grievance in accordance with these time limits shall constitute abandonment of the grievance. The City shall respond to the grievance within the stated time limits unless an extension has been mutually agreed upon. Upon failure of the City to respond to a grievance within the specified time limits, the Union will be permitted to advance the grievance to the next step.

**21.4 Grievances**

21.4.1 The written grievance shall include:

21.4.2 The name and position of the employee by or on whose behalf the grievance is brought.

21.4.3 The date of the circumstances giving rise to the grievance, and the date of the employee's first knowledge thereof, if later.

21.4.4 A clear and concise statement of the grievance including the relevant facts necessary to a full and objective understanding of the employee's position.

21.4.5 The specific provision or provisions of this contract allegedly violated by the City.

21.4.6 The remedy or relief sought by the employee.

21.4.7 The signature of the employee submitting the grievance, and such person's name and position if other than the aggrieved employee.

**21.5 Grievances at Step 1**

21.5.1 Within fifteen (15) calendar days after the incident that led to a grievance, the aggrieved employee shall file a copy of the grievance with the employee's immediate supervisor. The supervisor or another representative of the City will within fifteen (15) days of receipt of the grievance, render a decision after meeting with the aggrieved employee and/or union representative. If the grievance is not resolved, the employee will, within ten (10) calendar days of the City's decision, proceed to Step 2.

**21.6 Grievances at Step 2**

21.6.1 The grievance, along with all pertinent written information will be submitted to the City Manager or designee. The City Manager or designee will meet with the employee and/or the Union representative and will render a decision within fifteen (15) calendar days of receipt of the grievance. If the City Manager's decision does not resolve the grievance, the Union may advance the grievance to Step 3.

**21.7 Grievances at Step 3**

21.7.1 If the Union chooses to advance the grievance to Step 3, the Union must provide notice to the City Manager and request a list of arbitrators from the Employment Relations Board within 15 days of the City's response in Step 2 unless mediation has been requested. If the parties do not agree to mediation, the Union must request a list of arbitrators within 15 days of the refusal to mediate. Grievances shall be submitted to a single arbitrator chosen in the following manner from a list of seven (7) names submitted by the State Conciliator of the Employment Relations Board or from any other agency on which the parties agree. Within fifteen (15) calendar days following the Union's receipt of the list of arbitrators, the City and the Union representatives shall flip a coin to determine who shall exercise the first opportunity of striking a name, with the loser of the coin toss striking first. Strikes shall be exercised alternately until each party has exercised three (3) strikes and only one (1) name remains, who shall be the arbitrator. Within fifteen (15) calendar days from the date the arbitrator is selected, the Union, on behalf of both parties, shall inform the arbitrator of selection; and the arbitrator shall schedule a hearing.

21.7.2 The parties may, by mutual agreement in a particular case, provide for any amendment, waiver, modification, or addition to the rules and procedures herein set forth in Article 21, which agreement shall not affect subsequent cases.

21.7.3 Within fifteen (15) calendar days of receipt of the City's response in Step 2, either party to the labor contract may request mediation. Both parties must agree to mediation. If agreed to by both parties, the Union will contact the State Conciliator of the Employment Relations Board and a mediation session will be held with an assigned mediator. If mediation is not successful, a request shall be made within ten (10) calendar days from the conclusion of mediation, for a list of arbitrators. Mediation shall be concluded when (1) the parties mutually agree in writing that the grievance is resolved; and (2) the Union provides written notice that the grievance is withdrawn; or (3) either party notifies the other party and the mediator in writing that it wishes to conclude mediation, but only after at least one mediation session has been held.

21.7.4 Except as expressly provided herein, arbitration of grievances shall be conducted according to the applicable rules of the organization that supplied the parties with a list of arbitrators.

21.7.5 When, after the initiation of a grievance at Step 3 but before the arbitration hearing, new factual information or evidence directly relevant to the issues first comes to the knowledge of a party and it was not previously known to the party, notice of such information immediately shall be served on the other party's representative. Such information may be introduced in arbitration, if otherwise admissible according to usual evidentiary standards in arbitration.

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21.7.6 The powers of the arbitrator shall be limited to determination of issues of fact and the application and interpretation of the provisions of this contract. The arbitrator shall have no power or authority to alter, abridge, modify, vacate, or amend any of the terms of this contract; nor to substitute the arbitrator's judgment for that of the City as to any matter within City's discretion under this contract, as long as the City did not exercise its discretionary authority unreasonably, arbitrarily, capriciously or discriminatorily; nor to consider, decide, or act upon any condition or circumstance not treated in this contract.

21.7.7 The arbitrator shall render a decision within thirty (30) days of the close of the hearing. Any necessary expenses for the services of the arbitrator shall be split equally between the parties. If either party desires an official verbatim record of an arbitration proceeding, it may cause such a record to be made, providing it pays for the record and makes copies available without charge to the other party and to the arbitrator. Each party shall be responsible for compensating its own representatives or witnesses, subject to changes in relevant case law and in accordance with Article 26 Savings Clause. The names of any witness to be used in arbitration by either party shall be made known to the other at least seventy-two (72) hours prior to the arbitration hearing.

21.7.8 The decision of the arbitrator, if arrived at pursuant to the provisions of this contract, shall be final and binding upon the parties.

**21.8 Informal Discussion Permitted**

21.8.1 Nothing in this article is intended to preclude or prohibit informal discussion of a potential grievance between an employee and the immediate supervisor, provided that the time limits set forth herein are adhered to.

**21.9 Confidentiality**

21.9.1 All proceedings, meetings, and discussions related to grievances shall be limited in attendance to the parties and their designated representatives. All documents and information relative to the grievance and resolution are exempt from public disclosure to the extent allowed under the public records law, until the conclusion of the final proceeding.

**21.10 Absence from Work Station**

21.10.1 Except for the provisions of article 21.7.H, union stewards representing employees or the Union at the meetings and hearings provided for in this article shall be permitted, after notice to the immediate supervisor, to leave their assigned work areas without loss of pay during their attendance at such meetings or hearings.

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**ARTICLE 22: NO STRIKE OR LOCKOUT**

**21.1** During the life of this Agreement, the Union and its members, as individuals or as a group, will not initiate, cause, permit, participate in or join any strike, work stoppage, slow down, picketing or any other restriction of work. Employees in the bargaining unit, given the opportunity to confer with a supervisor while acting in the course of their employment, shall not honor any picket line when called upon to cross such picket line in the line of duty. Disciplinary action, including discharge, may be taken by the City against any employee or employees engaging in a violation of this article.

**21.2** In the event of a strike, work stoppage, slow down, picketing, observation of a picket line or other restriction of work in any form, either on the basis of individual choice or collective employee conduct, the Union will immediately upon notification make reasonable attempts to secure an immediate and orderly return to work.

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**ARTICLE 23: OUTSIDE EMPLOYMENT**

**23.1** Bargaining unit employees may not engage in outside employment that conflicts with the nature of the City's mission, conducts business with the City of Newberg, or otherwise interferes with the employee's ability to perform according to established standards of performance and work rules. An employee also may not conduct business connected to outside employment during scheduled hours of work at the City of Newberg. An employee must receive authorization prior to engaging in outside employment. Any employee who wishes to engage in outside employment must submit a completed "Outside Employment" form (Appendix F of the City Personnel Manual) to the Division Manager. If the City, in its discretion, determines that the outside employment does not create a conflict, it will approve authorization of the request and place the Outside Employment form in the employee's Personnel File. If the City does not approve an outside employment request, the Union reserves the right to meet and discuss the rationale for the City's decision. The City has the final say and the decision is not grievable.

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**24.1 Safety:** The City and employees agree to abide by federal and state safety regulations per the Oregon Administrative Rules. Unsafe practices and conditions shall be immediately called to the attention of the employee's immediate supervisor and/or an available supervisor. Once substantiated by the City, the unsafe condition shall be remedied as fully as possible. The City shall not discipline or in any manner discriminate against any employee who, in good faith and for cause, reports the existence of an unsafe condition or practice to the City. If an employee refuses to work due to a good faith belief and for cause evidence of unsafe working conditions, after following the proper reporting of unsafe conditions as outlined above, the City agrees to not subject the employee to discipline. If the City fails to remedy the situation in a reasonable amount of time, the employee will not be penalized for reporting the unsafe condition. However, if the City examines the condition and deems it safe, the City can require the employee to perform the work.

**24.2 Uniforms and Protective Clothing:** The City shall provide uniform items required for the position, including but not limited to shirts, jackets, vests, coveralls, gloves, safety glasses, rain gear, steel toed rubber boots, hats and replacement items as authorized.

Employee should have choice in fit of apparel, i.e. correct sizes. If needed for the employee's position, not more than every twelve (12) months, the City shall reimburse the employee up to \$125.00 for the purchase of one pair of ANSI-approved safety-toed boots/shoes as authorized.

**24.3 Clean up Time:** Whenever it is essential for employees to clean up or change clothes before being presentable upon leaving work, the employee shall be granted adequate personal clean up time prior to the end of each work shift. The City shall provide the required facilities for the employee's clean up time. Work schedules shall be arranged so that employees may take advantage of this provision where it is applicable. Neither party to this contract shall construe "clean up time" to mean "quitting early time," "leave early time," or coming in early from the field.

**24.4 Tools and Equipment:** Providing safety equipment and personal protective equipment is the City's responsibility. The City shall provide tools, except in Fleet Services where employees may elect to use pre-authorized personally owned tools.

**24.5 Travel:** Employees shall make every effort to travel as economically as practical. The City shall use a reasonableness test to evaluate whether employee proposed travel expenses are economical under the circumstances. Distances more than seventy (70) miles from Newberg, shall be considered for hotel stays, either on the night before or after a required class or training. The City has discretion to provide a City-owned vehicle for the travel, or to authorize the employee to use a personal vehicle. If, by mutual agreement, the employee uses a personal vehicle, the City shall reimburse the employee at the rate determined by the Internal Revenue Service. If the City requests that the employee use a City-owned vehicle, but the employee chooses to drive a personal vehicle, the City will not reimburse for travel.

**24.6 Drive time to required classes is paid round trip.**

**24.7 Personnel Rules and Regulations:** The City agrees to make this contract available to each employee now in the bargaining unit, through electronic means, within sixty (60) day of full execution of this contract and to furnish each new employee with a copy of this contract and the City's Personnel Rules and Regulations at the time of appointment. A printed copy of the contract will be made available at the employee's request in

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the Human Resources Office and thirty (30) copies will be made available to the Local President. The cost of printing and assembling the contract will be borne by the City. The City shall furnish the Union with a copy of the City's Personnel Rules and Regulations and furnish copies of any and all amendments thereto from time to time.

**24.8 Vehicle Safety:** The parties recognize that possession of a valid Commercial Driver's License (CDL) or Driver License is an essential job function for a number of City positions. If an employee holds a position in a classification that requires a valid driver license, and his or her license is non-renewed, suspended or revoked, that person will be subject to termination due to failure to maintain minimum qualifications. An exception to this is if the employee temporarily loses his or her Driver's License for a traffic violation, or their CDL lapses, the employee can apply accrued leave and other compensatory time, or if the City, without creating an operational disturbance can find alternative work duties, the City and the employee will bridge the gap, up to sixty (60) days. Employees are obligated to notify their employer immediately if their license is invalid or suspended.

24.8.1 The City shall bear any additional costs associated with a required Commercial Driver's License. Should an employee allow their CDL to expire or it is revoked, any re-instatement fee shall be the responsibility of the employee.

**24.9 Impairing Medications:** If an employee is taking any medication that has a warning label indicating it may cause impairments when driving or operating equipment and the employee's job duties include driving or operating equipment, the employee shall notify the Human Resource Office before reporting to work.

**24.10 Inclement Weather:** The parties acknowledge that a majority of the bargaining unit qualify as essential personnel/first responders and will likely be required to report to duty in times of inclement weather. In the event that the City decides to close operations due to inclement weather or hazardous conditions, the City shall pay non-first responder employees as if they worked their full shift that day. Employees who work in inclement weather shall be paid overtime or compensatory time for all hours worked on those days. Essential personnel required to report to work in inclement weather, when the City Manager has closed the City, shall receive paid time and a half for actual hours worked that day. Also, non-first responder employees who have reported to their assigned shift prior to the City Manager closing the City shall receive overtime or compensatory time for the actual hours worked.

**To Resolution 2013-3028 (Total pages: 45)****ARTICLE 25: JOINT LABOR MANAGEMENT COMMITTEE****25.1 Membership**

25.1.1 A Joint Labor Management Committee is hereby established to serve as a mechanism for dialogue between the parties and as a vehicle to discuss issues of mutual concern to the parties. The parties agree to meet at least two times per calendar year. The parties have the authority to create additional subcommittees underneath the auspices of the Joint Labor Management Committee, as the parties may deem appropriate. The Joint Labor Management Committee shall be composed of eight members, with four members appointed by the Union and four members appointed by the City including the Union's representative and the City's Human Resources Manager. Permanent or temporary membership on the Committee may be expanded by the mutual agreement of the Union and the City. Should the Joint Labor Management Committee meet during normal work hours, no bargaining unit member of the Committee shall suffer any loss of pay as a result thereof.

**25.2 Issues**

25.2.1 The parties agree that the Joint Labor Management Committee, and its subcommittees, as appropriate, will thoroughly examine and discuss the issues that have been jointly identified and any new issues that later are identified by the parties. It is intended that each issue will be thoroughly explored so that the ramifications and impacts of each issue are understood by the Committee members. The Joint Labor Management Committee shall have no authority to review the merits or adjust specific employee grievances. Subject to the deliberation of the subcommittees, or the Joint Labor Management Committee itself, recommendations may be issued to the Union's leadership or membership, as appropriate, and to the City Manager or City Council, as appropriate.

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**ARTICLE 26: SAVINGS CLAUSE**

**26.1** Should any article, section, provision, or portion thereof of this Agreement be held unlawful or unenforceable by any court of competent jurisdiction or become unlawful through a change in applicable state or federal law, only the specific article, section, provision, or portion thereof will be invalidated. The remainder of the Agreement will still be given full force and effect and remain binding on the parties. The parties agree to meet promptly in order to bargain replacement language for any part of this Agreement that is held to be unlawful.

**To Resolution 2013-3028 (Total pages: 45)****ARTICLE 27: COMPLETE AGREEMENT/PAST PRACTICES/SEVERABILITY**

**27.1** This bargaining agreement incorporates the sole and complete Agreement between the Employer and the Union resulting from negotiations held pursuant to the provisions of ORS 243.650 et seq (PECBA). It is acknowledged that during negotiations which resulted in this Agreement, each and all had the unlimited right and opportunity to make demands and proposals with respect to any subject matter appropriate for collective bargaining and that the understandings and agreements arrived at by the parties after the exercise of that right and opportunity are set forth in this Agreement.

**27.2** Therefore, the City and the Union, for the life of this Agreement, each voluntarily and unqualifiedly waive the right, if any, and each agrees that the other shall not be obligated to bargain collectively with respect to any subject or matter, even though such subjects or matters may not have been within the knowledge or contemplation of either or both parties at the time they negotiated or signed this Agreement. It shall not be modified in whole or in part except by another written instrument duly executed by the parties.

**27.3** All matters not prescribed by the language of this Agreement may be administered for its duration by the Employer in accordance with the City Personnel Rules and Regulations. In the event of a conflict between Personnel Rules and this Agreement, the provisions of this Agreement shall prevail.

**To Resolution 2013-3028 (Total pages: 45)**

**APPENDIX B**

**Memorandum of Agreement (MOA)**

**By and Between**

**The City of Newberg and the AFSCME Newberg PW Union  
RE: Limited Supervisory Duties of Lead Worker/Crew Chiefs**

WHEREAS, since the City and the Union have reached an agreement regarding the definition of the bargaining unit;

WHEREAS, the definition includes some positions which have or may have limited supervisory duties;

WHEREAS, the agreement reached commits the parties to create language to ensure the parties continue to limit the supervisory duties required of those positions which the City voluntarily recognized as positions included in the bargaining unit;

NOW THEREFORE, the parties have reached an agreement and reduced it to writing in this MOA, that supervisory duties shall be subject to the following limitations as agreed by all parties:

DUTIES: Lead Worker/Crew Chief positions involve certain limited oversight and administrative duties which are deemed not to warrant a full supervisory classification. These duties include, but are not limited to: laying out the work for other employees, balancing the work, directing the work, reviewing the work and employee conduct for adherence to standards and rules, and making such reports as may be required to supervisory employees. Lead Workers/Crew Chief positions shall spend a substantial portion of their time (fifty percent (50%) or more) in performing non-supervisory duties. The Lead Work/Crew Chief will not effectively recommend hiring or terminating employees. An employee promoted into a Lead Worker/Crew Chief position will not impose formal discipline, i.e. a letter of reprimand or above. Lead Workers/Crew Chiefs may issue oral counseling and/or reprimands and may recommend performance action plans where appropriate. Lead Workers/Crew\_Chiefs maybe present when discipline is issued, at the discretion of the supervisor. Lead Workers/Crew Chiefs may be asked to prepare initial performance evaluations and may be requested to sit-in on the deliverance of the evaluation, at the discretion of the supervisor. Lead Worker/Crew Chief will not be responsible for delivering performance evaluations.<sup>1</sup>

This MOA supersedes any previous job descriptions or assignment of duties prior to the date of this agreement.

IT IS AGREED, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

For the City of Newberg

For the AFSCME Newberg PW Bargaining Unit

\_\_\_\_\_  
Dan Danicic, Newberg City Manager

\_\_\_\_\_  
Justin St. James, Council Representative AFSCME

<sup>1</sup> Appendix D is an exception to this MOA.

**To Resolution 2013-3028 (Total pages: 45)**

**APPENDIX C**

**Memorandum of Agreement (MOA)**

**By and Between**

**The City of Newberg and the AFSCME Newberg PW Union**

**RE: Contracting out of Bargaining Unit Work**

WHEREAS, the City and the Union wish to avoid unnecessary litigation regarding the issue of contracting and subcontracting out work performed by bargaining unit members;

NOW THEREFORE, the parties have reached agreement and reduced it to writing in this MOA, that prior to the City of Newberg publishing an RFP for the contracting or subcontracting out of exclusive bargaining unit work, the parties shall follow the procedures set forth below:

1. **Contracting Out.** The City and the Union agree to negotiate in good faith the impacts of any decision to contract or subcontract out exclusive bargaining unit work pursuant to ORS 243.698. Further the City will agree to meet and discuss any decision to contract or subcontract out work currently performed by bargaining unit members, providing the Union an opportunity to submit alternative proposals. The decision as to whether or not work is ultimately contracted out shall be at the sole discretion of the City; however, no such decision shall be implemented until the City has fulfilled its obligation to bargain the impacts, concluding ninety (90) days from the date of the original notice of the Union.
2. **Process.** The City will agree to notify the Union forty-five (45) days or more prior to the issuance of any RFP relating to the contracting or subcontracting out of work currently performed by bargaining unit members. Upon such receipt the Union shall have fourteen (14) days to file a demand to bargain notice with the City. The parties will make a good faith effort to meet within ten (10) days of the City's receipt of the Union's demand to bargain and if unable to do so, the City will notify the Union as to the reasons for the delay. If after thirty (30) days the parties have been unable to reach agreement, the State Conciliator of the Employment Relations Board will be contacted to request a mediator be assigned or a mutually agreed alternate mediator, will be contacted. The parties may mutually agree to continue bargaining and forgo mediation. The cost of the mediator shall be split between the parties. The process shall conclude after ninety (90) days, pursuant to ORS 243.968. Agreement to and the following of this out-lined process by the City shall constitute full and complete satisfaction of the City's duty to bargain the issue under ORS Chapter 243.<sup>2</sup>

IT IS AGREED, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

For the City of Newberg

For the AFSCME Newberg PW Bargaining Unit

\_\_\_\_\_  
Dan Danicic, Newberg City Manager

\_\_\_\_\_  
Justin St. James, Council Rep., AFSCME

<sup>2</sup> The City agrees as part of the full contract settlement to make every effort to fill the Grounds Keeper vacancy through a regular recruitment process.

**To Resolution 2013-3028 (Total pages: 45)**

**APPENDIX D**

**Memorandum of Agreement (MOA) By and Between  
The City of Newberg and the AFSCME Newberg PW Union  
RE: Current Incumbent of the Wastewater System Supervisor**

WHEREAS, since the City and the Union have reached an agreement regarding the definition of the bargaining unit;

WHEREAS, the definition includes some positions which have or may have supervisory duties;

WHEREAS, the current incumbent<sup>3</sup> occupies a position that may or may not be a supervisory position statutorily exempt from the Union under PECBA;

NOW THEREFORE, the parties have reached an agreement and reduced it to writing in this MOA, that the City and Union will make a special exception for the current incumbent, as the Wastewater Treatment System Supervisor. The City and the Union agree to abstain from unit clarification proceedings to determine if the Wastewater Treatment System Supervisor position is exempt until the current incumbent separates from the position.

This agreement is specific to the current incumbent and as such will not be precedent setting in any way relative to any subsequent position and/or employee who may occupy the incumbent's position or a like position.

Both parties understand that the current incumbent's work duties include, and will continue to include the authority to: plan, assign and review the work of subordinates, hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action. The current incumbent may issue oral counseling and/or reprimands, may recommend performance action plans where appropriate, deliver performance evaluations, and administer and/or effectively recommend discipline up to and including termination.

FURTHERMORE, when the incumbent separates from the position as Wastewater Treatment System Supervisor, the Union understands that the City will seek a unit clarification with the Employment Relations Board as the City believes the position to be statutorily exempt from the Union under PECBA.

This MOA supersedes any previous job agreements regarding the current incumbent or his current position.

IT IS AGREED, this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

For the City of Newberg

For the AFSCME Newberg PW Bargaining Unit

\_\_\_\_\_  
Dan Danicic, Newberg City Manager

\_\_\_\_\_  
Justin St. James, AFSCME

<sup>3</sup> The City and the Union recognize that Troy Sanders is the current incumbent and this agreement exclusively applies to him.

# REQUEST FOR COUNCIL ACTION

DATE ACTION REQUESTED: January 7, 2013

Order \_\_\_      Ordinance \_\_\_      Resolution \_\_\_      Motion \_\_\_      Information XX  
No.              No.                      No.                      No.                      No.

**SUBJECT: Waste Management, Inc. and Riverbend year-end report and discussion of their proposed berm.**

Contact Person (Preparer) for this  
Item: Dawn Wilson  
Dept.: City Attorney's Office

## EXECUTIVE SUMMARY:

Jackie Lang, Riverbend Landfill senior manager of communications for the Pacific Northwest, will give a short presentation regarding Waste Management, Inc. and Riverbend's year-end report.

Ms. Lang will also discuss Riverbend's proposed berm and informally request the Council's support for the DEQ permitting process.

## FISCAL IMPACT:

Not applicable.

## STRATEGIC ASSESSMENT:

To strengthen the livability of community via technological changes for environmental efficiencies.

# WM in Yamhill County

WM is an Economic Asset

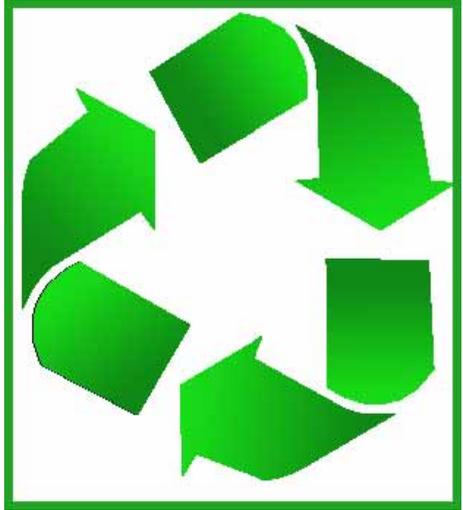


- 48 family-wage jobs
- \$1.2-1.4 million to the county,  
    based on current volumes
- \$150,000 in property taxes
- \$12 million budgeted for capital projects in 2013



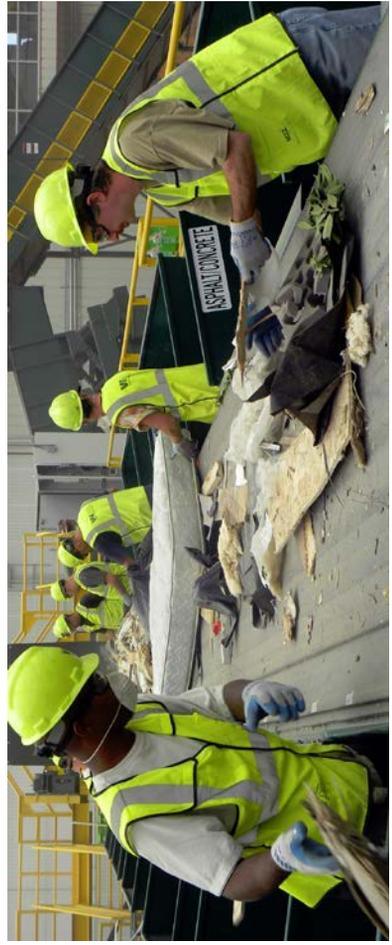
# WM in Yamhill County

WM is an Environmental Asset



# WM in Yamhill County

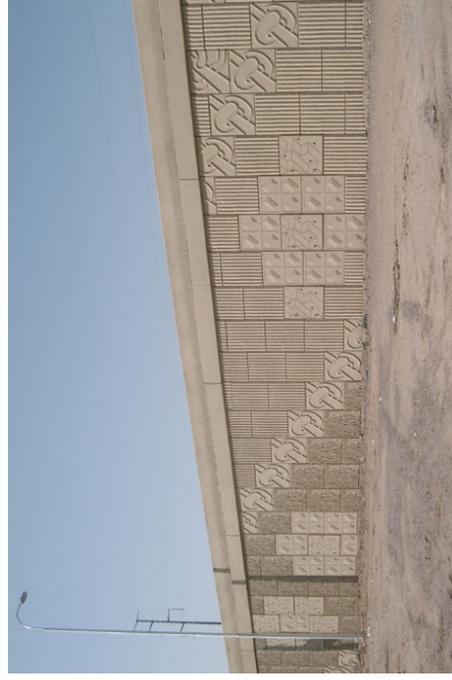
WM is an Environmental Asset





# Berms are common

MSE (mechanically stabilized earth) technology is often used along freeways and at airports



# Riverbend berm will optimize space

Without increasing height

